

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the City Council of the City of Benson held on the 14th day of March, 2011. I further certify that the meeting was duly called and held and that a quorum was present.

Date 3-30-11

City Clerk Vicki A. Vivian

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD MARCH 14, 2011 AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor Fenn called the meeting to order at 7:04 p.m. with the pledge of allegiance. Mayor Fenn then introduced Pastor Lupe Diaz of the Grace Chapel who gave the invocation.

ROLL CALL:

Present were: Mayor Mark M. Fenn, Vice Mayor John Lodzinski, Councilmembers Jo Deen Boncquet, David Lambert, Nick Maldonado, Lori McGoffin and Al Sacco.

EMPLOYEE RECOGNITION: None.

PROCLAMATION: None.

PUBLIC HEARING: None.

CALL TO THE PUBLIC:

James Trail addressed Council thanking them for the way they acted on Resolution 20-2010 last year. Mayor Fenn asked what the subject of the resolution was with Mr. Trail stating it was regarding Cochise Terrace. Mr. Trail then stated his attorney advised him to inform the Council of a couple of situations to make sure the Council is aware of them. Mr. Trail then stated on March 2nd of last year, Michelle Johnson sent a communication to the Planning & Zoning Commissioners that read, in part, "this additional footage would be taken from the whole common area C." Mr. Trail then stated at the June 2nd meeting of the Planning & Zoning Board, Art Bale said it was in progress and has been going on since early 2009 and the agreements and plans had been reviewed with the City Attorney and if accepted, they would be under CC&Rs, governing them like the Homeowners Association of the planned community up there. Mr. Trail then stated there are two deeds that are in litigation right now. Mr. Trail then stated he spoke at the March 22, 2010 Council meeting showing Council the deeds there were questions on and the Council chose to table the item regarding Cochise Terrace. Mr. Trail stated at the same meeting, Dennis Moore of Cochise Terrace addressed the Council also, telling Council one home had dirt put in behind it and Mr. Moore told Public Works Director Brad Hamilton the dirt would be removed and he would show Mr. Hamilton a picture to prove it had been done. Mr. Trail then stated Mr. Moore also said he thought the paperwork was completed in the title report, but the City Attorney informed Mr. Moore there were two issues and Mr. Moore told the City Council that he would go to the Title Company and try to get clarification for the next City Council meeting. Mr. Trail then showed Council two pictures, stating one was taken in March, 2010, and the other was taken recently, adding they could see the dirt that was put in behind it is still there and now there has been an Arizona room added to the park model. Mr. Trail then stated he has checked with the building department and there was no setback given for that park model. Mr. Trail then stated on lots #209 and 211, dirt has also been put in behind the lots. Mr. Trail then stated the other issue is Mr. Bale, the manager and developer of the manufactured home community at Cochise Terrace stated on February 19, the City of Benson had given him a variance for a setback on lot #107. Mr. Trail then stated he realizes the City Council is not responsible for enforcing the CC&Rs in place, that's the job of Art Bale and then added the CC&R says the setback from the front is 15' which is the same as R3 zoning. Mr. Trail then thanked the Council for their time and their help last year. Mayor Fenn thanked Mr. Trail for the information and asked Mr. Trail to talk to Building Official Luis Garcia regarding some of the issues he brought up.

John Whiteside addressed Council stating he would like to make a few short comments on the executive session. Mr. Whiteside then stated the climate of fear among City staff is gone, adding it left the day after Council appointed the current City Manager, the City runs very well and has expanded in services to citizens, the City is surviving financially better than most cities in Arizona and even in, or especially

because of the recession, superior leadership deserves to be rewarded. Mr. Whiteside then concluded his remarks, stating, "What's not to like?" and thanked the Council for the opportunity to speak.

CITY MANAGER REPORT:

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

- March 19, 2011 – Historic Preservation Commission, 9:00 a.m., City Hall
- March 21, 2011 – Economic Development Subcommittee, 5:15 p.m., City Hall
- March 22, 2011 – Community Watershed Alliance, 6:30 p.m., City Hall
- March 28, 2011 – City Council Meeting, 7:00 p.m., City Hall

- March 10 - 19, 2011 – "Celebrate the Arts" presented by the San Pedro River Arts Council, Cochise College
- March 2 - April 3, 2011 – Southeastern Arizona Teen Art Competition, Final Meeting and Presentation of Awards on April 3, Council Chambers
- March 19 & 20, 2011 – Territorial Days, Arena Bar, 8:00 a.m. both days

Mr. Nichols noted there were brochures available for the "Celebrate the Arts" event.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the February 28, 2011 Regular Meeting, Including Executive Session Minutes
- 1b. Resolution 24-2011 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for an Arizona Department of Homeland Security Grant to fund Equipment Purchases
- 1c. Resolution 25-2011 of the Mayor and Council of the City of Benson, Arizona, authorizing the Chief of Police to apply for an Arizona Department of Homeland Security Grant to fund Equipment Purchases
- 1d. Invoices processed for the period from February 22, 2011 through March 7, 2011

Councilmember Sacco moved to approve the Consent Agenda. Seconded by Councilmember McGoffin. Motion passed 7-0.

2. Resolution 26-2011 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the Application by the Benson Volunteer Fire Department for Volunteer Fire Assistance Grant funds from the Arizona State Forestry Division

Fire Chief Keith Spangler addressed Council stating this grant application is a 50/50 grant and being in a rural area, we are allowed to apply for up to \$10,000 with the City's required match being \$5,000. Chief Spangler then stated we have been awarded this grant twice in the past and this year the application is to purchase structural fire fighter equipment in the form of personal protective equipment (turnouts). Chief Spangler then stated the estimate for the turnouts, which will include the pants, shirt and jacket, but not the boots, helmets or gloves is \$2,000 for each set, so he is hoping to purchase 5 sets, if the grant is awarded. Mayor Fenn asked about the likelihood of being awarded the grant with Chief Spangler stating it will depend on funding from the federal government, noting the program hasn't been approved from the U.S. Forest Service to the State Forestry Division, and if it does get approved, it's uncertain how much it will be approved for. Mayor Fenn stated if the grant program is funded, the application would be ready and then moved to approve Resolution 26-2011. Seconded by Vice Mayor Lodzinski. Motion passed 7-0.

3. Request of support and sponsorship of the Benson Company of the Arizona Rangers' Arizona Rangers Territorial Days, March 19-20, 2011, to include possible financial assistance

City Manager Glenn Nichols introduced Arizona Rangers' Captain James Martzke. Captain Martzke then addressed Council stating the Arizona Rangers is a volunteer group who support our police and fire department activities as well as the activities of other police and fire departments across northern Cochise

County. Captain Martzke then stated Ranger Days is the one day a year they raise funds to support their own activities and they are requesting a donation of the City Council to help them support the event. Captain Martzke then stated the Arizona Rangers give scholarships to all 4 High Schools in the area and come out of the funds they raise at Territorial Days. Mayor Fenn thanked Captain Martzke for the support they give to the police department and asked what Council had done in the past. City Manager Glenn Nichols stated the Council had approved a sponsorship in the amount of \$1,000 two years ago and a sponsorship of \$750.00 last year. Mayor Fenn then asked about the community enrichment fund with Mr. Nichols stating there were available funds. Councilmember McGoffin moved to approve the sponsorship of the Benson Company of the Arizona Rangers' Arizona Rangers Territorial Days in the amount of \$750.00. Seconded by Councilmember Lambert. Mayor Fenn asked if there was any other assistance provided with City Manager Glenn Nichols indicating the same assistance could be given this year as was given last year. Motion then passed 7-0.

4. **Termination of the Intergovernmental Agreement (IGA) with Cochise County and the Cities of the County that established the Cochise County Economic Development Steering Committee and Approved related Activities**

City Manager Glenn Nichols addressed Council stating this IGA his was approved in May, 2003 and the City has funded it each year. Mr. Nichols then stated the IGA placed Economic Development in the hands of the Cochise County Tourism Council, but that was not the direction of the Council, adding at the last meeting, the discussion among the City Managers resulted in the consensus that Economic Development projects could still be worked on together, but there wasn't a need for a steering committee. Councilmember Bonquet moved to terminate the Intergovernmental Agreement (IGA) with Cochise County and the Cities of the County that established the Cochise County Economic Development Steering Committee and approved related activities. Seconded by Vice Mayor Lodzinski. Motion passed 7-0.

5. **Resolution 22-2011 of the Mayor and Council of the City of Benson, Arizona, appointing a City Tax Collector**

Mayor Fenn stated this item was brought back from the previous meeting where it was one of three items relating to city sales tax and audits and asked City Manger Glenn Nichols to explain why it could stand alone. Mr. Nichols stated this resolution is asking for the City Tax Collector designation to be moved to the City Manager, adding the Finance Department will continue to work with taxpayers to solve issues that are found. Mayor Fenn then stated he would like it explained that the position of the Tax Collector is already on the books and exists within the City Tax Code; this resolution is not creating a new position, but would move the responsibility as it exists now with the City Finance Director to the City Manager. Councilmember Sacco asked if a motion was needed to bring this item to the Council with City Attorney Mike Masee stating if the item had not been noticed on the agenda, it would have required a motion, but since it's been noticed on the agenda, no further motion to take it off the table is necessary. Councilmember Sacco then stated he would like clarification of the Tax Collector's role in the appeal process with City Manager Glenn Nichols stating the Tax Collector would be the person who would oversee the process, while the Finance Director and his department would be directly working with the parties to try to settle their tax issues through the process discussed before, adding examples of the letters sent to taxpayers were given to Council in a previous packet. Mr. Nichols then stated someone other than the Finance Director should be the Tax Collector and would be the person to notify taxpayers of the process. Councilmember Sacco asked about the process with Mr. Nichols stating when there is an issue, the Finance Department will work with the taxpayer to try and settle the issue. Councilmember Sacco then asked what would happen if the issue was not settled with Mr. Nichols stating at that point, it would be brought to the Tax Collector for a decision to be made on the next step. Mayor Fenn then stated the way the City operates now, that next step would be to refer the issue to the State, since the Tax Collector would not have the jurisdiction to enforce audits, adding the remaining tabled items from the previous meeting addressed the audit process. Mr. Nichols confirmed this, stating if the issue is not resolved at the local level, it is sent to the State for them to look at possibly performing an audit. Councilmember Lambert then stated he tried to explain this process at the last meeting; that it was just a housekeeping issue to change the Tax Collector designation to the City Manager from the City Finance Director and moved to approve Resolution 22-2011. Seconded by Vice Mayor Lodzinski. Motion passed 5-2 with Councilmember

McGoffin and Sacco voting nay.

EXECUTIVE SESSION: As per A.R.S. §38-431.03(A)(1), Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, specifically, the City Manager

Mayor Fenn then stated the previous item concluded the final regular agenda items and the Council is now scheduled to enter into an executive session for the opportunity to discuss employment with the City Manager. Mayor Fenn then stated the only item after the executive session was to adjourn, stating the public was welcome to leave, if they wanted, after the executive session was called.

City Attorney Mike Masee stated since the executive session did not call for any legal advice, it was not necessary for him to attend. Councilmember McGoffin moved to enter into an executive session with the City Council, the City Manager and the City Clerk at 7:30 p.m. Seconded by Councilmember Maldonado. Motion passed 7-0.

Council reconvened at 7:51 p.m.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Vice Mayor Lodzinski moved to adjourn at 7:52 p.m. Seconded by Councilmember Maldonado. Motion passed 7-0.



Mark M. Fenn, Mayor

ATTEST:



Vicki L. Vivian, CMC, City Clerk