

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD FEBRUARY 11, 2008 AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**MAYOR FENN
OPENED THE MEETING AT 7:00 P.M
INTRODUCING THE BOY SCOUTS OF AMERICA
WHO LED THE PUBLIC IN
THE PLEDGE OF ALLEGIANCE.**

**PRESENT WERE: MAYOR FENN, VICE MAYOR KING,
COUNCILMEMBERS LODZINSKI, McGOFFIN, SACCO, SUAGEE and TIPTON**

Invocation: Mayor Fenn invited a member of the Boy Scouts of America to offer the invocation.

PUBLIC HEARING: The Mayor and Council held a public hearing to receive comments and questions from the public regarding the use of approximately \$335,025 in Fiscal Year 2008 Federal Community Development Block Grant (CDBG) funds from the Arizona Department of Housing Regional Account.

Mayor Fenn opened the public hearing at 7:02 p.m. and began informing the public about the CDBG funds and what criteria the projects must meet to be eligible for the funding.

Mayor Fenn then asked for comments from those who signed in for the public hearing and from any others present who wished to speak.

Richard Leland spoke stating the CDBG funds should be spent to complete the North Benson Road Project.

David Lambert spoke regarding the condition of City streets and the flooding problem in the Comstock area and stated the funding should be used to address drainage issues in that area.

Mayor Fenn asked if there were any further comments from the public and encouraged the public to contact City staff if they had further comments. Mayor Fenn then closed the public hearing at 7:10 p.m.

PROCLAMATION: Mayor Fenn read a proclamation declaring the week of February 3-9, 2008 as "Scouting Anniversary Week".

PROCLAMATION: Mayor Fenn asked Councilmember Suagee to read a proclamation declaring recognition of and support for Arizona Archaeology and Heritage Awareness Month, March 1-31, 2008.

EMPLOYEE
RECOGNITION: None.

Call to the Public: Paul Lotsof addressed Council expressing concern over the administrative costs of the Community Development Block Grant. Mr. Lotsof stated for the

administrative cost, the City should be able to hire outside personnel to administer this grant.

CONSENT AGENDA:

- 1a. Approval of Minutes of the January 28, 2008 Regular Meeting, including Executive Session Minutes
- 1b. Appointment of Dr. Woodall to the Benson Economic Development Subcommittee
- 1c. City of Benson Processed Invoices

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

NEW BUSINESS:

Ordinance 518 of the Mayor and City Council of the City of Benson, Arizona, establishing a Public Safety Personnel Local Retirement Board for the City's Qualifying Firefighters and appointing its members:

Fire Chief Keith Spangler addressed Council stating this Board is a requirement for municipalities that have any full-time paid firefighters. Mr. Spangler then informed Council the Board would consist of the same members as the Public Safety Personnel Local Retirement Board for the police officers, with the exception of the two members from the department. Mr. Spangler stated he would be the department member and the other department member would remain vacant until such time another firefighter was hired. Councilmember Lodzinski moved to approve Ordinance 518. Seconded by Councilmember Suagee. Motion passed 7-0.

Appointment of Chairman to serve on Public Safety Personnel Retirement System Local Boards for both firefighters and police officers:

After brief discussion, Councilmember McGoffin moved to appoint Councilmember Al Sacco as Chairman to serve on the Public Safety Personnel Retirement System Local Boards for both firefighters and police officers. Seconded by Councilmember Tipton. Motion passed 7-0.

Resolution 10-2008 of the Mayor and Council of the City of Benson, Arizona, approving the application by the Benson Historical Preservation Commission for Historic Preservation Heritage Funds for the Attendance of the State Historic Preservation

Conference: Ruth Wilson, Benson Historic Preservation Commission, addressed Council stating the Commission would like to send five commissioners and felt the conference would benefit the Commission and assist in furthering their objectives. Councilmember Suagee moved to approve Resolution 10-2008. Seconded by Councilmember McGoffin. Motion passed 7-0.

Resolution 11-2008 of the Mayor and Council of the City of Benson, Arizona, approving the application

by the Benson Historical Preservation
Commission for Historic Preservation
Heritage Funds for Benson Historic
Preservation Education and
Planning 2008-2009:

Ruth Wilson, Benson Historical Preservation Commission, addressed Council stating the chairman felt this would be an excellent networking opportunity for the handling of historic preservation. Councilmember Suagee clarified this funding would come from the 2008-2009 budget and that the Commission planned a public workshop after the conference to share this information with the community. Councilmember Sacco moved to approve Resolution 11-2008. Seconded by Councilmember Lodzinski. Motion passed 7-0.

Resolution 12-2008 of the Mayor
and Council of the City of Benson,
Arizona, approving the application
by the Benson Historical Preservation
Commission for Historic Preservation
Heritage Funds for the Apache Park
Rehabilitation Plan:

Ruth Wilson, Benson Historic Preservation Commission, addressed Council stating Apache Park was given to the City in 1949. Ms. Wilson stated the Commission would like to see something in the park for cultural purposes, such as a gazebo, for concerts, weddings, art in the park or other activities as well as the addition of a restroom. Councilmember Sacco asked if the gazebo could be large enough to be utilized by a small orchestra or band. Ms. Wilson stated the gazebo could be approximately thirty feet across with benches in the park for the public to use. Ms. Wilson added that the structure would fit into the current look of the historic district and that since the park is in a historic district and is on the National Register, there are historic preservation funding opportunities available. Ms. Wilson stated the Commission feels the restoration or rehabilitation can be concurrent with the City's planned Lion's park improvements. Mayor Fenn then clarified that this grant would be for design services in the amount of \$23,550 and the City's financial portion would be approx \$9,400. Ms. Wilson stated once the project was drafted, then cost estimates could be worked up and fund raisers would be held for the project. Councilmember Suagee asked at what point the Commission interacts with the City so that staff is utilized in the most beneficial way. Ms. Wilson stated after the project is drafted, the Commission can approach staff and interact on the plan which would be brought to Council for approval. Councilmember Lodzinski confirmed this project is in the City's Capital Improvement Plan (CIP). Councilmember Lodzinski stated the CIP ensures projects continue to move forward. Vice Mayor King moved to approve Resolution 12-2008. Seconded by Councilmember Tipton. Motion passed 7-0.

Ordinance 519 of the Mayor and
City Council of the City of Benson,
Arizona amending the Benson City
Code, Chapter 3, "Administration",
Article 3-3, "Council and Administration
Relationships":

Councilmember McGoffin addressed Council stating she felt this section of the City Code needed clarification for both Council and City staff. Councilmember Sacco stated he would like additional time to review this item and moved to table this item and schedule a worksession. Seconded by Vice Mayor King. Councilmember Suagee stated she disagreed and felt the proposed revision was a good revision and that it clarified this section of the Code. Councilmember Tipton agreed with Councilmember Suagee.

Councilmember Lodzinski then asked if the existing Code was in violation with the Arizona Open Meeting Law. City Attorney Thomas Benavidez stated the existing Code could be at odds with the Open Meeting Law. Mr. Benavidez stated all public business must be conducted in open meetings and to have a written directive for City action that was not discussed at an open meeting would be in violation of the Open Meeting Law.

Mayor Fenn then stated there have been times that Council have had questions with regards to their boundaries. Mayor Fenn stated nothing precludes interaction with Department Heads to gather information, but he knows Council can not give directives to staff. Mayor Fenn stated another level of interaction between Council is with the City Manager. Mayor Fenn stated members of the Council usually meet with Mr. Roush in a weekly meeting, and feels this is appropriate, however, feels that Council should not give Mr. Roush directives in those meetings. Mayor Fenn then read the proposed language in 3.3 Subsection A, and asked Mr. Benavidez if information gathering (inquiry) would be acceptable. Mr. Benavidez confirmed that Council has a responsibility to inquire, so they can be knowledgeable, however, issuing directives would be in violation of the Open Meeting Law.

Vice Mayor King stated he was one of the instigators of reviewing this section, since he felt most Councilmembers did give directives to the City Manager and staff. Vice Mayor King then stated the procedure for placing items on the Council agenda would need to be addressed in the near future. Vice Mayor King felt Council needed clarification on the difference between a directive and an inquiry.

Councilmember Sacco stated that he felt Vice Mayor King's concerns did not warrant the elimination of Subsection B or C. Councilmember Sacco also stated he had concerns regarding the enforcement of the ordinance.

Councilmember Tipton stated she felt the ordinance did not impede Council, but clarified Council's role.

Councilmember Suagee then spoke stating that she felt she could go to the City Manager and offer suggestions or make an inquiry, however, she felt she could not write a letter quoting City Council or address an employee on her own as a member of City Council. Councilmember Suagee stated she felt no conflict, but if she did give a directive, she would like to be corrected. She then read the new language in Subsection A and stated she felt the proposed language clarified Council's roles and was adequate for Council to interact with the City Manager.

Discussion was then had regarding the absence of the City Manager and the City Manager designating someone to act in his absence. Discussion continued regarding emergency situations with Mr. Benavidez stating in those instances the law does make allowances for emergency meetings to be held with the publication of ratification documents.

Mayor Fenn stated if the City Manager felt that he was given directives by Councilmembers that the item should be on the agenda for Council action. Mayor Fenn then stated he would not be against striking Subsection B, since running the daily operations of the City has always been done by the City Manager, his designate or an appointed interim City Manager. Mayor Fenn stated the procedure for the City Manager to designate someone to act in his absence should be addressed in the City Code.

Vice Mayor King withdrew his second. Councilmember Tipton then moved to approve Ordinance 519 as presented. Seconded by Councilmember Suagee. Motion passed 6-1 with Councilmember Sacco voting nay.

CITY MANAGER REPORT:

City Manager Martin Roush addressed Council stating the status of the City's Pavement Management, including Ocotillo Road would be on a Council agenda. Mr. Roush stated one problem with pavement management was the small window of opportunity due to the weather. Mr. Roush stated the City had utilized a cooperative purchasing agreement with the City of Tucson to expedite the project, but had no responses from the contractor. Mr. Roush stated Mr. Brad Hamilton, Public Works Director had recently published request for qualifications for a job order contract which will be reviewed in the near future and brought to Council for action. With improving weather, public works should be able to do some temporary pavement management for Ocotillo. Mr. Roush then stated Mr. Hamilton had published a request for proposals for the ultimate redesign and construction of Ocotillo and the City had received many responses. Mr. Roush stated this design contract will be brought to Council for action also.

Mr. Roush then stated there were no upcoming events the City was sponsoring, but did want to announce the following items:

- February 12, 2008 – Arts Commission Meeting, 9:00 a.m., City Hall
- February 12, 2008 – Library Advisory Board Meeting, 4:00 p.m., Benson Public Library
- February 13, 2008 – Board of Adjustment Meeting, 5:00 p.m., City Hall
- February 18, 2008 – Planning & Zoning Regular Meeting
- February 25, 2008 – Regular City Council Meeting, 7:00 p.m., City Hall
- February 26, 2008 – Citizen Review Session, 7:00 p.m., City Hall, conducted by Mr. Mark Fenn on the behalf of WM 10, LLC for the purpose of rezoning 5.3 acres from R-1-8 (Residential) to B-2 (General Business)

Mr. Roush then stated a ribbon cutting ceremony would be scheduled in February for the City Pool's grand opening.

Adjournment: Councilmember McGoffin moved to adjourn at 8:25 p.m. Seconded by Vice Mayor King. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk