

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD JUNE 9, 2008 AT 7:00 P.M.  
AT CITY HALL, 120 W. 6<sup>TH</sup> STREET, BENSON, ARIZONA**

**VICE MAYOR KING  
OPENED THE MEETING AT 7:00 P.M WITH  
THE PLEDGE OF ALLEGIANCE.**

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

**INVOCATION:**

Vice Mayor King introduced Pastor Lupe Diaz who gave the invocation.

**EMPLOYEE  
RECOGNITION:**

None.

**PUBLIC HEARING:**

Vice Mayor King opened the hearing to receive comments and questions from the public regarding the proposed rezoning of 1 parcel from R-2 (Residential) to B-1 (Neighborhood Business), Parcel Number 123-23-265 at 7:03 p.m. The property is located on the 100 Block of West 6th Street. Vice Mayor King indicated no one had signed up for the public hearing and asked if there were comments from any others present who wished to speak. After receiving no comments from the public, Vice Mayor King closed the public hearing at 7:04 p.m.

**CALL TO THE PUBLIC:**

Sylvia Burnside addressed Council concerning the Benson Arts Commission stating they had submitted their proposed budget to the City in April, 2008. Ms. Burnside stated they worked on the budget deciding to increase their visibility and viability by holding "brown bag lunches" to inform artists of their options in this region so they could network with each other. Ms. Burnside stated this and the help they need with showing and selling artwork had been the outstanding requests of artists that came out at the artists and friends gathering last fall. Ms. Burnside stated the Arts Commission would like to repeat two successful events they held last year; the artists and friends gathering and the holidays around the world art show in conjunction with the Chamber's Christmas on Main Street held in December. Ms. Burnside stated they had hoped to establish a large art and photography event next spring, partnering with Cochise College. Ms. Burnside stated these were modest efforts requiring them to make use of their new website and their database. Ms. Burnside then stated the Arts Commission had been trying to recruit more qualified and available people to serve on the Commission to hopefully eliminate the need to cancel meetings and reduce Commission turnover. Ms. Burnside stated the Arts Commission and City Council needed to discuss what, if any restrictions are placed on budgeted funds for the Arts Commission. Ms. Burnside then stated there was a need for the City to embrace the concept of the Arts Commission that it has ordained and to formulate some idea of how the arts should be incorporated into the cultural life in Benson. Ms. Burnside stated there would be a joint worksession between the City Council and the Arts Commission on June 23, 2008 at 6:00 p.m., where there will be a chance to give voice to how the City would like to incorporate the arts into its collective mindset. Ms. Burnside stated the Arts Commission obtained a grant for Mr. Dale

Erquiaga with the Arizona Commission on the Arts to speak at the meeting, which she looks forward to and hopes that Council will take time to examine the subject in their own mind space. Ms. Burnside then stated that Mr. Roush and Mr. Cox have put together a splendid budget document that proposes to address the nuts and bolts of our City infrastructure, but they are acutely aware there are areas of cultural identity that remain, at the very best, on the fringes of that nuts and bolts structure. Ms. Burnside then thanked Council for the opportunity to address them.

**CONSENT AGENDA:**

- 1a. Approval of Minutes of the May 12, 2008 Regular Meeting \*
- 1b. Approval of Minutes of the May 15, 2008 Worksession \*
- 1c. Approval of Minutes of the May 19, 2008 Special Meeting \*
- 1d. Resignation of Kim Ray from the Benson Mayor's 4<sup>th</sup> of July Committee \*
- 1e. Resignation of Laura Laird from the Benson Mayor's 4<sup>th</sup> of July Committee \*
- 1f. Processed Invoices \*

Councilmember McGoffin moved to approve the consent agenda. Seconded by Councilmember Lodzinski. Motion passed 6-0.

**NEW BUSINESS:**

1. **Resolution 35-2008 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of a Memorandum of Understanding (MOU) with the Public Safety Communications Commission (PSCC):**

Chief Nichols addressed Council stating this Resolution would approve the Memorandum of Understanding and would allow the City to utilize the AIRS frequency for any type of emergency work State-wide. Councilmember Lodzinski moved to approve Resolution 35-2008. Seconded by Councilmember Tipton. Motion passed 6-0.

2. **Resolution 36-2008 of the Mayor and Council of the City of Benson, Arizona, authorizing the submittal of a Resolution supporting State-wide efforts to increase physician recruitment and retention for consideration by the Arizona League of Cities and Towns, and authorizing and directing the City Manager, City Clerk, City Attorney or their duly authorized officers and agents to take all steps necessary to carry out the purposes and intent of this Resolution:**

City Manager Martin Roush addressed Council stating the Sierra Vista Mayor had requested support for the attached Resolution which increases the visibility of the issue of the physician shortage in rural communities in Arizona. Councilmember Suagee moved to approve Resolution 36-2008. Seconded by Councilmember Sacco. Motion passed 6-0.

3. **Resolution 37-2008 of the Mayor and City Council of the City of Benson, Arizona, executing a Full Release under the terms of that Certain Third Party Trust Agreement dated September 13, 2005, by and between Pioneer Title Agency, Inc., an Arizona Corporation, acting as Trustee under Trust No. 308560 and the City of Benson, regarding properties held by Cochise Terrace, L.L.C., an Arizona Limited Liability Company:**

Public Works Director Brad Hamilton addressed Council stating the developer of Cochise Terrace had submitted their final release package which has been reviewed and the site has been inspected and approved, with staff recommending the approval of the full release. Councilmember McGoffin moved to approve Resolution 37-2008. Seconded by Councilmember Tipton. Motion passed 5-0 with Councilmember Sacco abstaining.

**4. Formation of a Restricted Fund called the “Wastewater Infrastructure Fund”:**

Finance Director Jim Cox addressed Council stating this fund would restrict the ½% sales tax enacted by Council in 1998 to help finance the building of the new wastewater treatment facility. Mr. Cox stated when the ordinance was enacted, there was no mention made as to the use of those proceeds. Mr. Cox stated a legal opinion had been obtained from Mr. Benavidez’s office verifying this. Mr. Cox then stated the purpose of the proposed fund would be to segregate the debt associated with the wastewater treatment plant loan as well as those proceeds from the additional sales tax into one fund. Councilmember McGoffin confirmed with City Manager Martin Roush that if the fund was approved, this would only segregate the fund for Council to then make a determination at a later time. Mr. Roush stated once a collection system model was completed and a cost estimate, Council could then make a determination on the use of the proceeds that exceed the monthly loan payment. Mr. Roush stated the Benson Municipal Property Corporation (BMPC) had worked with the staff, showing a lot of leadership and giving the history, along with Councilmember Suagee and he would like to thank Max Jones, BMPC Chairman for his leadership. Councilmember Suagee then stated when this ordinance was enacted, the proceeds were to be segregated to begin with and feels this is now doing what the former Council intended. Councilmember Suagee stated she felt good about designating the excess proceeds to the total wastewater infrastructure. Councilmember Lodzinski stated the original collections of the additional sales tax began approximately one year before debt payments had to begin. Mr. Cox then stated the additional sales tax was not enough to make the monthly debt payments until February 2007, therefore the tax collected in the first year no longer existed. Councilmember Lodzinski then verified with Mr. Cox that when a reserve account totaled the amount equal to one year of payments, the debt payment would then decrease by approximately 10%. Vice Mayor King stated he felt Council was doing the right thing by segregating the proceeds from the ½% sales tax and stated before anything can be done with the proceeds, either using it to make extra loan payments or using it for the wastewater infrastructure, Council must approve that decision. Councilmember Tipton moved to approve the formation of a restricted fund called the “Wastewater Infrastructure Fund”. Seconded by Councilmember McGoffin. Councilmember Suagee asked if the motion could be amended to include requesting the City Manager writing a commendation to acknowledge Mr. Max Jones and the BMPC committee. Councilmember Tipton amended her motion to include Councilmember Suagee’s suggestion. Councilmember McGoffin seconded the amended motion. Motion passed 6-0.

**5. Consideration of adoption of the Tentative Budget for the City of Benson Fiscal Year 2008-2009:**

Finance Director Jim Cox addressed Council stating if Council adopts the Tentative Budget, it will be published for two weeks in the local newspaper, with a public hearing to be held at the June 23, 2008 Regular Council meeting and the adoption of the Final Budget at a Special Council meeting to be held on June 25, 2008. Mr. Cox stated it was important to note that once Council adopts the Tentative Budget, expenditures can be decreased or rearranged but they can not increase. Mr. Cox then stated he had given a memo to all Council outlining the changes made to the budget recommended by Council with the exception of one item, which is a \$1 million increase in both revenue and expenditures related to the refinancing of the Zion’s Bank debt the City has. Mr. Cox stated this change does not increase the budget, but is offsetting revenue and expenditure. Councilmember Sacco moved to change the budget policy statement on page 12 dealing with the use of contingency line items in various funds, decreasing the amount that requires Council approval from \$20,000 to \$10,000. City Manager Martin Roush stated the \$20,000 amount matched the current budget policy and the City Manager’s spending limit, which is if more than \$20,000 is used from the contingency funds, it requires Council approval; if it is under \$20,000, it is on the Consent Agenda to inform Council. Mr. Roush stated the same process would be in place for any amount Council decided. Councilmember Sacco’s motion was

seconded by Councilmember McGoffin. Motion passed 6-0. Vice Mayor King thanked the Council and City staff for their hours put into the budget and had tightened our belts in the budget and appreciated those efforts. Vice Mayor King stated he wanted the public to know that the City is attempting to save where we can and is being fiscally responsible for the revenues received from taxpayers. Councilmember Sacco moved to approve the Tentative Budget. Seconded by Councilmember Tipton. Motion passed 5-0 with Councilmember McGoffin abstaining.

6. **Resolution 38-2008 of the Mayor and Council of the City of Benson, Arizona, accepting for operations and maintenance, the Whetstone Water System, including the reservoir, well and transmission lines to serve Phase I of the Canyons:**

Public Works Director Brad Hamilton addressed Council stating the Whetstone Development Company had submitted a request for the City to take over the first phase of the Whetstone Water System. Mr. Hamilton stated after an inspection and the developer addressing the items they requested, staff was recommending the take over as outlined in the development agreement. Mr. Hamilton stated at some point in the future he would be looking at what it would take to interconnect the system which would create one water system instead of two separate water systems. Mr. Hamilton stated this would assist with paperwork required by ADEQ as well as having a backup if problems arose in the system. Councilmember Lodzinski verified with Mr. Roush that there is nothing in the development agreement that would suggest the City owe the developer any money regarding the water system. Councilmember Suagee stated she would like to make sure the public was aware that the City wants to take over the water system in order to maintain control of the water, which was important. Councilmember Lodzinski moved to approve Resolution 38-2008. Seconded by Councilmember Tipton. Motion passed 6-0.

7. **Resolution 39-2008 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of a Base Hospital Agreement with Carondelet Health Network for support of the City's Emergency Medical Services:**

Fire Chief Keith Spangler addressed Council stating this Resolution would approve an agreement for required training for the next Council item, which is to receive three automated external defibrillators. Chief Spangler stated the agreement provided some protection for the firefighter EMTs and paramedics, making sure they are up to date on their training. Councilmember McGoffin moved to approve Resolution 39-2008. Seconded by both Councilmember Tipton and Suagee with Councilmember Tipton deferring to Councilmember Suagee. Motion passed 6-0.

8. **Resolution 40-2008 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of an Intergovernmental Agreement with the State of Arizona, Department of Health Services, for the use of Automated External Defibrillator Equipment:**

Fire Chief Keith Spangler addressed Council stating over 50% percent of fire department line of duty deaths are cardiac in nature, with over 50% of those being volunteer firefighters. Chief Spangler stated the best way to combat these and to survive it is early defibrillation, early CPR, early access to basic life support and early access to advanced life support. Chief Spangler stated these automated external defibrillators are one of the main steps in combating sudden death in a cardiac incident. Chief Spangler stated Arizona Department of Health Services had this grant available saving the City approximately \$3,500 in equipment costs. Councilmember Suagee moved to approve Resolution 40-2008. Seconded by Councilmember Sacco. Motion passed 6-0.

9. **Approval of \$250,000 sales tax rebate payment to Wal-Mart, pursuant to section 6 of the City's development agreement with Wal-Mart:**

Finance Director Jim Cox addressed Council stating the payment was originally scheduled to be paid in November, but was delayed due to the completion of other aspects of the development agreement, which have now been satisfied. Mr. Cox then stated since the land that is being purchased will be used for a project regional in nature, the request is to have the payment come from the Capital Projects Fund. Councilmember Sacco verified with City Manager Martin Roush that Wal-Mart has met all of its obligations regarding the improvements they agreed upon. Mr. Cox stated the next payment due date would be in December, 2008, which is in the City's 2008-2009 budget. Councilmember Suagee stated she would like to state that when the Wal-Mart issue was addressed by Council, and she was the sole vote against it, she would like to make it clear that the payment was what she voted against, not Wal-Mart. Councilmember Suagee then stated it was the Council's majority opinion that this be approved, stating it has been good for the community, but could have been better. Councilmember Suagee then stated she wished to establish that when she voted yes on this item, it was because we agreed as a City to do this. Vice Mayor King stated he had abstained from anything regarding Wal-Mart through his election, but would be voting on this issue. Councilmember Sacco expressed concern over the legal description which City Attorney Thomas Benavidez stated would be addressed in the next Council item. Councilmember Sacco then moved to approve the \$250,000 sales tax rebate payment to Wal-Mart. Seconded by Councilmember Lodzinski. Motion passed 6-0.

10. **Resolution 41-2008 of the Mayor and Council of the City of Benson, Arizona, accepting dedication of certain property and infrastructure and approving an agreement for maintenance of certain elements of said property and infrastructure between Wal-Mart Stores, Inc., and the City of Benson:**

City Attorney Thomas Benavidez stated this item was to tie loose ends up from the development agreement the City entered into with Wal-Mart. Mr. Benavidez stated the City needed to accept the public infrastructure for maintenance and there was also a maintenance easement agreement for the developer to continue to maintain one of the items of the public infrastructure. Mr. Benavidez then stated he had spoken to Councilmember Sacco prior to the meeting regarding the legal descriptions, stating we don't have a title of policy insurance on these legal descriptions. Mr. Benavidez stated if Council would like, his office could attempt to obtain a policy of title insurance on the legal description. Mr. Benavidez then stated there is some level of comfort in the legal descriptions, since the developer is giving the City a Special Warranty Deed which warrants the title with respect to the developers owning good title to it. Councilmember Sacco stated he would like for the City to obtain a title insurance policy, with Mr. Benavidez stating he could have that done and then bring this item back when it was completed. Councilmember Tipton moved to table Resolution 41-2008. Seconded by Councilmember Lodzinski. Councilmember Sacco then verified with Mr. Benavidez that Wal-Mart will continue to maintain the truck turnaround area. Motion passed 6-0.

11. **Ordinance 524 of the Mayor and Council of the City of Benson, Arizona, approving a request to rezone Assessor's Parcel Number 123-23-265, located in the Southwest Portion of Section 10, Township 17 South, Range 20 East of the Gila and Salt River Base and Meridian, from Residential (R-2) to Neighborhood Business (B-1):**

Applicant Mr. Richard Fasanella addressed Council stating this property was the house located just east of City Hall. Mr. Fasanella stated the property is the only residence on the west side of the street and does not see any logic in maintaining it as a residence. Vice Mayor King asked for staff's recommendation with City Manager Martin Roush stating staff recommended approval with the stipulation that a Proposition 207 waiver be executed. Mr. Roush stated this was the standard Proposition 207 waiver that had been previously discussed at Council meetings and would be executed with all future rezoning requests. Councilmember Suagee moved to approve Ordinance 524 with the stipulation a Proposition 207 waiver be executed. Seconded by Councilmember Sacco. Motion passed 6-0.

**CITY MANAGER REPORT:**

City Manager Martin Roush gave the Council a memo and calendar indicating the upcoming City meetings:

June 2, 2008 – Economic Development Subcommittee, 5:15 p.m., City Hall

June 3, 2008 – Planning & Zoning Meeting, 7:00 p.m., City Hall

June 9, 2008 – City Council Meeting, 7:00 p.m., City Hall

June 10, 2008 – Arts Commission Meeting, 9:00 a.m., City Hall  
– Library Advisory Board Meeting, 4:00 p.m., City Library

June 19, 2008 – Special Council Meeting – Tax Levy, 7:00 p.m., City Hall

June 21, 2008 – Historic Preservation Commission Meeting, 9:00 a.m., City Hall

June 23, 2008 – City Council Work Session – Arts Commission, 6:00 p.m.,  
City Council Meeting – 7:00 p.m., City Hall

June 25, 2008 – Special Council Meeting – Final Budget, 7:00 p.m., City Hall

Mr. Roush also stated he would like to thank those involved in the installation of the presentation equipment in the Council chambers. Mr. Roush stated the movie in the park was a great success with Vice Mayor King stating there was over 400 people in attendance.

**COUNCIL DIRECTIVES:**

None.

**DEPARTMENT REPORTS:**

**ADJOURNMENT:**

Councilmember Suagee moved to adjourn at 7:59 p.m. Seconded by Councilmember McGoffin. Motion passed 6-0.

ATTEST:

\_\_\_\_\_  
Toney King, Sr., Vice Mayor

\_\_\_\_\_  
Vicki L. Vivian, City Clerk