

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD MAY 26, 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 LAMBERT, LODZINSKI, McGOFFIN and SACCO
ABSENT WAS: COUNCILMEMBER BONCQUET**

INVOCATION:

Mayor Fenn introduced John Cook of the Baha'i Faith who gave the invocation.

**EMPLOYEE
RECOGNITION:**

None.

PROCLAMATION:

Mayor Fenn read a proclamation declaring May 28, 2009 as "Choose to Help – Golden Rule in Action Day".

CALL TO THE PUBLIC:

Charlotte Taylor addressed Council stating she was there on behalf of the Benson High School Grad Night Committee and that they desired to provide a graduation celebration free from alcohol, drugs and accidents for the graduating class of 2009. Ms. Taylor stated an all-night supervised party was planned at the Benson High School, with games, contests, music, food and hourly prizes. Ms. Taylor then stated they are requesting donations from the area businesses and have received donations in the amount of \$25.00 up to \$500.00. Ms. Taylor stated many schools provide this activity and that they were trying to bring this activity back to Benson. Ms. Taylor then stated they were seeking more donations to purchase the food and supplies for this event.

John Whiteside addressed Council stating he was against both the agreement with Tucson Regional Economic Opportunities and Resolution 39-2009 approving the Southeast Arizona Economic Development Group/Venture Catalyst Ins. Solar Development Initiative. Mr. Whiteside's comments are incorporated into the minutes.

CITY MANAGER REPORT:

Mayor Fenn stated the City Manager Report would now be after the Call to the Public to increase publicity of the upcoming meetings and events.

City Manager Glenn Nichols addressed Council stating he would like to recognize City Clerk Vicki Vivian for her achievement in obtaining the Certified Municipal Clerk designation from the International Institute of Municipal Clerks.

Mr. Nichols then addressed Council with upcoming meetings:

- June 2, 2009 – Planning & Zoning Commission, 7:00 p.m., City Hall
- June 8, 2009 – City Council Meeting, 7:00 p.m., City Hall
- June 9, 2009 – Arts Commission, 9:00 a.m., City Hall
Library Advisory Board Meeting, 4:00 p.m., City Library
- June 18, 2009 – City Council Public Hearing – Tentative Budget, 7:00 p.m., City Hall
- June 20, 2009 – Historic Preservation Commission Meeting - CANCELLED
- June 22, 2009 – City Council Meeting, 7:00 p.m., City Hall
- June 23, 2009 – Community Water Alliance, 6:30 p.m., City Hall

Mr. Nichols then informed Council of upcoming events:

- May 28, 2009 – Benson High School Graduation, 8:00 p.m., Benson High School
- May 28, 2009 – City Pool Opens, Hours are Monday – Saturday, 11:00 a.m. – 5:00 p.m.
Sunday, 1:00 – 5:00 p.m.
- June 1, 2009 – Swimming Lessons, City Pool
Variety of Parks & Recreation Programs and Activities

CONSENT AGENDA:

- 1a. Approval of Minutes of the May 11, 2009 Worksession
- 1b. Approval of Minutes of the May 11, 2009 Regular Meeting
- 1c. Resignation of Kendra Tanner from the Mayor’s 4th of July Committee
- 1d. Resignation of David DiPeso from the Mayor’s 4th of July Committee
- 1e. Appointment of Andrew Parkin to the Mayor’s 4th of July Committee
- 1f. Processed Invoices for May 5, 2009 through May 18, 2009

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

NEW BUSINESS:

1. Discussion and possible action regarding the sponsorship of the Benson Unified School District Graduation Activity to be held at the school on May 28, 2009, to include possible donation

Mayor Fenn opened this item for discussion with Vice Mayor King asking Finance Director Jim Cox for the balance in the Community Enrichment budget. Mr. Cox indicated there was a balance of \$2,108 left unallocated in the Community Enrichment account. Councilmember McGoffin stated this was a worthy activity, keeping students safe, with Vice Mayor King stating he agreed and that an activity like this took a lot of effort on the part of the committee and many tragedies happen on graduation nights and it was important to try and keep our students safe. Vice Mayor King then indicated he was considering a donation of \$1,000.00. Mayor Fenn stated he was considering a \$500.00 donation. Vice Mayor King then expressed concern that not many would be able to donate to this worthy cause. Councilmember Lambert asked how much the committee needed with Ms. Taylor stating they were making the event work with any funding they received and would be very pleased with \$1,000.00. Councilmember Lambert asked Ms. Taylor how many students would be attending with Ms. Taylor stating approximately 100 students would be attending. Vice Mayor King then moved to donate \$1,000.00 to the Benson Unified School District Graduation Activity. Seconded by Councilmember Lambert. Motion passed 6-0.

2. Discussion and possible action approving the Tucson Regional Economic Opportunities (TREO) agreement for services and assistance

City Manager Glenn Nichols addressed Council stating Mr. David Welsh, TREO was a member

of the Benson Economic Development Subcommittee, assisting with their Strategic Plan and was now present to discuss the City joining the TREO organization. Mr. David Welsh then addressed Council stating he was pleased to have participated in the development of the Economic Development Strategic Plan and that Council had before them an opportunity to come to the regional table when it comes to economic development. Mr. Welsh stated TREO is a vehicle for our region to come together to work on some developmental things together and that recently Sierra Vista had been added to the group along with some other local small cities. Mr. Welsh stated the highlight to this agreement for the City is that through the City's investment in TREO it adds bandwidth to capabilities to fulfill the City's mission and what the City would like to have economic development be. Mr. Welsh stated it is not about TREO telling the City what is good for them, but that the role of TREO is to take the Strategic Plan and move it into implementation. Mr. Welsh stated that there are some activities and capabilities that TREO can bring to the table that relate to the relocation of companies, large expansions and working with primary employers. Mr. Welsh stated that there is possibility of the demise of Arizona Department of Commerce during this legislative session which will put Arizona in a position of being one of the few states in the nation who does not have a statewide economic development effort. In that vacuum, regional groups like TREO will step up and fill the role that the State has been filling. He would like to see monthly regional meetings to share information, to help cities generate their own leads on businesses and communicate in regards to business retentions and expansions. Maricopa County is doing a good job with Greater Phoenix Economic Council (GPEC) and Mr. Welsh would like for TREO to engage Cochise County in the same dialogue. Councilmember Lodzinski states the City has an economic plan; there are 3 groups, the existing businesses, the small businesses, and Southeastern Arizona Economic Development Group (SAEDG). Councilmember Lodzinski stated that by joining TREO it would put the City on the radar of some major companies and recommended that the City approve the agreement. Councilmember McGoffin stated she has enjoyed working with Mr. Welsh on the Economic Development Subcommittee and that the City knows now where they want to go and which irons to have in the fire. Councilmember Sacco referred to City Attorney Michael Masee and asked if he had reviewed the agreement. Mr. Masee stated it seems pretty straight forward. Councilmember Sacco asked for a definition on the terms of the agreement asking for an explanation on the "additional one year terms". Mr. Welsh stated there are no multi-year agreements between anyone and TREO and he would not mind if wording was added to state "additional **one** year terms". Councilmember Sacco also wanted a reciprocal indemnification clause added. Councilmember Lambert asked who the liaison would be from the City. A liaison was not known at that time. Councilmember Lambert also inquired about the cost and wanted to know if the cost is likely to change. Mr. Welsh stated the cost is at the lower end compared to the services being offered and that TREO would like to pursue, with the initial investments, a countywide effort and come to some kind of cost sharing operation. Mr. Welsh states that there are no penalties for cancelling the agreement after the first year. Councilmember Lambert asked staff where money would come from with Mr. Cox stating there was an unallocated amount of \$5,000.00 in the Economic Development line item which has been increased to \$7,500.00 for the 2009-2010 budget in anticipation of this agreement. Councilmember Sacco wanted paragraph a. "termination" clarified by stating "the agreement shall terminate." Vice Mayor King offered his appreciation for those trying to get better high-paying jobs in the City. Mayor Fenn asked about the relationship with TREO and SAEDG. Mr. Welsh stated he needs to learn more about that group before he could answer. Mayor Fenn expressed his appreciation of the Scope in the agreement. It was determined by recommendation of Mr. Masee that this item be tabled and brought back before Council once the budget was approved and funding could be assigned.

3. **Resolution 38-2009 of the Mayor and Council of the City of Benson, Arizona, approving a Memorandum of Understanding (MOU) with the United States Marshal Service regarding Joint Cooperation in the Arrest of Fugitives**

Acting Police Chief Paul Moncada addressed Council requesting approval of the Memorandum of Understanding with the United States Marshal Service stating this would enable the Police

Department and the Marshal Service to utilize each other's resources in the arrest of fugitives. Councilmember Lodzinski moved to approve Resolution 38-2009. Seconded by Councilmember Lambert. Motion passed 6-0.

4. **Resolution 39-2009 of the Mayor and Council of the City of Benson, Arizona, approving the Southeast Arizona Economic Development Group/Venture Catalyst Inc. Solar Development Initiative and authorizing said entities to apply for Federal Grants on behalf of the City to fund local solar conversion projects**

Public Works Director Brad Hamilton addressed Council stating this Resolution would authorize Southeast Arizona Economic Development Group/Venture Catalyst, Inc. to apply for grants on behalf of the City to fund local solar conversion projects. Mr. Hamilton stated if an award of a grant were approved, it would come back to Council for the execution of a grant contract. Councilmember McGoffin moved to approve Resolution 39-2009. Seconded by Vice Mayor King. Mayor Fenn then stated for the record, that he was an officer of the Board of Directors of the Southeast Arizona Economic Development Group, which was a non-profit organization, he received no compensation, had no substantial interest, and that after consulting with the City Attorney, it was determined he could participate in the item, which he intended to do. Motion then passed 6-0.

5. **Discussion and possible action regarding the approval of the Benson Municipal Airport Hangar Lease Agreement (Pad E1) between the City of Benson and Clifford D. Deane**

Public Works Director Brad Hamilton addressed Council stating the City published a request for proposals for Pad E in an effort to stimulate airport development and had received only 1 response. Mr. Hamilton then stated Mr. Clifford Deane had submitted the response and that Mr. Deane could answer any questions Council had regarding his proposal. Mr. Deane then addressed Council stating his project was to build an individual privately owned hangar on Pad E, which was in the original plan for the airport. Mr. Deane then stated in January, he had sent a letter to Mayor and Council indicating he would agree to the terms of previous airport hangar leases and that in the proposed agreement, Section VI, "Term of Lease" stated the lease "may be renewed at the option of the lessee for one (1) consecutive term of twenty (20) years each for a total term of forty-one (41) years" and that he would like it to read for "two (2) consecutive terms of twenty (20) years each for a total of sixty-one (61) years". Mr. Deane stated this would make the proposed lease consistent with previous approved hangar leases. Mr. Deane then stated he was anxious to get the project started. City Attorney Michael Masse then addressed Council stating the request for proposal did not indicate the lease could be for two consecutive terms, therefore, he would not recommend the change in the terms of the lease. Mayor Fenn asked if the agreement could be approved as is and amended at a later date with Mr. Masse indicating that would be possible with additional consideration. Mr. Deane stated he was agreeable to that, if it were possible. Mayor Fenn then asked about the project and its guidelines with Mr. Deane stating the Master Plan for the Airport provided the guidelines Mayor Fenn was questioning. Councilmember Lodzinski moved to approve the Benson Municipal Airport Hangar Lease Agreement for Pad E1 between the City of Benson and Clifford D. Deane. Seconded by Vice Mayor King. Motion passed 6-0.

6. **Resolution 40-2009 of the Mayor and Council of the City of Benson, Arizona, approving an Amendment to the Development Agreement with Wal-Mart Stores, Inc.**

Finance Director Jim Cox addressed Council stating the original agreement between Wal-Mart and the City of Benson called for annual payments to be made 30 days after the anniversary date of the opening of the store, which would make the payments due December 8 of each year. Mr. Cox then stated since December is traditionally our lowest cash-flow month in the City, he contacted Wal-Mart requesting to change the payment due date to a higher cash-flow month, suggesting May. Mr. Cox then stated Wal-Mart was very cooperative in the request and the

amendment would change the City's payment due date to May 31 of each year. Mayor Fenn then stated the amount the City pays to Wal-Mart is exceeded every year with Finance Director stating the agreement calls for a payment of 50% of the gross sales tax revenues received from Wal-Mart each year or \$250,000, whichever is less. \$250,000 is paid annually. Part of the development agreement called for \$2.5 million over a period of years for major infrastructure additions that Wal-Mart undertook on behalf of the City, as well as the additional land the City bought back from Wal-Mart. Councilmember Lambert asked the City Attorney if there was any conflict of interest if Council had family members employed at Wal-Mart with City Attorney Michael Masse indicating the amendment to the agreement would not constitute a conflict of interest. Councilmember McGoffin moved to approve Resolution 40-2009. Seconded by Councilmember Sacco. Motion passed 6-0.

7. **Resolution 41-2009 of the Mayor and Council of the City of Benson, Arizona, approving a Tentative Budget for Fiscal Year 2009-2010**

Finance Director Jim Cox addressed Council stating the Tentative Budget would be published for two consecutive weeks, after which Council would hold a public hearing on June 18, 2009 with the adoption of the Final Budget scheduled for June 22, 2009. Mr. Cox then stated he gave each Councilmember a brief summary of the changes made to the Tentative Budget as a result of the last Council worksession. Mayor Fenn questioned the Capital Improvement Project of a bike and pedestrian path for \$45,000 with Mr. Cox indicating this project was part of the Capital Improvement Plan presented as a whole in April, 2009. Public Works Director Brad Hamilton then addressed Council stating this project would not move forward unless the City received the Safe Routes to School Grant through the State's Health and Human Services Department and would be of no cost to the City. Mayor Fenn verified with Mr. Cox that once the Tentative Budget was approved by Council, although it could be altered or decreased, it could not be increased. Vice Mayor King moved to approve Resolution 41-2009. Seconded by Councilmember Lodzinski. Motion passed 5-0, with Councilmember McGoffin abstaining.

8. **Resolution 42-2009 of the Mayor and Council of the City of Benson, Arizona, rescinding Resolution 56-2008 that adopted the Arizona Department of Transportation/City of Benson State Route 90 Conceptual Right-of-Way and Roadway Plan for the City of Benson dated November, 2007**

Public Works Director Brad Hamilton addressed Council stating in 2008, Council accepted the ADOT/City of Benson State Route 90 (SR-90) Conceptual Right-of-Way and Roadway plan, which was borne out of the Benson Small Area Transportation Study completed in September, 2007. Mr. Hamilton then stated since ADOT is finishing up their Access Management Plan that would be applied to all State highways and it was a more detailed plan, it would be beneficial for Council to rescind Resolution 56-2008 that adopted the ADOT/City of Benson SR-90 Conceptual Right-of-Way and Roadway plan. Mayor Fenn asked if Council would have to adopt the new ADOT Access Management Plan with Mr. Hamilton indicating Council would not need to take any action, since the State had control of the State right-of-ways and would apply the new Access Management Plan after the State adopted it. Vice Mayor King moved to approve Resolution 42-2009. Seconded by Councilmember McGoffin. Motion passed 5-1 with Councilmember Sacco voting nay.

9. **Review and discussion of City Finances with emphasis on April, 2009, financial results**

Finance Director Jim Cox addressed Council stating that the citywide fund balances increased despite the current economic conditions. Mr. Cox stated the trends were that revenues and expenditures were down, which has helped increase our fund balances throughout the year. 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 down

compared to sales tax collections in April, 2008. Mayor Fenn thanked staff for their conservative spending and thanked Mr. Cox for his update on the City's finances each month.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 8:25 p.m. Seconded by Councilmember Sacco. Motion passed 6-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk