

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD AUGUST 24, 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 MARK M. FENN, VICE MAYOR TONEY KING, SR.
COUNCILMEMBERS JO DEEN BONCQUET, DAVID LAMBERT, JOHN LODZINSKI,
LORI McGOFFIN and AL SACCO**

INVOCATION:

No invocation was given.

**EMPLOYEE
RECOGNITION:**

Mayor Fenn recognized Brian Williams for 5 years of service with the City, then recognized Jose Ronquillo for 25 years of service with the City, followed by the recognition of Darrell Foster for 25 years of service with the City. Mayor Fenn thanked them for their service.

PROCLAMATION:

Mayor Fenn read a proclamation declaring September 9, 2009 as "Good Neighbor Day". Mayor Fenn then presented the proclamation to Pam Moore of the Benson Flower Shop.

CALL TO THE PUBLIC:

Mr. Carl Haupt addressed Council stating he felt there should be fair and equal treatment of every resident of the City of Benson, citing a request he had submitted for a variance from the City codes to build a small shelter on his property. Mr. Haupt stated his request was denied and he accepted the ruling, knowing if he disregarded the ruling and constructed the shelter, he would be subject to charges of violating an official order and due consequences would be enforced. Mr. Haupt then stated the owners of Stagecoach Trails have repeatedly violated City, State and National building and safety codes and the violations were ignored. Mr. Haupt stated he had observed numerous unsafe conditions as well as non-compliance with the National Electric Code and that compliance to City codes should be extended to all manufactured home parks in Benson's jurisdiction. Mr. Haupt then stated the City has settled lawsuits that should never have occurred and that we want no more of them. Mr. Haupt then stated he also wished to address his concern of the issuance of refunds to Stagecoach Trails owners and/or managers for new or replacement gas meters or for any other questionable reason. Mr. Haupt asked for an audit to be performed to verify the proper issuance of all rebates or City checks to all City officials, past and present. Mr. Haupt then stated with the exception of his concerns, he felt the City Council was doing an excellent job, stating his concerns were brought to Council in order for them to do an even better job in their official capacities, reminding Council that they represent the interest of every citizen of this great City and as such, the public expects them to consider their concerns in every decision.

Mr. Steven Sacco addressed Council stating he was the President of the Benson-San Pedro Valley Chamber of Commerce and that their mission was to proactively serve as the advocate to support and promote business. Mr. Sacco then stated it would be a goal to try and encourage members of the business community to join the Chamber and to give back things that have been neglected in the past. Mr. Sacco then stated from now on the biggest question would be what the Chamber could do

for its members. Mr. Sacco stated the Chamber would be sponsoring a “Live in Benson, Shop in Benson” campaign, stating small businesses are the backbone of the community. Mr. Sacco then stated the Chamber has had an excellent relationship with the City and would like to see it continue stating he appreciated the City’s support and would be seeking the City’s continued support in the future.

Ms. Kathy Suagee addressed Council stating she was there to talk to the Council about cajones, stating it appeared that when Dianne and she left those seats, the Council handed their cajones over to Mr. Fenn. Ms. Suagee then told the Council they should be ashamed of their performance these past several months, stating a typical meeting consists of Mr. Fenn announcing an agenda item, proceeding to tell Council what he thinks about it, with Council nodding their heads and then making a motion to do what Mr. Fenn has proposed and it is passed, usually unanimously. Ms. Suagee then stated Council was there to represent the public and to protect their interests, stating it isn’t enough to be a City Councilperson just for the pleasure of wearing a name tag and that sitting in a Council seat is not an achievement; but that representing the public interests, especially when speaking up is not encouraged, is an achievement. Ms. Suagee then stated having the cajones to state your opinion when it doesn’t agree with Mr. Fenn’s opinion, is an achievement and is Council’s job and that their job is also to gather the facts and to demand enough information to make an informed decision. Ms. Suagee then stated the City Manager, Mr. Nichols has purposely not informed Council or has misled them in the issue of mobile home parks, stating Mr. Nichols says it’s not about one park owner, but that he hasn’t contacted all park owners and instead has singled out one or two to harass. Ms. Suagee stated in the “News Scum”, the reporting tried to make it appear that they are talking about all mobile home parks, but they can’t seem to come up with any names except those associated with former Councilwoman Dianne Tipton. Ms. Suagee then stated if Council wanted to save money, they could take back the bonus they gave Glenn Nichols when he was supposedly doing two jobs, saving the City \$10,000.00. Ms. Suagee then stated this would still leave a manager who keeps Council in the dark and that he would still be overpaid, but not as much as now. Ms. Suagee then stated Council could also take a look at the street department and that every time she left her house, no matter which direction she drove or walked, that she was passed by at least one or two City vehicles with their attractive new paint jobs, cruising the streets. Ms. Suagee stated this was reminiscent of the days of Ann Roberts and Boyd Kraemer, when Mr. Brandt spent most of his time in the City offices, wasting both his time and that of the secretaries, while the people under his leadership spent their days with nothing to do. Ms. Suagee stated that a visit to City offices verifies that Mr. Brandt is up to his old tricks and that while we may not have funds for building new streets, our City employees certainly could be busy keeping the streets we do have, clear of debris, with the rainy season bringing tumbleweeds, little trees and weeds beginning to grow on the City rights-of-way. Ms. Suagee then stated she didn’t blame the City workers, stating they can only do the work their supervisors tell them to do, but questioned why Mr. Nichols doesn’t kick Mr. Brandt out of the office and into the streets to earn his paycheck. Ms. Suagee then stated, better yet, the City could begin the lay-offs of supervisors who don’t do their jobs and that come election time, the public will do the same. Ms. Suagee then recommended those on Council attending the League of Cities take all the classes in Conflicts of Interest, Open Meeting Laws and other important aspects of running a City business meeting. Ms. Suagee then stated in response to Mr. Haupt, that there is a big difference between the codes written and applied to new mobile home parks and those exempt in older mobile home parks, and that every mobile home park in Benson probably is exempt from the codes that Mr. Haupt cites. Ms. Suagee then stated Mr. Haupt is not a building inspector and that the home to which he is referring and is obsessing over has been fully inspected by the State of Arizona as all new mobile homes are. Ms. Suagee then stated they don’t need to be inspected by the City and that all permits were issued and the home was put on the lot as specified in the permits and those things were accomplished lawfully. Ms. Suagee then stated no formal complaint has ever been made against Stagecoach Trails and that no one at Stagecoach Trails has ever received a rebate, except for those residents, who when they move out, get a rebate on their utilities. Ms. Suagee then stated Mr. Haupt still needs to do some research and she recommended that Council do the same.

CITY MANAGER REPORT:

City Manager Glenn Nichols addressed Council with upcoming meetings:

- August 25-2009 – Community Watershed Alliance, 6:30 p.m., City Hall
- September 1, 2009 – GDP Information Session, 6:00 p.m., City Hall
Planning & Zoning, 7:00 p.m., City Hall
- September 8, 2009 – Economic Development Subcommittee, 5:15 p.m., City Hall
- September 14, 2009 – City Council Meeting, 7:00 p.m., City Hall
- September 15, 2009 – Arts Commission, 9:00 a.m., City Hall
Library Advisory Board Meeting, 4:00 p.m., City Library
- September 17, 2009 – GDP Information Session, 6:00 p.m., City Hall
- September 19, 2009 – Historic Preservation Commission, 9:00 a.m., City Hall
- September 22, 2009 – Community Watershed Alliance, 6:30 p.m., City Hall
- September 28, 2009 – City Council Meeting, 7:00 p.m., City Hall

Mr. Nichols then gave information on the following events:

- September 7, 2009 – Labor Day in Benson, Free Swimming on Saturday, September 5th and Monday, September 7th. There will be a Dive-in Movie on Saturday, September 5th, gates open at 7:30 p.m. and the movie starts at 8:00 p.m.; cost is regular pool admission. Mr. Nichols then stated on September 7th, there will be music, free food and prize give-aways and that this event is sponsored by the Benson Parks & Recreation Department.

- September 7, 2009 – Labor Day, HOLIDAY – City Offices Closed

CONSENT AGENDA:

- 1a. Approval of Minutes of the August 10, 2009 Regular Meeting
- 1b. Supplemental Operation Stone Garden Funding Grant Application in the amount of \$194,315.00
- 1c. Processed Invoices for August 3, 2009 through August 17, 2009

Councilmember McGoffin moved to approve the Consent Agenda. Seconded by Vice Mayor King. Motion passed 7-0.

NEW BUSINESS:

1. Permission to place a static display at Veteran's Memorial Park located at 4th Street and Patagonia Street

City Manager Glenn Nichols addressed Council stating Frank Biscardi, the VFW Post Junior Commander, is requesting the opportunity to install a static display at the Veteran's Memorial Park. Mr. Nichols then introduced Mr. Biscardi. Mr. Biscardi then addressed Council stating they would like to place an M4 Sherman Tank at the Veteran's Park. Mr. Biscardi stated that almost every Veteran's organization outside of Arizona has a piece of static display and he would like to see one in Benson. Mr. Biscardi stated the display would be another landmark for people to recognize Benson. Mr. Biscardi then asked the City for permission to have a police officer halt traffic at the intersection of 4th Street and San Pedro Street at noon on Saturday, August 30, 2009 so that all members traveling to the Tombstone American Legion via motorcycle, estimated at 100, for the Silver Rose Ceremony in which the Silver Rose will be awarded to three members of their post.

Mayor Fenn then stated the traffic request was not on the agenda and then opened the agenda item for discussion. Councilmember Lodzinski stated several people did not think a tank belonged in the

Veteran's Memorial Park. Councilmember Lodzinski then stated a tank would be climbed on and that a location better suited to place a tank, that would also provide more space for parking and taking pictures, may be on 4th Street where the current Mormon Battalion Monument was, stating the current monument could be moved and added to to include the California Volunteers that came through the area during the Civil War, the Calvary units that served in the area protecting the railroad and the settlers. Councilmember Lodzinski then stated there may be utilities under the Veteran's Park and that he didn't mind the tank, but that the Veteran's Park should be a more solemn place where people could come and honor the dead.

Councilmember McGoffin stated she had spoken to many people and that they all commented how nice the Veteran's Park looked and how peaceful it was. Councilmember McGoffin then stated we have plenty of other places on 4th Street that are barren and could be fixed up, putting in another park or attraction and that placing the tank there for people could be another memorial specific to people in Benson who gave their life for their country.

Councilmember Lambert then stated he had spoken to several people from the VFW and the American Legion and they all felt the Veteran's Park would be a suitable place for the tank. Councilmember Lambert then stated he had measured the park and that there was plenty of room, stating that's where the memorial is and it is a suitable place for the tank.

Councilmember Sacco stated he agreed with Councilmember Lodzinski and Councilmember McGoffin, stating the Veteran's Park isn't the proper place for the tank, since it is more like a cemetery than a park and that we should find another place for the tank.

Councilmember Boncquet stated she also felt we should find another place for the tank to be located.

Vice Mayor King stated he thought the display was a good thing to bring into the community, but that he agreed it would be better placed on 4th Street, stating more people may see it there and that we could place a flagpole and have a dedication and would be a nice attraction. Vice Mayor King then stated people could stop and take pictures and that it wouldn't be as close to the road, which may be an issue if it were located in the Veteran's Park.

Mayor Fenn then asked Public Works Director Brad Hamilton about the ownership of the property being suggested for the placement of the tank with Mr. Hamilton stating he would have to verify ownership of the property. Mayor Fenn then asked Mr. Biscardi of the certainty of obtaining the tank for display with Mr. Biscardi stating there was currently no equipment available, but that it could change at any time. Mr. Biscardi then stated they are requesting an M4 Sherman, but may receive other equipment. Mr. Biscardi then stated as a City government, the City is eligible to apply for a piece of equipment also. Mayor Fenn then stated the Veteran's Park came about through donations from the community and that the City should be sensitive to those that contributed to the park. Mayor Fenn then stated he personally felt that the tank was a little overpowering for the Veteran's Park and that he would encourage the VFW to pursue the acquiring of a piece of equipment and see if there was a better place for it in the City. Mayor Fenn stated the concept seemed to have favor with the Council and the community, but that another location could be determined. Mayor Fenn then stated it was not an indication of disrespect or disregard for what the VFW was trying to do or what it represents. Mayor Fenn then stated Mr. Biscardi could speak with Mr. Hamilton and look at other possible locations.

2. Contract for Prosecutorial Services between Ann P. Roberts and the City of Benson

City Manager Glenn Nichols addressed Council stating the current prosecutorial contract expires at the end of August. Mr. Nichols then stated Ms. Ann Roberts was willing to continue in her position as the City Prosecutor under the same basic terms, but had requested the contract be for a 2 year term instead of a 1 year term. Mr. Nichols stated the contract also included the correction to reflect an annual rate instead of an hourly rate and that Ms. Roberts was in attendance to address any questions

Council may have. Mayor Fenn stated there was still a termination clause in the contract stating either party could cancel the contract with a 60 day notice. Councilmember Lodzinski thanked Ms. Roberts for her reports. Mayor Fenn asked Ms. Roberts about the time spent prosecuting with Ms. Roberts stating she spent approximately 2/3 of her time preparing for court with officer interviews, victim interviews, reviewing reports, case and statutory law review and research and the remaining time spent in court. Councilmember Sacco moved to approve the Contract for Prosecutorial Services between Ann P. Roberts and the City of Benson as written. Seconded by Councilmember McGoffin. Motion passed 7-0.

3. Approval of the replacement of a private irrigation well at 879 E. McNeil for Michael R. Gray

Public Works Director Brad Hamilton addressed Council stating under City Code, the City Council approves any private well drilled within the City limits and that Mr. Gray has had a rupture in one of his irrigation wells and needs to drill a new well to replace it. Mr. Hamilton then stated he reviewed the application, that it's a shallow well and won't have any effect on anything the City pumps, that he doesn't see any problems with it and that he recommends approval. Mr. Hamilton then answered Council's questions stating the well is a replacement well and replaces water previously obtained through Mr. Gray's current well, that there would be no cost to the City and that the application allows for drilling up to 100'. Councilmember Lodzinski asked how deep the City's wells were with Mr. Hamilton stating they range from 700' to 1100'. Councilmember Lambert asked how much water Mr. Gray used on a monthly basis, with Mr. Hamilton stating the property has 120 acre feet per year allotted. Councilmember Lambert moved to approve the replacement of a private irrigation well at 879 E. McNeil for Michael R. Gray. Seconded by Councilmember Sacco. Motion passed 7-0.

4. Review and discussion of City Finances with emphasis on July, 2009, financial results

Finance Director Jim Cox addressed Council stating the citywide fund balances decreased by \$431,000, which is due to two unusual events; the annual payment of \$360,000 to Zion's bank of which we have one payment remaining to be paid July 1, 2010 and an additional payroll for the month of July, which is an additional \$183,000 expense for the month. Mr. Cox stated the trends were more of the same, stating we were bouncing along the bottom of the recession with no signs of recovery, but also no signs of it getting worse. Mr. Cox then addressed the summary of all City funds, which includes personnel, the general fund and the enterprise funds. Mr. Cox then addressed City Tax Collections, including Sales Tax, Construction Tax and Bed Tax collections. Mr. Cox stated our sales tax collections were almost exactly the same as July, 2008. Mr. Cox then addressed the future stating national indicators and national economists are beginning to get optimistic with the consensus being that the economy will begin a strong recovery in the 4th quarter of 2009, but that he did not share that optimism, due to circumstances that are unlike anything we've seen before, such as the massive national debt. Mr. Cox then stated if things in the current fiscal year remain as they were in the previous fiscal year, that the City will make it through. Mayor Fenn asked Mr. Cox if he felt he would see a significant change quickly with the tracking Mr. Cox has in place. Mr. Cox stated they track sales tax on a monthly basis and that he felt confident a change in collections would be evident very quickly. Councilmember Lodzinski commented the City has issued approximately 26 home permits for 2009, stating Benson didn't get oversold a few years ago and that we're still seeing people coming to Benson, which is a good sign. Councilmember Lodzinski then thanked Mr. Cox for these monthly reports, which keep Council informed on the City's economic state Vice Mayor King then stated he was excited about the push for the Chamber's campaign to live in Benson and shop in Benson, stating this will help keep our revenues up and then thanked Mr. Cox for keeping Council informed. Mayor Fenn thanked Mr. Cox for his update on the City's finances.

EXECUTIVE SESSION: As per A.R.S. §38-431.03 (A)(7), Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

Vice Mayor King moved to enter in Executive Session with the City Council, City Manager, City Attorney and City Clerk at 7:52 p.m. Seconded by Councilmember McGoffin. Motion passed 7-0.

Council reconvened at 8:07 p.m.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 8:07 p.m. Seconded by Vice Mayor King. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk