

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JANUARY 11, 2010 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
COUNCILMEMBERS JO DEEN BONCQUET, DAVID LAMBERT,
JOHN LODZINSKI, LORI McGOFFIN and AL SACCO
EXCUSED WAS: VICE MAYOR TONEY KING, SR.**

INVOCATION:

Mayor Fenn introduced Brittany Cook of the Baha'i Faith who offered the invocation.

**EMPLOYEE
RECOGNITION:**

Mayor Fenn recognized Audrey Hoppes for 10 years of service with the City.

PROCLAMATION:

Mayor Fenn read a proclamation declaring February 2010 as Benson Area Food Bank Month. Mayor Fenn then presented the proclamation to the officers of the Benson Area Food Bank and also thanked the Food Pantry for their service to the community.

CITY MANAGER REPORT:

City Manager Glenn Nichols addressed Council, giving the dates of upcoming meetings and events.

January 12, 2010 – Library Advisory Board, 4:00 p.m., City Library
January 16, 2010 – Historic Preservation Commission, 9:00 a.m., City Hall
January 25, 2010 – City Council Meeting, 7:00 p.m., City Hall
January 26, 2010 – Community Watershed Alliance, 6:30 p.m., City Hall

January 16 & 23, 2010 – San Pedro Valley Little League Registration, 11:00 – 1:00 p.m., Lions Park
Concession Stand

January 18, 2010 – HOLIDAY, City Offices Closed

CALL TO THE PUBLIC:

Gloria Durgin and the Benson Youth Advocates from Southeast Arizona Behavioral Health Services (SEABHS) thanked Council presenting them with an appreciation plaque in recognition of the support of their Back to School Fair events they have received from the City Council.

CONSENT AGENDA:

- 1a. Approval of Minutes of the December 14, 2009 Regular Meeting
- 1b. Resolution 1-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the Chief of Police to sign two Subgrantee Agreements with the Arizona Department of Homeland Security to accept grant awards for the purchase of certain equipment
- 1c. Invoices processed for the period from December 8, 2009 through January 4, 2010

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

NEW BUSINESS:

1. Presentation of the Certified Audit Report for the City of Benson for the Fiscal Year ended June 30, 2009

Finance Director Jim Cox introduced Mr. Jim Usevitch with Colby & Powell who addressed Council regarding the annual City audit. Mr. Usevitch stated the audit requires a lot of staff and that they appreciate the time and effort into helping them complete the audit. Mr. Usevitch then stated there were three different reports presented to Council indicating the first was the audit that contained two opinions from Colby & Powell and that the audit went very well. Mr. Usevitch then stated the questions most people are interested in are if the City is better off in the current year than the previous year, stating the City was; how much money the City has, stating as of June 30, 2009, the City had approximately \$3.2 million in the bank and if there were any issues with the audit, stating there were no problems. Mr. Usevitch then stated the second report were the reports of schedules required by the single audit act, stating anytime an organization receives over \$500,000 from the federal government, a single audit is required. Mr. Usevitch stated the City of Benson received approximately \$650,000 in federal funds and although there were a couple of findings, there was nothing serious and everything went well. Mr. Usevitch then stated the last report was the annual expenditure limitation report, which is also sent to the state. Mr. Usevitch then stated if the City were to ever expend more than we budgeted, the state would penalize the City with a reduction of the state shared revenues we receive. Mr. Usevitch stated the City has never had that problem and stated Benson has always been well managed and takes their finances very seriously, thanking the Council for that. Mr. Usevitch then stated Mr. Cox wrote the Management's Discussion and Analysis (MD&A) and that he was glad to work with someone who was knowledgeable. Mr. Usevitch then stated he was available for any questions Council may have.

Councilmember Lodzinski asked about restricted funds with Finance Director Jim Cox stating there were some restricted funds, such as the firemen's pension fund of approximately \$590,000, which is in a segregated account and may only be used to administer the pension payments. Mr. Usevitch stated this pension fund is a fiduciary fund that the City is holding on behalf of the fire department and the fund has its own financial statement and is not included in the City's \$3.2 million cash balance.

Mayor Fenn then asked Mr. Cox to explain the City's net fixed assets increase of \$762,000 to \$22.5 million, with Mr. Cox stating the net fixed assets were composed of cash, properties and facilities the City owns and that the City's cash was relatively constant; that the increase was in other assets, such as vehicles, equipment, buildings and property.

Mayor Fenn then stated the City owns approximately 95% of its assets and asked Mr. Cox to give Council a list of outstanding debt. Mr. Cox stated there is an outstanding loan on the Wastewater Treatment Plant in the amount of approximately \$2.8 million, noting the facility is worth approximately \$5.6 million and is 10 years old. Mr. Cox then stated the City had two other debts; a loan with Zion's Bank with a payment of \$333,000 which will pay the loan off in July, 2010 and a loan for approximately \$350,000 on the City's newest fire truck, which will be paid off in July, 2014. Mr. Cox stated the City has an offset savings account that is equal to the amount that is owed on the fire truck and that is not legally restricted but is operationally restricted. Mayor Fenn asked about the visitor center with Mr. Cox stating the visitor center was paid off, along with the City Hall facility located at 120 W. 6th Street, in the previous fiscal year.

Mayor Fenn then noted there is a funding mechanism in place for the wastewater treatment plant, with Mr. Cox confirming there is and noting the loan was scheduled to be paid off in the year 2017. Mayor Fenn then stated all other City assets are debt free.

Councilmember Lodzinski asked about the obligation to Wal-Mart with Mr. Cox stating the debt was used to pay for water infrastructure improvements and resulted in an annual payment to Wal-Mart of \$250,000, which is required as long as Wal-Mart generates more than \$250,000 in sales tax revenues to the City. Mr. Cox noted the debt is a contingent debt of approximately \$1.5 million, which doesn't show up on our financial statements. Mr. Cox then stated if Wal-Mart were to close down or severely restrict their operations, the required payment would change or be cancelled.

Councilmember McGoffin asked about the control deficiency on internal controls as noted in the report with Mr. Usevitch stating this was due to a few items not being recorded in the general ledger. Mr. Usevitch then stated anytime there is a finding such as this, they are required to look more deeply into the matter to make sure it was not fraudulent and that they are required to report the finding as an internal control problem. Mr. Cox stated the report explained the finding in detail as well as giving the City's response.

2. **Resolution 2-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the City Manager to apply for a grant from the Arizona Department of Commerce Rural Economic Development Initiative to partially fund the placement of signs promoting local businesses throughout the City**

Finance Director Jim Cox addressed Council stating there is approximately \$100,000 available in federal funding for rural communities to promote economic development. Mr. Cox then stated the application was to fund the placement of the map Mr. Nilson developed around the city in 32" x 48" signs in hopes to attract more business from those traveling through Benson and encouraging people to shop in Benson. Mr. Cox stated the project budget is estimated at \$8,084 with the City's match being \$2,695 and that \$360 of the match would be in-kind for artwork.

Mayor Fenn asked about the placement of these signs and if the locations were approved with Mr. Cox stating if the grant was awarded, the next step would be to seek the aid of the City attorney to draw up agreements with the selected site owners. Mr. Cox stated in the grant application, there were 15-20 locations identified as locations to place signs, but that a selection committee would need to select 12 sites for actual placement of the signs. Councilmember McGoffin asked if the map would be on both sides of the signs or if it would contain advertising with Mr. Cox stating in the areas it made sense to place the map on both sides, it will be done and that the idea of advertising had not been looked at.

Mayor Fenn asked if there were provisions in place for businesses that close or are added with Mr. Bob Nilson indicating the signs could be updated once a year or with a pressure sensitive overlay, it would be fairly easy to redo a block and update it, stating this would be his responsibility to keep the map updated. Councilmember Lodzinski asked how long the map would be expected to last with Mr. Nilson stating the sign should last 5 to 7 years if it were not in direct sunlight and 2 to 3 years if the sign were in direct sunlight. Councilmember Lodzinski then suggested involving the Planning & Zoning Commission, or at least keeping them abreast of the issue, since they had sign regulations in place for signs placed in the City.

Councilmember Lodzinski then moved to approve Resolution 2-2010. Seconded by Councilmember Sacco. Motion passed 6-0.

3. **Resolution 3-2010 of the Mayor and Council of the City of Benson, Arizona, supporting the City's application for a Rural Economic Development and Planning Assistance Grant to fund an outside consultant to assist in a comprehensive update of the City's Zoning Regulations**

Public Works Director Brad Hamilton addressed Council stating a grant application was received late last year which provides matching financial assistance toward rural Arizona economic development or planning

activities such as zoning code updates, which is something that the Planning and Zoning staff has recognized as a priority project. Mr. Hamilton stated Staff had already begun the process of comparing Benson's existing Zoning Regulations to the zoning regulations of other jurisdictions and while staff would like to perform much of the research labor in-house, it is felt that specific guidance from a professional consultant would be beneficial to ensure that all zoning issues are addressed, that forward thinking policies are created and that other departments' requirements are also met. Mr. Hamilton then stated staff has applied for matching funds to hire a consultant to provide guidance to staff during this update and re-write process. Councilmember Bonquet asked if the matching funds were in the budget with Finance Director Jim Cox indicating they were. Mayor Fenn then asked if the consultant would be working with staff with Mr. Hamilton stating a professional planner would look at our codes to make sure they make sense for good economic development and the changes would be brought forward to the Planning & Zoning Commission.

Councilmember McGoffin moved to approve Resolution 3-2010. Seconded by Councilmember Lambert. Motion passed 6-0.

4. **American Recovery and Reinvestment Act (ARRA) Arizona Balance of State Energy Efficiency Block Grant (ABS-EECBG) contract for energy efficiency improvements to the Benson Municipal Water System and City Facilities in the amount of \$68,957.58**

Public Works Director Brad Hamilton addressed Council stating as part of the American Recovery and Reinvestment Act, grant funding is available for energy efficiency projects. The grant amount is non-competitive and based on population and the City of Benson was allotted \$68,957.58 under this program. Mr. Hamilton then stated Staff evaluated many projects with the goal of reducing energy costs to the City, having a project that would not require an environmental impact analysis and could be completed within the grant amount and time frame and that Staff proposed 3 projects to the State, which were approved. Mr. Hamilton stated the first project was to replace the soft start controllers on four City water wells with more efficient variable-frequency drives; the second project was to replace the west Benson pump station with pressure reducing valves; and the third project was to replace the Heating, Ventilating and Air Conditioning (HVAC) on the Police-Fire station with a new unit(s).

Councilmember Lodzinski moved to accept the American Recovery and Reinvestment Act (ARRA) Arizona Balance of State Energy Efficiency Block Grant (ABS-EECBG) contract for energy efficiency improvements to the Benson Municipal Water System and City Facilities in the amount of \$68,957.58. Seconded by Councilmember Bonquet. Motion passed 6-0.

5. **Resolution 4-2010 of the Mayor and Council of the City of Benson, Arizona, establishing a pilot program to partially rebate the costs of replacement low-flow toilets to City water customers**

Public Works Director Brad Hamilton addressed Council stating after receiving direction from Council, staff had been working to put together a low-flow toilet replacement program, doing research into other cities and water utilities' programs. Mr. Hamilton stated most programs were established during the budget process and in the pilot program proposed; \$2,500.00 from the water contingency fund would be allocated to give \$50.00 rebates on up to 50 replacement toilets and would run the remainder of the 2010 fiscal year, stating the program would then be part of the budget process in the next fiscal year. Mr. Hamilton then stated details on the verification and disposal of the high use fixture were still being worked out at this time. Councilmember Lambert asked if the program included businesses with Mr. Hamilton stating the program was only for residential replacement. Councilmember Bonquet moved to approve Resolution 4-2010. Seconded by Councilmember Sacco. Motion passed 6-0.

6. **Resolution 5-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the City Manager to apply for Arizona Department of Transportation 5311 funds to operate a Rural Public Transit System**

Finance Director Jim Cox addressed Council stating that Catholic Community Services (CCS) would be terminating the transportation service they provide on October 1, 2010 and that City staff has been meeting to discuss how the City can step in and assume CCS' role regarding this service. Mr. Cox stated a study

was completed and presented to Council in October, 2009 and recommended pursuit of a 5311 grant funded by the federal government. Mr. Cox stated the presented resolution was before Council to file the grant request.

Mayor Fenn asked if staff had any indication of success with Mr. Cox stated he was assured we would be successful if we put the application together and that he had met with the person in charge, taking his suggestions for the application and stated he felt the City will have a good chance for this grant. Mayor Fenn then asked if the grant was renewed annually with Mr. Cox stating that he was informed that no renewal had ever been turned down after the initial application had been approved. Mr. Cox stated the process for this grant renewal was slightly different and that after we accept the grant, we would then defend operations and give a narrative on what we want to accomplish with the program.

Councilmember Lodzinski verified with Mr. Cox that the grant was for operating costs, with no funds requested for capital expenditures. Mr. Cox stated that was correct, but that we will be applying at the behest of Sam Chavez, the Rural Transportation Program Manager with the Arizona Department of Transportation, for 3 new buses, which would be 93% funded by the federal government, if we chose to accept them. Mr. Cox stated staff is proposing 2 buses; one to offer the same services that are currently in place typically known as "dial-a-ride" and the second would be a fixed route, with deviations. Mr. Cox stated the consultant felt it was an important component of rural transportation and staff felt there was a real need for that service in our community, noting it would connect the lower part of Benson with places like Cochise College. Councilmember Lodzinski asked if the service would be limited to serve inside the City only with Mr. Cox stating it would eventually stretch to Mescal, possibly St. David and that Pomerene would also be included. Mr. Cox stated if all went as planned the deviated fixed route would begin in January.

Councilmember Lodzinski asked about the employment of the bus drivers with Mr. Cox stating the drivers would be City employees. Mayor Fenn then asked about the maintenance of the vehicles for this program with Mr. Cox stating the operation maintenance would be the responsibility of the City. Mayor Fenn then asked about the likelihood of funding new buses with Mr. Cox stating that Mr. Chavez thought we would be successful, noting that the City did have other opportunities for older buses with CCS and Sierra Vista. Mr. Cox then stated if the City could obtain a new van for the dial-a-ride program, we could use the vehicle donations from CCS and Sierra Vista for the other routes and stated he feels very confident that any contribution the City will have to make will not exceed the \$24,000 the City is currently giving to CCS and that this is a good service to provide to our citizens.

Councilmember Lodzinski moved to approve Resolution 5-2010. Seconded by Councilmember McGoffin. Motion passed 6-0.

7. **Resolution 6-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the Mayor to sign a letter of support for Southeastern Arizona Economic Development Group's efforts to organize a Clean Cities Coalition in Cochise, Santa Cruz, Graham and Greenlee Counties**

City Manager Glenn Nichols addressed Council stating the Southeastern Arizona Economic Development Group (SAEDG) in partnership with Purpose Focused Alternative Learning Corporation (PFALC) asked the Southeastern Arizona Governments Organization (SEAGO) to gather support from the cities in Cochise, Graham, Greenlee and Santa Cruz Counties for the development and formation of a Clean Cities Coalition. Mr. Nichols stated the coalition will work to increase awareness of opportunities for alternative energy and the reduction of our dependence on oil. Mr. Nichols then stated there is no cost at this time to support the formation of the coalition, that he believes this is a worthwhile cause and that we should support this effort.

Councilmember McGoffin moved to approve Resolution 6-2010. Seconded by Councilmember Lambert. Motion passed 6-0.

EXECUTIVE SESSION: Pursuant to A.R.S. section 38-431.03 (A)(3) & (4) for discussion or consultation for legal advice from the City Attorney and to consider its position concerning pending litigation matter Silver Two Investments, LLC; Butterfield Plaza Benson, LLC, dba Butterfield Plaza vs. City of Benson

Councilmember Sacco moved to enter into Executive Session with the City Council, City Manager Glenn Nichols, City Attorney Michael Masee, City Clerk Vicki Vivian, Public Works Director Brad Hamilton and Michael McMillan of Brown & Associates at 7:50 p.m. Seconded by Councilmember McGoffin. Motion passed 6-0.

Council reconvened at 8:25 p.m.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 8:26 p.m. Seconded by Councilmember Lodzinski. Motion passed 6-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk