

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD MARCH 10, 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 WITH
THE PLEDGE OF ALLEGIANCE.**

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

Invocation: Mayor Fenn introduced Father Henri Capdeville who gave an invocation.

EMPLOYEE
RECOGNITION: None.

Call to the Public: Cliff Brown addressed Council regarding Mayor Fenn's resignation. Mr. Brown stated he does not think Mayor Fenn should resign and urged Council to not accept Mayor Fenn's resignation, saying Benson needs his leadership.

Bob Everett addressed Council thanking them for the opportunity to introduce the new Benson Elks, Lodge Number 2853. Mr. Everett then introduced the officers and stated the current membership is 137 and growing.

Luanne Posegate, addressed Council regarding Mayor Fenn's resignation. Ms. Posegate stated she felt if everyone will put their heads together, things can be worked out to benefit the City.

Jim Gray addressed Council regarding Mayor Fenn's resignation. Mr. Gray stated Mayor Fenn should remain on the Council, stating that Mayor Fenn's character is impeccable and that Mayor Fenn was elected by a wide majority. Mr. Gray stated Mayor Fenn came on the City Council at a crucial time when the City needed changes and that Mayor Fenn assisted in making some of those changes. Mr. Gray stated one of those changes was the previous City Manager dictating to Council. Mr. Gray stated the City Council should direct and lead the City and the City Manager.

Stephen Insalaco addressed Council stating that being both a business owner and member of the Council can result in conflict of interest issues, but that it could be handled by having these issues identified and the affected Councilmember or Mayor abstain from the voting process and possibly the discussion sessions leading to a vote. Mr. Insalaco then stated Mayor Fenn is of good character and has served the community admirably and asked the Councilmembers, the City Attorney, and the City residents to reconsider resolving any outstanding issues, and retain Mr. Mark Fenn as Mayor.

George Scott addressed Council stating he came to express support for Mayor Fenn. Mr. Scott stated Mayor Fenn has dedicated his efforts to

make Benson a better community to live and work in and has invested in Benson by bringing new quality housing projects, new commercial projects and office buildings. Mr. Scott then stated Mayor Fenn has vision and is a man of integrity and that he has the support of the business community. Mr. Scott suggested that it would be in the best interest of the community, for Councilmembers and staff to get behind the Mayor and follow his leadership.

Ron Brooks addressed Council stating Mayor Fenn is a mark above and hopes that the Mayor reconsiders his resignation. Mr. Brooks stated Mayor Fenn had more support than he realized.

CONSENT AGENDA:

- 1a. Approval of Minutes of the February 11, 2008 Regular Meeting
- 1b. Appointment of Darek Anderson to the Mayor's 4th of July Committee
- 1c. Appointment of Lisa Hamilton to the Mayor's 4th of July Committee
- 1d. Appointment of Nancy Huey to the Benson Industrial Development Authority of the City of Benson
- 1e. Appointment of Linda Lamb to the Benson Industrial Development Authority of the City of Benson
- 1f. Appointment of Luz Meza to the Benson Industrial Development Authority of the City of Benson
- 1g. Appointment of Steven Trowbridge to the Benson Industrial Development Authority of the City of Benson
- 1h. Appointment of Jesse Konrad to the Benson Board of Adjustment
- 1i. Purchase of two 2007 Crown Victoria Police Interceptor Vehicles
- 1j. City of Benson Processed Invoices

Councilmember Lodzinski asked items 1d – 1g be removed from the consent agenda, asking Ms. Mellentine, Secretary of the Benson Industrial Authority to address Council at the time these items are presented. Councilmember McGoffin moved to approve the remaining consent agenda. Seconded by Councilmember Lodzinski. Motion passed 7-0.

NEW BUSINESS:

Items Removed from the Consent Agenda:

- 1d. Appointment of Nancy Huey to the Benson Industrial Development Authority of the City of Benson
- 1e. Appointment of Linda Lamb to the Benson Industrial Development Authority of the City of Benson
- 1f. Appointment of Luz Meza to the Benson Industrial Development Authority of the City of Benson
- 1g. Appointment of Steven Trowbridge to the Benson Industrial Development Authority of the City of Benson

Ms. Dell Mellentine, Secretary of the Benson Industrial Authority addressed Council stating that character and the desire to serve the community were items looked at by the board when making recommendations for board members. The board felt the proposed members would bring good balance to the current board.

Councilmember Suagee moved to approve all four appointments to the Benson Industrial Development Authority of Benson. Seconded by Councilmember Lodzinski. Motion passed 7-0.

Presentation of Mayor Fenn's resignation, and possible discussion concerning the process for filling a vacancy on the Council:

Mayor Fenn read a letter withdrawing his resignation, which is included in the minutes.

Discussion regarding Pavement Management and reconstruction of Ocotillo Road, Phase I & II:

Mr. Brad Hamilton addressed Council stating the City currently is reviewing job order contracts for paving and one of the first projects will be Ocotillo Road. Mr. Hamilton also stated the City advertised for design and engineering services for Ocotillo Road from 4th Street to Union and is in negotiations with the top candidate. Discussion was then had regarding Ocotillo north of Interstate 10 and south of Union uphill to Via Javelina. Mr. Hamilton stated after a job order contract was approved, the management of those areas can be brought back to Council. Discussion included looking at load limits, the possibility of the Army Core of Engineer's involvement, Emergency Access for the hospital during construction and the possibility of Union Street being constructed to Prickly Pear. Councilmember Suagee felt that the continuation of Union Street to Prickly Pear would provide another access road, would be important to the City's traffic pattern and should be pursued. Councilmember Sacco requested a project schedule for the repair of Ocotillo and re-pavement projects. Mr. Hamilton stated only one side of Ocotillo would be closed at a time, providing access along Ocotillo Road. City Manager Martin Roush stated there was \$200,000 budgeted for pavement management with an additional \$200,000 in contingency for pavement management. Mr. Roush stated there were some streets that would require less extensive repairs if they were made sooner instead of waiting. Mayor Fenn then asked where the first benefits of pavement management would be seen. Mr. Hamilton stated he would like to see Patagonia from 4th to Union and Union from Patagonia to Ocotillo, citing these are streets that if repaired now would save the City money in the long run, as Mr. Roush mentioned.

Adding a new employee position of Human Resources Analyst I; may include the role and responsibilities of the position as well as the pay class:

City Manager Martin Roush addressed Council stating many Human Resource functions are currently performed by different employees. Mr. Roush stated the two basic functions are benefits administration and new employee orientation, as well as supporting the City Manager as the Human Resource Director in administration such as the interview process, the hiring process, the evaluation process, supervisor training and training within the City. Mr. Roush stated the City's current administrative policy is outdated with changes in Human Resource Law and the Federal Government's administrative mandates. Mr. Roush then stated a new administrative policy has been worked on and this policy contains additional responsibilities that would require more resources to

implement. Mr. Roush stated a normal threshold for an organization to have a Human Resource Technician was 50 employees and the City of Benson currently has approximately 84. Discussion was then had regarding the salary range, with Mr. Roush stating this position was equivalent to other administrative assistant positions within the City and the salary grade was established accordingly. Councilmember Sacco asked to for a copy of the job description when it is completed. Councilmember Suagee moved to approve the position of the Human Resources Analyst I. Seconded by Councilmember Tipton. Motion passed 6-1 with Councilmember Sacco voting nay.

Conversion of part time Finance

Account Clerk I to full time status:

Finance Director Jim Cox addressed Council stating the City currently has a temporary position that is part-time up to 32 hours per week. With the professional standards that continue to rise within the Finance Department and the amount of work being generated as a result of strong efforts for staff education, cross training, increased communication with the business community and other responsibilities such as examining the sales tax revenues have staff working at their maximum capacity. Mr. Cox then indicated he is asking for the position to be increased to 40 hours and week and converted to a permanent position. Councilmember Suagee spoke stating Council does not approve additional staff positions lightly and that due to Council taking notice of employees, compensation and good working conditions, City staff's productivity and the level of service not only have increased but improved. Councilmember Sacco moved to approve the conversion of the part time Finance Account Clerk I to full time status. Seconded by Councilmember Lodzinski. Motion passed 7-0.

City Sponsorship of City teams

to compete in local charity golf

tournaments:

Councilmember McGoffin addressed Council stating sponsoring teams with employees would promote teambuilding and support local charities at local events. Vice Mayor King concurred. After discussion, Council directed staff to gather more information regarding the approximate number of tournaments held and the approximate amount of each tournament's fees as well as the legal aspects of sponsoring teams.

Discussion regarding City's policy

of using third party [outsourced]

development plan reviews and

inspections:

This item was removed from the agenda at Mayor Fenn's request.

Council directive regarding

Fiscal Year 2008 Community

Development Block Grant:

Public Works Director Brad Hamilton addressed Council stating the City has held two public hearings and is looking for direction from Council. Mr. Hamilton stated staff was recommending the completion of the North Benson Street Improvements project. Mayor Fenn then stated the amount of the funds would be approximately \$335,000 and there were certain restrictions on how the funds could be used. Discussion was then had regarding the possibility of utilizing these funds to address the flooding and drainage issues in the Comstock Area; however, City Manager Martin Roush advised Council until the engineering was complete and some alternative analyses were done, these funds or any

other grants would not support that project. Mr. Roush stated there are no low cost or quick solutions; that solutions are lengthy and expensive projects that many times exceed the cost of the property; therefore there was a high probability that Flood Plain acquisitions would become a viable option. Councilmember Sacco moved to continue the North Benson Streets Improvement project. Seconded by Councilmember McGoffin. Motion passed 7-0.

EXECUTIVE SESSION:

As per A.R.S. §38-431.03(A) (3) & (4), for legal advice and to consider the City's position and instruct its attorneys regarding potential settlement of the litigation between the City of Benson and Arizona Golf Systems, LLC [Cochise County case number CV200400507].

Councilmember McGoffin moved to enter into Executive Session with the City Council, City Manager, City Clerk, City Attorney and the City's legal counsel, Mr. Brian Mueller of Mariscal, Weeks, McIntyre & Friedlander, PA. at 8:12 p.m. Seconded by Councilmember Lodzinski. Motion passed 7-0.

Council reconvened at 8:45 p.m.

Discussion and possible action concerning
a proposed settlement agreement
in the litigation between the
City of Benson and Arizona Golf
Systems, LLC [Cochise County case
number CV200400507]:

Councilmember Suagee moved to direct the attorneys to renegotiate some of the City's positions of the settlement as discussed in the Executive Session. Seconded by Councilmember Tipton. Motion passed 7-0.

CITY MANAGER REPORT:

The City Manager's Report was not discussed.

COUNCIL DIRECTIVES:

None.

Adjournment:

Councilmember McGoffin moved to adjourn at 8:50 p.m. Seconded by Councilmember Lodzinski. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk

March 8, 2008

City Council- City of Benson
City Manager
City Clerk
City Attorney

I care deeply for Benson and its future. Because of this I ran for mayor with the intention that we could make our city government better and more transparent. My goal has been to assist Benson through the growing pains of a small town that holds great promise for the future as an affordable, accessible and enjoyable community. I thought that as a council and city administration we were reaching this goal, little by little.

As most know, I am a general contractor and small developer, just as I was when I was selected mayor. It now appears that there is an effort to undermine my credibility, by insinuating that my business practices are at odds with my ability to be an objective city official. I refute this allegation entirely. I have taken great care to ensure that my interaction with staff remain professional and open. It is the nature of my business to sometimes have disagreement with how a development project is handled by the city. Ultimately we all want quality construction in the city that will enhance its appearance as well as bring economic growth and jobs to the town. I feel that my projects achieve this aim, and I will continue to bring economic stimulus to Benson through projects in the future. This is my profession, my livelihood and my dream. I understand that by virtue of my office I am perceived differently by staff from other businessmen in this city. If I have "intimidated" any city employee in my business dealings, I am truly sorry. This has never been my intention.

Until last week, I had no idea that there was any friction resulting from my position and profession. At no time did the city manager or any other city employee approach me with a word of caution that I had a possible conflict of interest- other than to advise me that it would be wise to have a third party entity to process the current re-zoning application before the city. This I have done, even though there is no law that I am aware of that says you cannot submit plans, build buildings, call for inspections and re-zone property in the city if you are the Mayor.

Naturally, I resent the fact that some council members and the city manager called for an executive session "for legal advice from the city attorney concerning handling the mayor's real estate development plans and projects within the city". First- why didn't these people contact me directly with their concerns to get my side of the story, and secondly, I don't need an executive session to discuss this- I will gladly talk about it at a regular meeting with the public and media present. The language insinuates that there has been illegal activity, which is completely false and accusatory.

For the good of this community I hereby withdraw my letter of resignation dated March 7, 2008. I will continue to conduct my business in an ethical manner as I have always done. I will continue to provide leadership in my position and help move Benson forward to its great future. I will take steps to further isolate myself from my personal development projects and the city by means of third party representation. If anyone in

the future, be it a private citizen, city personnel or council member has any concerns about my business as it relates to my office, please communicate with me. I would do the same if I had concerns about any of my fellow council members and I expect the same courtesy.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mark M. Fenn', written in a cursive style.

Mark M. Fenn