

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD AUGUST 10, 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:

The invocation was given by Pastor Lupe Diaz of Grace Chapel.

**EMPLOYEE
RECOGNITION:**

None.

CALL TO THE PUBLIC:

None.

CITY MANAGER REPORT:

City Manager Glenn Nichols addressed Council with upcoming meetings, and upcoming events:

- August 11, 2009 – Arts Commission – 9:00 a.m., City Hall
Library Advisory Board Meeting – 4:00 p.m., City Library
- August 12, 2009 – Last day for swimming at the City Pool, school starts August 13th
- August 24, 2009 – City Council Meeting – 7:00 p.m., City Hall
- August 25, 2009 – Community Watershed Alliance – 6:30 p.m., City Hall

CONSENT AGENDA:

- 1a. Approval of Minutes of the July 27, 2009 Regular Meeting, Including Executive Session Minutes
- 1b. Appointment of the Laura Laird as Chairman of the City of Benson 4th of July Committee
- 1c. Processed Invoices for July 21, 2009 through August 2, 2009

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

NEW BUSINESS:

1. **Resolution 52-2009 of the Mayor and Council of the City of Benson, Arizona, approving an agreement with Prime Paving, LLC, for Benson street improvements as part of Phase III of CDBG Grant #112-09**

Public Works Director Brad Hamilton addressed Council stating Phase III was the last phase of the Benson North Street Improvements that was started several years ago. Mr. Hamilton stated he would like to note that when the cost estimate was completed about 18 months ago, the work to be done was estimated at a cost of \$300,000. Mr. Hamilton then stated with the current economic

environment, the cost of the project came in at approximately \$170,000 and that staff will be looking at expanding the project, coming back to Council with either change orders or additional contracts for the project. Mr. Hamilton stated that expansion of the project could include paving rehabilitation or sidewalks in the same area that this phase encompasses. Vice Mayor King confirmed with Mr. Hamilton that this phase will complete the repaving of the eligible streets and then asked if the City could then look at installing sidewalks with Mr. Hamilton stating staff would be coming to Council for the next grant cycle project ideas. Councilmember Sacco moved to approve Resolution 52-2009. Seconded by Councilmember Lodzinski. Motion passed 7-0.

2. **Resolution 53-2009 of the Mayor and Council of the City of Benson, Arizona, recommending approval of the new license for a Type 03 (Domestic Microbrewery) liquor license at Turquoise Hills Golf and RV**

Mr. Art Bale of Turquoise Hills Golf and RV addressed Council requesting Council's recommendation of approval for the Domestic Microbrewery liquor license. Mr. Bale introduced Cody Sexton who would be in charge of the operation. Mr. Sexton stated they would begin production with ales, lagers, stouts and pilsners and would be producing a minimum of 5,000 gallons per year, which was the minimum under the license. Mr. Bale then stated this microbrewery could possibly be a tourist attraction. Vice Mayor King stated he had the opportunity to visit a microbrewery and that it was very interesting and he thought it could be a good thing for Benson. Councilmember Sacco asked if the beer would be for resale with Mr. Sexton stating the license allowed distribution of beer in the state and that they would start with small accounts locally and hopefully, grows from there. Councilmember Sacco then asked about the controlling interest party, with Mr. Bale stating the controlling interest in the golf course was Mr. George Neff. Mayor Fenn then asked if the operation was overseen by the Department of Health with Mr. Bale confirming the operation is inspected by the Department of Health, just like a restaurant. Councilmember Lambert asked how long it would be before production started, if the license were approved with Mr. Bale stating they hoped to begin production approximately November 15, 2009. Councilmember McGoffin moved to approve Resolution 53-2009. Seconded by Vice Mayor King. Motion passed 7-0.

3. **Resolution 54-2009 of the Mayor and Council of the City of Benson, Arizona, recommending approval of the new license for a Type 13 (Domestic Farm Winery) liquor license at 1030 S. Barrel Cactus Ridge, #155, Benson, Arizona**

Mr. Art Bale of Cochise Terrace addressed Council requesting Council's recommendation of approval for the Domestic Farm Winery liquor license. Mr. Bale stated that Mr. George Neff, a chemist, has been making wine for 40 years and has won ribbons for his wine. Mr. Bale then stated Mr. Neff continued making wine as a hobby, giving it away to residents in the park that he resides. Mr. Bale then stated in discussions with Mr. Neff and the opportunity with a microbrewery at the golf course, they decided to pursue the opportunity to sell Mr. Neff's wine at the golf course. Mr. Bale stated that Mr. Neff was available for any questions from Council. Councilmember Sacco asked if they were going to sell the wine with Mr. Bale stating Mr. Neff would sell the wine to the golf course, which would then sell it to the public by the glass and by the bottle. Councilmember Sacco asked if there would be any wine tasting or retail distribution at Cochise Terrace with Mr. Bale stating there would be no wine tasting or retail distribution, but Mr. Neff would continue giving some wine away to the residents as he does now. Councilmember Sacco then asked about the controlling interest in a microbrewery and the liquor boards rule that if you have an interest in one license, you can not have an interest in another license. Mr. Bale then stated the liquor board was currently processing three licenses with the same controlling party. Councilmember Sacco then asked for a legal opinion concerning the controlling interest in liquor licenses. City Attorney Mike Masee stated he had not been previously apprised of the question, so he was not prepared to offer a legal opinion. Mr. Masee stated this area of law is fairly detailed into Title IV as to what is authorized and what is not authorized and the applications before Council disclosed controlling interest and that if there were problems in that area, the liquor board would be the authority to address the issue. Councilmember Sacco then stated he was concerned because he had several calls

expressing concern over having a winery in a residential area. Mr. Masee then stated that was the sort of concern that is directed to the local governing body and that Council's role in the process of recommending an approval or disapproval of the license was to bring to light facts and other issues that the State Liquor Board may not be aware of. Councilmember Sacco then stated winemaking is considered manufacturing and questioned the zoning regulations. Mr. Masee then stated the current zoning for Cochise Terrace was B2 and that the proposed use was not inconsistent with the zoning regulations. Councilmember Sacco then asked City Manager Glenn Nichols about the zoning, with Mr. Nichols confirming the current zoning was B2. Councilmember Sacco then expressed concern for the Council treading on unchartered waters and that he wanted to make sure they knew what they were doing, stating he would like more investigation in the matter. Councilmember McGoffin then stated it was up to Council to decide if they would like a winery or not and that it was up to the State Liquor Board to address the statutory requirements. Councilmember McGoffin then stated whether or not Council recommended approval, the State Liquor Board could still approve the license and that Council needed to look at zoning issues and if they wanted a winery. Councilmember Sacco then stated Council was within the required 60 days to act and motioned to table the item to get more investigating done. Mr. Bale then addressed Council stating the State Liquor Board was very particular, stating they had completed three applications for this license and that he would rather Council recommend disapproval of the license instead of tabling the issue. Councilmember Lodzinski stated he agreed with Councilmember Sacco and questioned the zoning with Mr. Nichols stating the current zoning was B2 and would be considered proper zoning for this request. Mr. Neff then addressed Council stating he currently produces 200 gallons of wine each year, which is legal regardless of the license application. Mr. Neff then stated it's not a question of whether it's legal, but that the license will give him authority to sell his wine and increase production. Mayor Fenn then asked if there was a possibility of an expansion of the current facility with Mr. Neff stating his current operation would not be enlarged at all, since his current facility could produce up to 300 or 400 gallons. Mayor Fenn then asked if a resident of Cochise Terrace would see any visible change in the current operation, other than transporting the product with Mr. Neff stating that would be the only change. Mr. Neff stated the facility is unobtrusive and has no signs at all. Vice Mayor King asked Mr. Neff how long he had been making wine at Cochise Terrace with Mr. Neff stating he had been producing wine there for a couple of years. Vice Mayor King then asked if there had been any complaints about the operation with Mr. Neff stating the only complaint he had received was that he didn't make enough and that his inventory was down. Mayor Fenn then stated there was a motion to table the item and asked if there was a second. The motion to table died for lack of a second. Councilmember McGoffin then moved to approve Resolution 55-2009; then corrected her motion to approve Resolution 54-2009. Seconded by Councilmember Lodzinski. Motion passed 4-2 with Councilmembers Boncquet and Lambert voting nay and Councilmember Sacco abstaining.

4. **Resolution 55-2009 of the Mayor and Council of the City of Benson, Arizona, authorizing the establishment of a retail shop in the Visitor Center to sell Benson-themed merchandise and authorizing the sale of Benson-themed merchandise at other appropriate venues**

Finance Director Jim Cox addressed Council stating the City recently approved a new logo and one of the reasons for doing so was to be able to sell Benson-themed merchandise at various places in the City. Mr. Cox stated the plan was to invest no more than \$1,000, although the authorization was for \$2,500, in merchandise. Mr. Cox stated this Resolution gave the authority to do that and to be able to sell merchandise at other appropriate venues, such as various City of Benson and Chamber of Commerce events that occur during the year. Vice Mayor King stated this has been discussed in the past, but couldn't be done at the Visitor Center since there were restrictions in the mortgage and now that it was paid for, the City could pursue the selling of merchandise there. Mayor Fenn then stated it was also due to the fact that the City did not own the rights to the previous logo, which was no longer the City now has full license on our City logo and the "Hang out in Benson" logo. Councilmember Sacco asked how the revenue would accrue in the budget with Mr. Cox stating the revenues would accrue to a special enterprise fund. Councilmember Lodzinski then asked about the licensing if Wal-Mart asked to sell the merchandise with Mr. Cox stating that would need to be discussed with Wal-Mart if they inquired. Councilmember Lambert asked if the revenue from the sell of the merchandise would be allocated to any specific item with Mr. Cox stating the funds would

be tracked and the allocation to an item, event or department, such as Tourism would be at the direction of Council. Councilmember Sacco moved to approve Resolution 55-2009. Seconded by Councilmember Lambert. Motion passed 7-0.

5. **Resolution 56-2009 of the Mayor and Council of the City of Benson, Arizona, authorizing Staff to undertake a Preliminary Transit Feasibility Study with the assistance of the Arizona Department of Transportation**

Finance Director Jim Cox addressed Council stating the City has been in communication with Catholic Community Services (CCS) and the Arizona Department of Transportation (ADOT) concerning the senior and disabled population transportation van run by CCS. Mr. Cox stated the City supports the transportation van in the amount of \$24,000 annually. Mr. Cox stated CCS informed the City that they will no longer provide this service after June 30, 2010. Mr. Cox stated this leaves a vacuum that really needs to be filled and that ADOT has offered a grant to conduct a transportation study that will define the parameters of what transportation service is needed in the City. Mr. Cox stated an independent consulting firm will complete a study that will then be used for the City to apply for federal transportation grants to assist the City should Council decide to move forward with transportation operations. Mr. Cox stated if the City is able to secure grant funding from the federal level, the City could be spending the same amount we have in the past for this service. Councilmember Sacco stated this transportation service is important in the City. Mayor Fenn stated at one time, this program was in immediate jeopardy and after the City spoke to CCS, they decided to continue service in Benson for another year. Councilmember Sacco asked if the study would be completed in time to meet the federal grant application deadline with Mr. Cox stating the grant application deadline was January 15, 2010 and the study and report should be completed in time to meet that deadline. Councilmember Sacco moved to approve Resolution 56-2009. Seconded by Vice Mayor King. Motion passed 7-0.

6. **Review and discussion of City Finances with emphasis on June, 2009, the City's financial position at June 30, 2009 and discussion of future revenue streams**

Finance Director Jim Cox addressed Council stating he would be reviewing a brief summary of the results of operations, stating these were unaudited results and they would change when the full accrual basis audit numbers were completed. Mr. Cox stated the City's cash in the past month had increased \$138,000 giving the City our current cash balance of approximately \$4 million, but that this amount would decrease by the \$360,000 payment to Zion's Bank made on July 1, 2009. Mr. Cox then addressed fund balances stating the City was down \$129,000 and it was the first time Mr. Cox experienced a negative fund growth since he's been with the City. Mr. Cox stated after speaking to other finance directors, he found it was a small deficit and that the City could feel pretty fortunate. Mr. Cox stated trend-wise, revenues for the year were down \$1.7 million or 14%; down to \$10.7 million. Mr. Cox stated expenditures were down \$1.5 million or 16%, for total expenditures in the amount of \$10.8 million, Citywide, including all funds and operations. Mr. Cox then addressed the summary of all City funds, which included the general fund, enterprise funds and personnel costs.

Mr. Cox then addressed City Tax collections, including Sales Tax, Construction Tax and Bed Tax collections. Mr. Cox stated he compared the total sales tax collection to the total sales tax collection of the previous year and that we could see for the last 5 months we were below the previous collections, but were following the trend and that he expected this to continue. Mr. Cox stated this was the same situation in the General Fund tax collections. Mr. Cox stated construction sales tax was below last year and he felt it would continue to drop. Mr. Cox then stated the same situation existed in Bed Tax, Restaurants & Bars and Accommodations Tax.

Mr. Cox then stated looking toward the future; economists predict that we are at the bottom and that things are looking up. Mr. Cox stated he did not share their optimism since he felt there were unique circumstances going on at the national level that made this recession unlike any other ever seen. Mr. Cox stated with the massive debt the federal government was taking on, he felt it was unsustainable.

Mr. Cox stated notwithstanding, the City would continue to respond to the current economic environment. Mr. Cox then stated he was putting together a realistic projection system to be able to project the City's finances and report conditions to the Council every month. Mr. Cox then stated on the State Shared Revenue side, there were some things that could be predicted now, such as the current decrease of 14% in State Shared Revenue and that he felt it would be a larger decrease in the next fiscal year.

Mr. Cox stated State Sales Tax also was projected to decrease in the current fiscal year by 6% and that hopefully the decrease would remain at 6% in the next fiscal year. Mr. Cox then stated the HURF funds, which are the funding sources for the City's streets, were projected to decrease by 12%, which meant the street fund would likely need to be supplemented by the General Fund.

Vice Mayor King stated he felt for the next couple of years, the City would need to be conservative not only in the current fiscal year, but the next fiscal year as well. Vice Mayor King then thanked the City Manager and the City Staff for their efforts in reducing expenditures.

Mayor Fenn thanked Mr. Cox for his update on the City's finances and stated the key was the constant communication to Council each month.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 8:02 p.m. Seconded by Vice Mayor King. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk