

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

INVOCATION:

Mayor Fenn introduced Steve Medeiros from First Baptist Church who gave the invocation.

**EMPLOYEE
RECOGNITION:**

None.

CALL TO THE PUBLIC:

Kathy Suagee addressed Council regarding the award of the Local Transportation Assistance Funds. Ms. Suagee stated this may be the most painful issue on the agenda and that she sympathizes with the Council in the decision to award these funds. Ms. Suagee then stated we know we are in hard economic times, when even the benefits from the State Lottery diminish by over \$36,000. Ms. Suagee stated all of the applicants for these funds serve our community with generosity and goodwill and are all deserving, but if Council divides the funds available, each entity would receive less than \$130. Ms. Suagee then stated she believed the most important mission to support was the Food Bank, stating every dollar they receive is to support food, one of the most basic needs, to the greatest number of people who are in need now. Ms. Suagee then apologized to all the other organizations that applied for funds, stating they are all valued, needed and worthy. Ms. Suagee then stated all those in Benson and those who do business in Benson need to donate to the organizations who work so hard to raise money for scholarships, youth programs, Christmas gifts and the rest. Ms. Suagee stated whenever we see these organizations raising money, we need to show up and donate. Ms. Suagee then stated there are other grants, stating the Indian Tribes have grants that often go unclaimed and that their paperwork is less than that of many other sources. Ms. Suagee then stated someone who can locate grants should be looking; perhaps Mr. Nichols as he is so successful in doing so for the Police Department. Ms. Sagee then stated the citizens of Benson need to pull together as a community, to help the Council and our City employees in answering the most basic needs of our community which are food and shelter. Ms. Suagee then stated today was being called the "Black Monday" of our economic crises with Sprint, General Electric, Caterpillar and AIG laying off thousands of people today. Ms. Suagee then stated these are difficult times and that we need to think about the basic needs of our community which are food and shelter.

CONSENT AGENDA:

- 1a. Approval of Minutes of the January 12, 2009 Worksession
- 1b. Approval of Minutes of the January 12, 2009 Regular Meeting, including Executive Session Minutes

- 1c. Approval of the Governor's Office of Highway Safety Grant (GOHS) in the amount of \$28,000 for the purchase and installation of five in-car video systems for the Benson Police Department
- 1d. Resignation of Darek Anderson from the Mayor's 4th of July Committee
- 1e. Appointment of Tammy Rogers to the Mayor's 4th of July Committee
- 1f. Appointment of Kimberly Lockhart to the Mayor's 4th of July Committee
- 1g. Appointment of Kimberle Lewis to the Mayor's 4th of July Committee
- 1h. Appointment of Wayne Lewis to the Mayor's 4th of July Committee
- 1i. Appointment of David DiPeso to the Mayor's 4th of July Committee
- 1j. Appointment of James Driggers to the Mayor's 4th of July Committee
- 1k. Appointment of Kendra Tanner to the Mayor's 4th of July Committee
- 1l. Processed Invoices for January 6, 2009 through January 20, 2009

Councilmember Lodzinski moved to approve the Consent Agenda. Seconded by Vice Mayor King. Motion passed 5-0 with Mayor Fenn abstaining.

NEW BUSINESS:

1. Benson Arts Commission's recognition of Teacher Linda Lamb and the student photographers for their participation in the "Benson Then and Now" Art Display

Mayor Fenn opened this item stating Council was pleased to have at the meeting several who had contributed to the "Benson Then and Now" art display which had been on display in the Council chambers. Mayor Fenn then thanked Linda Lamb for her influence with the student photographers and that the Benson Arts Commission would like to recognize Ms. Lamb and the student photographers for their participation. Mayor Fenn asked Ms. Lamb to come forward and presented her with a certificate of recognition. Mayor Fenn then asked Ms. Lamb to invite those students present to come forward and receive their certificates. Ms. Lamb awarded the certificates of recognition to those students who were present at the meeting. Mayor Fenn then read the names of the students who were not present, recognizing them also. Councilmember Lodzinski then stated these pictures could be utilized in future City celebrations. Ms. Lamb stated the display would be moved to the Benson Visitor Center and then on to the San Pedro Valley Arts and Historical Museum as a part of their permanent collection. Vice Mayor King stated he was able to spend time with a foreign exchange student viewing these pictures and thanked Ms. Lamb for all she and the Benson School does for the City's students and youth. Mayor Fenn then thanked Ms. Lamb and thanked Sylvia Burnside and the Arts Commission for spearheading the art display.

2. Independent Contractor Agreement with W.C. Scoutten, Inc. to provide services to assist the City of Benson in preparing responses for the Smart Growth Scorecard

Michelle Johnson, GIS, addressed Council concerning this item stating on January 1, 2009, the State of Arizona implemented this new criteria for all discretionary funding from State agencies. Ms. Johnson stated cities now have to complete a scorecard, which will be used to determine all aspects of funding, including the kind and amount, the interest rates and the term of the loan. Ms. Johnson stated no city is exactly sure to what extent the scorecard will be used, with some State agencies just checking to verify the City completed a scorecard to other agencies reading the City's responses on the scorecard. Ms. Johnson stated it would be beneficial to have some assistance and guidance since this is the first time the City is required to submit the scorecard. Ms. Johnson stated after the documentation was complied and the scorecard was submitted, staff should be able to update the scorecard responses as needed. Councilmember Sacco asked Ms. Johnson if we had contacted other agencies that are utilizing the proposed consultant, with Ms. Johnson stated the consultant is working with other entities but has not started yet and that the scope of work being done by the consultant with the other entities varies. Councilmember Sacco then stated the contract should include the fee for the services the consultant will provide. City

Attorney Benavidez stated the contract was a “boiler plate” contract, but could easily be amended to include the fee of the contractor or consultant. Councilmember Sacco then stated the insurance requirements needed to be more specific to include amounts of insurance the contractor needed to provide. Mr. Benavidez stated if Council would like more details in the insurance section, he could amend the contract to include those changes. Mayor Fenn then asked Ms. Johnson if she had any indication of the level of funding available, since the State was in these hard economic times. Ms. Johnson stated she had not received any information regarding what funding would be available, stating the scorecard was required for discretionary funding by departments, such as transportation, community grants, wildlife and natural resources. Ms. Johnson again stated to what extent the scorecard will be used is still unknown. Mayor Fenn then asked Ms. Johnson about future scorecards that may be required, with Ms. Johnson stating after the first scorecard was developed and submitted, that staff would have the capability and time to update scorecard responses on-line. Ms. Johnson then stated the scorecard was a State requirement and since the City had to submit the scorecard, the City should do the best that we could. Finance Director Jim Cox then addressed Council stating the cost of this contract would come out of professional services in the Planning & Zoning budget. Mr. Cox then added the State’s budget crises will affect funding, but that the State also handles a lot of pass-through Federal funds and that it was in the City’s best interest to do well on the scorecard. Councilmember Lodzinski moved to approve the Independent Contractor Agreement with W.C. Scoutten, Inc. to provide services to assist the City of Benson in preparing responses for the Smart Growth Scorecard in the amount of \$850.00 and with the stipulation the contractor provide a certificate of insurance for liability. Seconded by Councilmember Bonquet. Motion passed 6-0.

3. **Resolution 4-2009 of the Mayor and Council of the City of Benson, Arizona, approving a Special Event License for Helping Hands @ Cochise Terrace for February 7, 2009 at Cochise Terrace, 1030 S. Barrel Cactus Ridge, Benson, Arizona**

Mr. Art Bale of Cochise Terrace addressed Council stating Helping Hands @ Cochise Terrace has been holding annual auction fundraisers, raising over \$34,000 in the past nine years. The funds have been donated to local charities. Mr. Bale then stated some requests to hold fundraisers have included a wetbar. Mr. Bale stated this would be a win-win situation since 25% of the bar revenue would be given to the charity. Mr. Bale stated Helping Hands @ Cochise Terrace could apply for 10 special event liquor licenses each year and that they must obtain Council’s opinion before the State Department of Liquor Licenses and Controls would issue the permit. Mr. Bale stated each request in the future would come before Council for action. Councilmember Lambert asked if it would be possible to have an officer patrol the area once or twice during the event, with Mr. Nichols indicating that would be done. Vice Mayor King moved to approve Resolution 4-2009. Seconded by Councilmember Lodzinski. Motion passed 5-0, with Councilmember Sacco abstaining.

4. **Resolution 5-2009 of the Mayor and Council of the City of Benson, Arizona, approving a Special Event License for Helping Hands @ Cochise Terrace for March 7, 2009 at Cochise Terrace, 1030 S. Barrel Cactus Ridge, Benson, Arizona**

Mayor Fenn opened this item for discussion. Councilmember Lambert moved to approve Resolution 5-2009. Seconded by Vice Mayor King. Motion passed 5-0, with Councilmember Sacco abstaining.

5. **Resolution 6-2009 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of an Intergovernmental Agreement between the City of Benson (“City”) and the State of Arizona through its Department of Public Safety (“DPS”) to enhance Law Enforcement services concerning the criminal activities of Street Gangs**

Interim City Manager Glenn Nichols addressed Council stating that in the past, the City has been involved with multi-agency taskforces. Mr. Nichols stated this agreement would be with a squad

called the "GIT'em" squad that works gangs and drugs. Mr. Nichols stated they have guaranteed that they will assist the City with some of the problems the City wants to target. Mr. Nichols then stated the Police Department's manpower was stable and that it would be beneficial to allow an officer to work on this taskforce. Mr. Nichols informed Council that the contract could be cancelled at any time, if the City needed that officer back in the Police Department. Mr. Nichols stated while the officer is assigned to this taskforce, the State will pay 85% of his salary. Mr. Nichols confirmed the taskforce will work the county areas, but it would include the City limits. Councilmember Lambert asked if it would be more beneficial to alternate the officer assigned to the taskforce, with Mr. Nichols stating that would be a possibility in the future, but that there was a lot of training that would be done in the beginning. Mr. Nichols stated some intelligence and training the assigned officer would bring back to the Police Department. Vice Mayor King stated this taskforce would be beneficial and the training received would also be beneficial to the Police Department. Mayor Fenn asked if the City was insulated from any liability, with Mr. Nichols indicating each entity is responsible for their workman's compensation insurance and that there have not been many lawsuits against the taskforce specifically, since they make sure they have all their evidence before acting. Councilmember Lodzinski asked about seizures of property, with Mr. Nichols stating if the court so rules, the property from a seizure would be split up between the taskforce members. Councilmember Sacco moved to approve Resolution 6-2009. Seconded by Councilmember Lambert. Motion passed 6-0.

6. **Discussion and possible action to select qualified non-profit organizations that benefit the citizens of Benson to receive a donation from the City of up to 10% of Local Transportation Assistance Funds (LTAF) received by the City from the State Lottery, as authorized pursuant to A.R.S. § 28-8104**

Mayor Fenn opened this item stating there was quite a drastic reduction in the amount of funds that could be awarded. Councilmember Lambert stated he would be abstaining, citing a conflict of interest. Finance Director Jim Cox addressed Council stating the City receives these funds annually and that the distribution was considerably less than the previous year collection of over \$37,000, stating the current fiscal year amount received was \$8,985.00. Mr. Cox informed Council that State Statute allows the City to distribute 10% of the received funds in donations to qualified charities. Mr. Cox then stated it would be Council's pleasure to distribute these funds to the applicants or to distribute the funds at all. Mr. Cox then stated that the State Statute allow up to 10% of the funds received, but that there was no requirement to distribute the funds, emphasizing it was Council's pleasure. Councilmember Boncquet stated the basic need would be that of the Food Pantry, stating the other entities are wonderful and that she has supported those entities as well, but that they usually made contributions to the Food Pantry also. Mayor Fenn then stated the Council had given to other entities at other times in the year, also. Mayor Fenn verified that the Food Pantry was located on Easy Street. Councilmember Boncquet then moved to distribute \$898.00 to the Food Pantry. Seconded by Councilmember Lodzinski. Motion passed 5-0 with Councilmember Lambert abstaining.

7. **Review and Projection of City Finances: The City's Finance Director will make a presentation to the Council concerning the present and future financial status of the City. His presentation will include an introduction to the 2009/2010 fiscal year budget, current and future revenue and expenditure projections, state shared revenue projections, and City tax revenue projections**

Finance Director Jim Cox addressed Council with a powerpoint presentation on the Financial State of the City. Mr. Cox went over the first half of the current fiscal year, comparing revenues and expenditures to the previous fiscal year. Mr. Cox stated revenues have increased by 7% however, personnel costs, direct operating costs and capital costs have also increased. Mr. Cox then addressed the General Fund revenues, which were down, but still exceeded expenditures by \$17,000. Mr. Cox then discussed how staff has dealt with the recession, informing Council that cost containment has been in effect since July 1, 2008 and that there is a spending freeze on non-

essential purchases, the City has curtailed capital spending and any purchase over \$500.00 must be approved by the Finance Director and the Interim City Manager. Mr. Cox praised staff for their efforts in keeping expenditures to a minimum.

Mr. Cox then addressed the projected revenues and expenditures for the remaining months of the 2008-2009 fiscal year, General Fund revenues for fiscal year 2009-2010 and indicated balancing the General Fund is a challenge. Mr. Cox then addressed sales tax trends for a three year period, covering retail sales tax, construction sales tax and bed tax collections.

Mr. Cox then stated in summary that the City has sufficient reserves to stand about 3 years of the current situation, which is better than most other cities in the state of Arizona. Mr. Cox stated he was grateful the City had three years to increase the City's reserve funds.

Vice Mayor King then thanked Mr. Cox for his presentation and thanked staff for their contributions in being fiscally responsible. Vice Mayor King stated Council needed to be prepared to make tough decisions in this economic environment and that we needed to encourage our community to shop locally to keep sales taxes in Benson. Vice Mayor King then stated we, as a community, should help out the Food Banks and other entities that need assistance, not only by donations, but by volunteering our time. Vice Mayor King then stated we need to come together as a whole and continue to be fiscally responsible to get us through the new few years.

Councilmember Lambert thanked Mr. Cox and his department for the information and his presentation.

Mayor Fenn then stated that most information presented is reactionary to the current economic conditions and then challenged Mr. Cox, city staff and Councilmembers to also look for ways to provide some type of incentive to stimulate our economy. Mayor Fenn then stated a few years ago, that step was taken when Council reduced the sales tax on large purchases over \$5,000.00. Mayor Fenn then stated it was easy to see how much revenue the construction sales tax brought in during the past, but questioned if it hinders builders coming to Benson. Mayor Fenn then stated during discussions with potential commercial retailers, the comment is that Benson needs more houses before they will come to Benson. Mayor Fenn stated in that regard, housing construction stimulates commercial development, which in turn stimulates housing construction. Mayor Fenn then stated again he was challenging Mr. Cox to look for creative ways to generate revenue and that we may need to take a hard look at some incentives in some areas that would help stimulate growth.

Mr. Cox agreed with Mayor Fenn that the key to continued prosperity in this valley was adding prudent rooftops and that everything else follows behind it.

Councilmember Lodzinski asked Mr. Cox if he monitored the 1% sales tax on large ticket items, with Mr. Cox indicated so far this year, in the first 6 months, the City has collected \$19,000, which represents \$1,900,000 in sales. Mr. Cox stated he felt it was a significant positive impact.

Mayor Fenn thanked Mr. Cox again and asked that Mr. Cox keep Council informed of the City's financial conditions.

8. **Resolution 7-2009 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of an agreement between the City of Benson ("City") and Chester C. Antonick, dba Sue Juan Water Company ("Seller"), for the purchase and sale of a portion of the business assets of Seller, specifically, waterworks and wells; approving execution of the agreement and all related documents; and expenditure of the funds required therefor**

Public Works Director Brad Hamilton addressed Council stating Mr. Antonick approached the

City regarding the purchase of the Sue Juan Water Company. Mr. Hamilton stated the water company is completely inside the City limits and that the City serves everything around it, with mains running around and through the water company and that the City services the area with gas, wastewater and other City services. Mr. Hamilton informed Council the well that serves the Sue Juan customers, like the City's, suffers from high arsenic under the new arsenic rules. Mr. Hamilton stated it would be cost prohibitive to remedy the well currently used, therefore Mr. Antonick approached the City to inquire on the sale of the company. Mayor Fenn then opened the item for discussion. Vice Mayor King asked Mr. Cox if this purchase was budgeted, with Finance Director Jim Cox indicating there was \$25,000 in the water fund for the Sue Juan Water district as well as a \$25,000 water contingency fund. Discussion was then had regarding system repairs, with Mr. Hamilton stating the contract contained a 1 year warranty for leaks, adding that the seller would be responsible for the cost of those repairs. Mr. Hamilton then stated the City has been providing water for the Sue Juan customers for approximately 2 weeks due to the arsenic and that the City would probably decommission the well Sue Juan owns. Mayor Fenn confirmed with Mr. Cox that barring any repairs the City has to pay for, the initial purchase cost would be recovered in 6 to 9 months. Mayor Fenn then verified with Mr. Hamilton that the Sue Juan customers understood the City's current water rates. Mr. Hamilton stated during the public meetings, the customers were informed of the City's water rates and the City had received very positive feedback regarding the purchase. Mayor Fenn asked if the seller had put any funds into an escrow account, with City Attorney Thomas Benavidez stating the seller had the contractual obligation to fulfill his responsibilities in the contract. Councilmember Boncquet moved to approve Resolution 7-2009. Seconded by Vice Mayor King. Motion passed 3-1 with Councilmember Sacco voting nay and Councilmembers Lambert and Lodzinski abstaining, due to conflicts of interest.

CITY MANAGER REPORT:

Interim City Manager Glenn Nichols addressed Council with upcoming meetings:

- February 3, 2009 – Planning & Zoning, 7:00 p.m., City Hall
- February 9, 2009 – Council Worksession, 6:30 p.m., City Hall
– Council Meeting, 7:00 p.m., City Hall
- February 10, 2009 – Arts Commission, 9:00 a.m., City Hall
– Library Board, 4:00 p.m., City Library
- February 16, 2009 – HOLIDAY – City Offices Closed
- February 21, 2009 – Historic Preservation Commission, 9:00 a.m., City Hall
- February 23, 2009 – Council Worksession, 6:00 p.m., City Hall
– Council Meeting, 7:00 p.m., City Hall

Mr. Nichols then stated on February 14-15, 2009 would be Arizona Ranger Days in Benson.

Mr. Larry Martinez, President of the Food Pantry asked if he could make a brief statement to the Council. Mr. Martinez then thanked Council for considering the Food Pantry's request for lottery funds, stating the Food Pantry operates solely on donations. Mr. Martinez then stated that 18 months ago, the Food Pantry serviced approximately 185 families every Wednesday and that currently, they are servicing approximately 300 families, servicing 358 families the previous week. Mr. Martinez then thanked Council again for their consideration. Mayor Fenn thanked Mr. Martinez for his work.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Vice Mayor King moved to adjourn at 8:38 p.m. Seconded by Councilmember Boncquet.
Motion passed 6-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk