

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD SEPTEMBER 14, 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:

Mayor Fenn introduced Vice Mayor King who offered the invocation.

**EMPLOYEE
RECOGNITION:**

None.

CALL TO THE PUBLIC:

Mr. Glen Jenkins addressed Council regarding Stagecoach Trails Park. Mr. Jenkins' comments are incorporated into the minutes.

Ms. Araceli Cabrales of Catholic Community Services addressed Council regarding Domestic Violence. Ms. Cabrales then stated abuse differs from an argument and is the use of physical or psychological force to control and maintain power over someone that involves frightening and intimidating someone over and over. Ms. Cabrales then gave many examples of abuse, including threats or harm to another person's family or pets, the use of weapons, or the destruction of another person's property. Ms. Cabrales stated the Sierra Vista Domestic Violence Shelter is a program of Catholic Community Services in Southern Arizona and support is provided by the Department of Economic Security, the Department of Public Safety, Cochise County Adult Probation, the United Way and the Governor's Office of Arizona. Ms. Cabrales stated they offered assistance in supporting victims of abuse through different programs, including leading them through the process of legal applications and assisting with legal and family issues. Ms. Cabrales stated they also have empowerment programs that are available to all the community.

Ms. Sylvia Burnside of the San Pedro River Arts Council addressed Council stating she would like to announce the new art show, "West of September – Images of Desert Places" that was on display in the Council chambers and will be on display until October. Ms. Burnside stated the artists of the current showing were Shryl Miles and Winona Sharp. Ms. Burnside stated that in creating this show, the Arts Council asked for western themed art to complement the upcoming Butterfield Stage Days and asked for permission to keep the City Council chambers open and manned during the weekend of Butterfield Stage Days. Ms. Burnside then stated the Arts Council would continue changing the exhibits in the art display in the Council chambers approximately every 2 months. Ms. Burnside stated the exhibits were limited in scope by the display in the Council chambers and hoped the City Council would consider a more permanent way to display exhibits, since the City Council chambers was a splendid way to encourage artists and engage the public. Ms. Burnside then stated the San Pedro River Arts Council would be bringing a proposal for a hanging system to Council soon.

Mr. Steven Insalaco addressed Council regarding the placement of a tank for display at the Veteran's Memorial Park. Mr. Insalaco's comments are incorporated into the minutes.

Mr. John Whiteside addressed Council regarding New Business Item 5, stating the ordinance was long overdue, however it should not be declared an emergency, stating the only reason the City Council should ever declare an emergency is when there was a risk to health or safety involved. Mr. Whiteside then stated the Council should pass the ordinance, but strike the emergency clause.

CITY MANAGER REPORT:

City Manager Glenn Nichols addressed Council, giving the dates of upcoming meetings, after stating there were no upcoming events.

- September 15, 2009 – Arts Commission, 9:00 a.m., City Hall
Library Advisory Board Meeting, 4:00 p.m., City Library
- September 17, 2009 – General Development Plan 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

CONSENT AGENDA:

- 1a. Approval of Minutes of the August 24, 2009 Regular Meeting, Including Executive Session Minutes
- 1b. Appointment of Ina Jones to the Benson Library Advisory Board
- 1c. Reappointment of Linda Kaiser to the Benson Library Advisory Board
- 1d. Processed Invoices for August 18, 2009 through September 7, 2009

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

NEW BUSINESS:

MAYOR FENN STATED NEW BUSINESS ITEM 5 WOULD BE REMOVED FROM THE AGENDA DUE TO THE PROCEDURES THAT MUST BE MET BEFORE THE ITEM WILL BE BROUGHT TO THE COUNCIL FOR ACTION.

1. Recognition of the Award of Excellence to the City of Benson for the Outstanding Achievement and Continued Excellence in Risk Management and Control of Losses from the Arizona Municipal Risk Retention Pool

City Manager Glenn Nichols addressed Council stating this award was presented to the City for 2007-2008 in recognition of the City's outstanding achievement and continued excellence in risk management. Mr. Nichols stated he felt this award recognized the City staff's continued dedication in following the proper guidelines to keep the City's risk very low.

2. Benson Butterfield Rodeo Committee request for assistance by providing and assisting with the setup of serpentine fencing, providing equipment and personnel to assist with the chalking of the parking lot at the arena and becoming a Sponsor for the Benson Butterfield Rodeo

City Manager Glenn Nichols addressed Council stating Lorraine Green and Shannon Gardner were present to answer any questions Council may have. Mayor Fenn stated in the past, the City has supported this event through personnel and manpower and a monetary contribution making the City a sponsor of the event. City Manager Glenn Nichols then stated the current request is for the

providing and setting up serpentine fencing, providing equipment and personnel to assist with the chalking of the parking lot at the arena and a monetary contribution in the amount of \$800.00. Mr. Nichols then stated in the previous fiscal year Council donated \$3,000.00 to the Benson Butterfield Rodeo Committee, but that was due to financial hardships of the committee. Mr. Nichols stated the current request of \$800.00 is closer to what Council has approved in the past. Vice Mayor King moved to approve the sponsorship of the Benson Butterfield Rodeo in the amount of \$800.00, and to provide and assist with the setup of serpentine fencing, and to provide equipment and personnel to assist with the chalking of the parking lot at the arena, stating this event is beneficial to the community. Seconded by Councilmember McGoffin. Motion passed 7-0.

3. **Resolution 57-2009 of the Mayor and Council of the City of Benson, Arizona, supporting the United States Census Bureau's desire to conduct a complete and accurate count of all of the residents as of April 1, 2010**

City Manager Glenn Nichols addressed Council stating he had met with Ms. Ann Waters of the Census Bureau, who had requested City support of the 2010 census. Ms. Waters indicated that only 60% of the people in Cochise County were counted in the 2000 census and that a lot of funding the City receives is affected by our census count. Mr. Nichols stated the City could support the census efforts by the Resolution, by having census supplies available during Butterfield Stage Days, by encouraging participation in the census, place census information on the City's website and to utilize the media as the census nears. Councilmember McGoffin then stated she had attended a class on the census at the League of Arizona Cities and Towns Conference and that education on the census was very important. Councilmember McGoffin then stated every 50 people that don't get counted in the census equal \$500,000.00 in funding for the City over a period of 10 years. Councilmember McGoffin then stated the information gathered by the census is held confidential and is not released for a minimum of 80 years. Councilmember McGoffin then stated the recommendation was to encourage participation and to publicize the census, using City utility billings as well as asking Sulphur Springs Valley Electric Company to put the information on their billings also. Councilmember McGoffin then moved to approve Resolution 57-2009. Seconded by Councilmember Lodzinski. Motion passed 7-0.

4. **Resolution 58-2009 of the Mayor and Council of the City of Benson, Arizona, rescinding Resolution 2-91 dated January 21, 1991 and its Amendment that established a Rebate Program in the City of Benson for installation of low water use toilets and waterless urinals**

Public Works Director Brad Hamilton addressed Council stating after researching a request for a rebate under the rebate program, it was determined the rebate program was established in 1991 to encourage the use of low water use fixtures. Mr. Hamilton then stated in 1992 Congress passed the National Energy Policy Act, which required by 1994 that all toilets and showerheads that were sold in the United States be low flow. Councilmember McGoffin then stated there were many residents that were older in the City and this program could still be used to assist with the replacements of water fixtures in those homes. Mr. Hamilton then stated if we would like to keep a rebate program to assist with those replacements, he would like to rescind the current program and bring a modern program back to Council as an ordinance, which would place the program in the City Code. Mr. Hamilton stated he would also like the opportunity to study the financial impact the program may have on the water department. Councilmember Lodzinski stated he would like to see a rebate program come to Council for action in the next 90 days that would allow rebates for replacement fixtures in older homes and would not apply to new construction. Councilmember Lambert asked how many rebates have been requested with Mr. Hamilton stating since he had been with the City, there was only one request. Mayor Fenn stated he felt the City should give a credit for the replacement of a higher volume fixture and would like to see something brought to Council that would address this. Councilmember Lambert stated he felt the current program should stay in place while an updated program is drafted and presented to Council for action. Councilmember Lodzinski stated under the current program, new construction may be eligible for the rebate program and felt

they shouldn't qualify for the rebate. Mayor Fenn asked if there would be any other issues in leaving the current program in place with Mr. Hamilton stating any program should be in the form of an ordinance so it would be placed in the City Code and that he would like to study the financial impact of the program in order to minimize the financial risk to the water department. Councilmember Lambert then moved to approve Resolution 58-2009. Seconded by Councilmember Lodzinski. Motion passed 7-0.

5. **Ordinance 537 amending the City of Benson's Zoning Regulations by adding Section Twenty "A" regarding prosecuting violations of the regulations**

This item was removed from the agenda.

6. **Approval to use a single Purchase Order issued to United Fire Equipment Company for Apparatus Repair and Maintenance**

Fire Chief Keith Spangler addressed Council stating in the previous fiscal year, Council had approved a single purchase order for the annual apparatus inspection, repair and maintenance and he was now asking Council to approve the current required inspection, repair and maintenance stating any repair performed under this purchase order would only be the major required repairs and that small repairs and maintenance are done locally. Chief Spangler then stated he expected the total expense to be approximately \$20,000.00, which required Council approval since it was under a single purchase order. Chief Spangler stated before any repairs are made, the contractor contacts Chief Spangler who in turn contacts the City Manager and the City Finance Director and obtains approval before the work is performed. Chief Spangler then stated trying to move the apparatus to the Phoenix area for repair is not practical, stating the mileage to Phoenix and back, in some cases would equal 50% of the annual mileage and that it was difficult to obtain estimates. Chief Spangler then recommended utilizing United Fire, located in Tucson, for the current apparatus repair and maintenance, stating United Fire is the only Hale pump distributor in Arizona and they are qualified to perform the apparatus pump repairs. Councilmember Lambert asked about the projected cost, with Chief Spangler stating he expected the total cost to be approximately \$20,000.00. Vice Mayor King confirmed with Finance Director Jim Cox that this item was in the City budget. Mayor Fenn then asked if there was any resource through the State, such as a State Contract, to use for comparison to verify competitiveness of United Fire, with Chief Spangler indicating there was no State bid for this type of work, but that he had checked with other departments who utilized United Fire and that they were satisfied with their cost and performance. Councilmember Lodzinski asked about other departments with Chief Spangler stating Tucson and some other departments have their own maintenance division. Chief Spangler stated if the City attempted to utilize other department's maintenance division, our equipment would be a lower priority and could delay the maintenance as much as 6 months. Councilmember Lodzinski then asked about the possibility of performing our own maintenance with Chief Spangler stating there were certifications that would need to be obtained and that he couldn't speculate how large the department would have to be to do our own maintenance. Councilmember Bonquet moved to approve the use of a single purchase order issued to United Fire Company for apparatus repair and maintenance. Seconded by Councilmember Sacco. Motion passed 7-0.

7. **Resolution 59-2009 of the Mayor and Council of the City of Benson, Arizona, declaring as a Public Record that certain document filed with the City Clerk and entitled "The 2009 Amendments to the Tax Code of the City of Benson"**

Finance Director Jim Cox addressed Council stating he would address both this item and the next since they were so closely related. Mr. Cox then stated each year the League of Cities and Towns meets and approves changes to the Model City Tax Code, which most cities and towns in Arizona utilize. Mr. Cox then stated there were no major proposed amendments, indicating there were three minor clarifications to the tax code; the exemption of development fees from the Construction Sales

Tax, retroactive to September 1, 2006; the exemption of rental or leasing of solar energy devices from the Transaction Privilege Tax, retroactive to July 1, 2008 and the removal of the reference to residency requirements for out of state sales, retroactive to July 1, 2008. Councilmember Lodzinski moved to approve Resolution 59-2009. Seconded by Councilmember Sacco. Motion passed 7-0.

8. **Ordinance 538 of the Mayor and Council of the City of Benson, Arizona, relating to the Privilege License Tax; adopting “The 2009 Amendments to the Tax Code of the City of Benson” by reference; establishing an effective date; providing for severability and providing penalties for violations**

Mayor Fenn stated Ordinance 538 adopted the amendments discussed in item 7 by reference and asked Finance Director Jim Cox if he had any additional comments. Mr. Cox stated he did not. Councilmember McGoffin moved to approve Ordinance 538. Seconded by Vice Mayor King. Motion passed 7-0.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember Lodzinski moved to adjourn at 7:49 p.m. Seconded by Vice Mayor King. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk

Glen Jenkins
204 South Land Avenue
Benson, AZ 85602
ph 801-547-7292

September 14, 2009

Benson City
120 West 6th Street
Benson, AZ 85602

Subject: Trailer in Lot 41 of Stagecoach Trails Park and etc

Honorable Mayor Fenn and Council Members:

This is not an issue between neighbors. Even though the city and media may call it that in trying to skirt the real issue. The real issue is: Benson City is Not Enforcing Their Codes! This is causing problems between neighbors and in the community. When the codes are enforced, most of the problems will be solved.

The problem of the trailer next door did not just start on April 22, 2009 when it was moved in. It started when Jay Kendrick bought Desert Craft that was divided into lots that were too small to meet the manufactured home code. He made it a manufactured trailer park even though the lots didn't meet R-3 requirements. From there size they were probably made for RVs. He then used rocks and cables to designate lots and close down fire lanes. This was not per code as was pointed out by an educated city employee that was told to keep their nose out. The fire lanes were closed and trailers were put in that space. Over sized trailers were put on many lots. Some were even extended into city property.

I don't have time to go into more detail. I can't do more research or I will be accused of costing the city more money when I use their resources. Therefore I can't find out why these things were allowed.

Then came the trailer next door to me, in lot 41 of Stagecoach Trails. It has gone through the process of not passing inspections. It has an order of Do Not Occupy. Yet nothing has been enforced. It is being occupied illegally.

I don't think that the Planning and Zoning should have to enforce the code violations. They should be cited then turned over to the Police Department to enforce law and order by the means available to them.

The trailer in Lot 41 should be removed! This is my push and plea.

The trailers on city property should be removed!

The lots should be made to conform to R-3 zoning!

The fire lanes should be opened back up! The Fire Engine couldn't get to the site of the recent gas pipe puncture.

The rocks are still a discrimination issue.

Glen Jenkins
204 South Land Avenue
Benson, Arizona 85602
ph 801-547-7292

September 14, 2009

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Lot 41 and others

In the early 1900s Bryan's Addition was designed. It had lots that were 50 feet wide and 150 feet deep. They went from each street clear through to the alley. They did not have a utility easement in the middle. It showed 4th Street, 5th Street, 6th Street and another street where 7th Street ~~would~~ would be if so designed with width of 66 feet each. There were 320 feet between each street. This 320 feet included an alley of 20 feet wide that was centrally located between each set of streets making each lot with the above dimensions. I gave Mr Nichols a copy of this document so lot size could be verified.

When Jay Kendrick bought this ground in 2003 the same design was on record as shown on the Record of Survey filed in the State of Arizona, County of Cochise on September 10, 2003.

This brings up a problem. When and where were the lots divided in the middle and a utility easement of approximately 10 feet put in the middle? Or was the easement always there? This makes each and every lot to be only 70 feet deep. (75 minus 5 for easement) NOW each and every lot does not qualify for R-3 Zoning because they are not 90 feet deep. To make the matter worse the lots have been made narrower when cement slabs were put in to make lots. These lots are less than the original 50 feet wide, again making them not eligible for R-3 zoning. There is no way you can get the required 5000 square feet required for a lot in R-3 or Manufactured Home Park under this design. This points out that each and every lot is illegal and cannot pass an inspection. Unless the design is changed.

As you can see from the above information, I have dug up my information from legal records. This verifies that I have again been falsely accused of going on stagecoach trails property and measuring.

CALL TO PUBLIC ADDRESS

Stephen Insalaco

2009.09.14

My name is Stephen Insalaco and I reside at 3280 West Pinto Place, J-Six Ranch.

Honorable Mayor, members of the city council, and good citizens of Benson;

Agenda item number 1 of the 24 August 2009 regular meeting of the Benson City Council, discussed the proposal of placing a static tank display in the Veteran's Memorial Park. I was disappointed to learn that the city council didn't reach a resolution on this matter, when I thought that a unanimous resolution should have been reached without difficulty. Consequently, I submitted an opinion letter on this topic to the local newspaper, which was included in the September 1st, edition of the Benson San Pedro News-Sun.

In addition, I was equally disappointed that the same topic does not appear in this week's meeting agenda. Now I won't pretend that I am aware of everything that is going on behind the scenes with regard to this topic, or what the issues are that are being considered, but to further amplify my stance on this topic, I would like to read to you the letter that I submitted, and leave you with an additional thought.

{Opinion letter, dated 01 September 2009, submitted to San Pedro News-Sun, by Stephen Insalaco}

Having said the above, I would like to leave you with the following closing thought. Should the city council, having negotiated a proposal for a static tank display in the Veterans Memorial Park, and having possibly rejected or taken no action on such a proposal, without a subsequent follow-on plan that supersedes the original idea, what message might the city council and the community of Benson, be sending to the veterans of this community and elsewhere within the country?

Ladies and gentlemen of the council, please vote unanimously to approve this plan to place a static tank display in your Veterans Memorial Park, in celebration of the sacrifices that a lot of brave men and women have made for your community, this country, and the the free peoples elsewhere in the world.

Thank you for listening.

Benson should get tank for park

Published: Tuesday, September 1, 2009 7:50 PM CDT

With respect to the VFW's proposal to acquire a military tank to set on display within the Veterans Memorial Park, the Benson city council should approve the plan and give the VFW the 'go ahead' for the static display. There is room, and the Veterans Memorial Park is the most appropriate place for the tank display.

Many municipalities across the nation have acquired retired military hardware, and placed these on display within their communities as a tribute to the men and women of the armed forces. These pieces of military hardware become monuments to our military heroes, fallen and alive, and a reminder of their sacrifices.

Memphis has a B-17 bomber on display mounted high on a pylon, within an attractive memorial park. The Nautilus submarine (SSN571), the world's first nuclear attack submarine, is also on display. With a limited amount of military equipment available to the numerous communities across America, it would be an honor for Benson to be the recipient of such hardware.

Frank Biscardi is correct when he says that having a static military display would be a benefit to the community. Visitors would stop and capture pictures, and some of them might spend some time in Benson to shop or dine. Folks climbing on the tank are not a problem - they can't hurt it.

The idea of the tank is to bring the general public closer to the realities of war so that they can understand its true nature, learn from our past experiences, and remember the love ones who we've lost. And if I had my way, I would be asking for a fighter jet and an amphibious assault craft, to represent and honor the other major branches of the Department of Defense.

Stephen Insalaco

J-Six Ranch

*BENSON SAN PEDRO
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