

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD MAY 24, 2010 AT 7:00 P.M.  
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Mayor Mark M. Fenn called the meeting to order at 7:00 p.m. with the pledge of allegiance. Mayor Fenn then introduced John Cook of the Baha'i Faith who gave the invocation.

**ROLL CALL:**

Present were: Mayor Mark M. Fenn, Vice Mayor Toney King, Sr., Councilmembers Jo Deen Boncquet, David Lambert, John Lodzinski, Lori McGoffin (arriving at 7:16 p.m.) and Al Sacco.

**EMPLOYEE RECOGNITION:** None

**PROCLAMATION:** None

**PUBLIC HEARING:** None

None

**CALL TO THE PUBLIC:**

Kathy Suagee addressed Council concerning the statement she previously made regarding City Attorney Michael Masee. Ms. Suagee's comments are incorporated into the minutes.

Paul Lotsof addressed Council concerning the Tohono O'odham grant stating each time this grant is applied for, the police or fire department apply and asked if there was a regulation requiring it be those departments. Mr. Lotsof then stated if there was no such requirement, the Council should let the public know the funding is available and seek input from them for other ideas. Mr. Lotsof then stated the next issue he would like to speak about was regarding manufactured housing. Mr. Lotsof said his company has an old trailer, built in 1964, and purchased in the early '80s that is dilapidated and gets worse every day. Mr. Lotsof then stated he now has a purchase option for a much newer structure, which is bigger, would serve their needs and make the community better, but was concerned that if he does this, he will have to comply with the newer regulations that are now being enforced. Mr. Lotsof then stated if that were the case, it would cause the project to be too expensive to do and questioned what charges and penalties he would incur if he did not comply. Mr. Lotsof then stated this conveyed a message to property owners that if they fix their property or make improvements, they do so at their own peril. Mr. Lotsof then stated very few municipalities want to send such a message to property owners and wondered if Council wanted to send that message out. Mr. Lotsof then thanked the Council for listening.

**CITY MANAGER REPORT:**

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

- May 25, 2010 – Community Watershed Alliance, 6:30 p.m., City Hall – Mr. Nichols stated this would be an interesting meeting that would be discussing invasive weeds coming into Arizona and Cochise County.
- May 26, 2010 – City Council Budget Worksession – Mr. Nichols stated this worksession is not needed and will be cancelled.
- June 1, 2010 – Planning & Zoning Commission, 7:00 p.m., City Hall

- June 7, 2010 – City Council Special Meeting, 7:00 p.m., City Hall
- June 14, 2010 – City Council Meeting, 7:00 p.m., City Hall
- June 15, 2010 – Library Advisory Board, 4:00 p.m., City Library
- June 19, 2010 – Historic Preservation Commission, 9:00 a.m., City Hall
- June 24, 2010 – City Council Public Hearings, 7:00 p.m., City Hall
- June 28, 2010 – City Council Meeting, 7:00 p.m., City Hall
- June 29, 2010 – Community Watershed Alliance, 6:30 p.m., City Hall
  
- May 28, 2010 – Benson City Pool opens. The pool will be open Monday through Saturday from 11:00 a.m. to 5:00 p.m. and Sunday from 1:00 p.m. to 5:00 p.m., Swim lesson schedule and other activities can be found at [www.cityofbenson.com](http://www.cityofbenson.com)
- May 29, 2010 – Free Swim Day – Benson City Pool, sponsored by All the Kings Horses during regular hours.
- May 31, 2010 – HOLIDAY – City Offices Closed
- June 3 – June 8, 2010 – City Library (including the Book Drop) will be closed for remodeling. The library will reopen on June 9, 2010.

## **NEW BUSINESS:**

### **1. Consent Agenda**

- 1a. Minutes of the May 10, 2010 Worksession
- 1b. Minutes of the May 10, 2010 Regular Meeting, Including Executive Session Minutes
- 1c. Resolution 31-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the Chief of Police to apply for a Tohono O’odham Grant to purchase traffic enforcement equipment
- 1d. Resolution 32-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for a Tohono O’odham Grant to purchase two Cardiac Monitors
- 1e. Resolution 33-2010 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 and the Pomerene Elementary School District #64 (The “District”) to permit reciprocal use of the buildings and grounds of the City of Benson and the District
- 1f. Resolution 34-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the Chief of Police to apply for a Governor’s Border Security Enhancement Program Grant not to exceed \$125,000 to fund the purchase of police vehicles and associated equipment
- 1g. Invoices processed for the period from May 5, 2010 through May 17, 2010

Mayor Fenn stated item 1d would be removed from the Consent Agenda and it would be addressed separately immediately following the Consent Agenda. Councilmember Lodzinski then moved to approve the Consent Agenda as amended. Seconded by Councilmember Sacco. Motion passed 6-0.

Mayor Fenn then asked Fire Chief Keith Spangler to address Consent Agenda item 1d. Mr. Spangler addressed Council stating the original grant application was for \$45,000 for two cardiac monitors, but he was just given information on two other cardiac monitors and would like to amend the application to apply for those in the amount of \$81,803. Mr. Spangler stated these monitors have state of the art technology to detect carbon monoxide in a person’s blood with a finger prick, which normally requires the hospital to draw arterial blood gases. Mr. Spangler then said the fire department gets calls for carbon monoxide poisonings during the wintertime and that anytime firefighters would be in any type of smoke filled building, the department would use the monitors to make sure they did not have any carbon monoxide in their system. Mr. Spangler then stated this request would increase the grant application amount and there was no match required from the City. Mayor Fenn asked about the comments made by Mr. Lotsof’s comments regarding the requirements for the grant with Mr. Spangler stating by law, tribes are required to provide grants and can choose whether to offer the grants to the public or to public safety, which would also include law enforcement and medical needs. Mr. Spangler then stated this year the tribe elected to offer the grants to the public safety sector. Councilmember Lambert then moved to approve Consent

Agenda Item 1d – Resolution 32-2010 with the amendment to increase the grant application to \$81,803.00. Seconded by Councilmember Lodzinski. Motion passed 6-0.

2. **Community Food Pantry’s request for financial assistance**

Mayor Fenn stated after the Community Food Pantry’s presentation, he requested this item to be presented to Council. Mayor Fenn then asked Mr. Larry Martinez of the Community Food Pantry to address the Council. Mr. Martinez stated they are on schedule to move into the new location at the end of May, adding they have been moving items into the storage container they placed outside the new location to prepare for the move and it will then be a matter of cleaning and installing a cement pad they will need. Mayor Fenn then thanked Mr. Martinez for the update he provided to Council and wanted to make sure everyone was aware the City donates \$130 per month which is over \$1200.00 annually. Mayor Fenn then stated they would like to be able to help every organization, but must draw the line somewhere, adding the City does have some funding in Community Enrichment that was at Council’s discretion to designate how it is used. Mayor Fenn then stated his personal thought was to let some of those funds be used to help with moving expenses and then opened the item for any Council discussion or comments. After receiving no comments, Mayor Fenn moved to approve \$750.00 be given to the Community Food Pantry. Seconded by Councilmember Boncquet. Mayor Fenn then stated the monthly utility subsidy is still in place and that this is a single additional contribution to assist with their move. Councilmember Lambert then asked how long the Community Food Pantry would be closed and if they had addressed parking spaces with Mr. Martinez stating they hope to serve the senior boxes on June 14 and then be open to the public on June 16 and that they have enough parking for at least 30 cars. Motion then passed 7-0, with Councilmember McGoffin voting.

3. **Resolution 35-2010 of the Mayor and Council of the City of Benson, Arizona, approving the form and authorizing the execution and delivery of a purchase agreement, a trust agreement, a continuing disclosure undertaking, an obligation purchase contract and other necessary agreements, instruments and documents; approving the sale and execution and delivery of not to exceed \$5,500,000 aggregate principal amount of excise tax and state shared revenue and/or excise tax and state shared revenue refunding obligations, Series 2010, evidencing a proportionate interest of the owners thereof in the purchase agreement; delegating authority to the City Manager and the Finance Director to determine certain matters and terms with respect to the foregoing; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this Resolution and declaring an emergency**

Finance Director Jim Cox addressed Council stating the resolution sounded complex, but was really very simple. Mr. Cox then stated a full presentation regarding this item was presented at the Council meeting on April 24 and since that time staff had worked diligently putting together the draft bond documents for this item. Mr. Cox then stated this was a historic moment with the City selling our own revenue bonds; the City of Benson Excise Tax Revenue Bonds, Series 2010.

Mr. Cox then stated he would like to take a few minutes to review this issue and why we are proposing to proceed. Mr. Cox then stated the estimated bond proceeds are approximately \$5 million and will be used to refinance the Wastewater Treatment Plant (WWTP) debt with USDA, which is a callable loan upon the City becoming capable of obtaining financing on our own, which the City is capable of doing at this point. Mr. Cox then stated the proceeds will also be used for the payoff of Zions Bank in the amount of \$335,000 and will leave a fund for construction of approximately \$2.1 million for an assorted number of utility infrastructure projects that have been discussed as we’ve gone through the budget process. Mr. Cox then stated the proposed term of the bond is 20 years and our estimated annual debt service is \$400,000 which is very close to the annual payment on the WWTP by itself, which is \$422,000 per year. Mr. Cox then stated this meant the City was taking on no more cash flow deficit than we have had all these years in paying the WWTP debt. Mr. Cox then said the estimated all in total interest cost including all costs of financing is in the 5.0% to 5.5% range. Mayor Fenn asked if the interest rate reflects absorbing the points and any costs of issuing the bonds with Mr. Cox stating the actual coupon rates for the bonds run from 4.1% to 4.7%, but

the total cost of financing, with all fees and all costs of acquiring the debt will be in the 5.0% to 5.5% range. Mayor Fenn asked if the interest rate would be fixed with Mr. Cox stating the interest rate will be fixed and is a key factor in this item, adding we're at historic low interest rates right now and that it makes sense to do this when the interest rates are low and construction costs are low. Mr. Cox then restated the reasons for recommending the bonds which were locking in a historic low fixed interest rate, that construction costs are as low as they are ever going to be, that this will allow the City to conserve our current cash reserve balances, that the City eliminates a callable loan with historic low interest rates due to the current economic environment instead of being required to finance it in the future when the interest rates may be higher, that it is a good match of the asset life to bond (or debt) life, that the debt service will come from the City's current cash flow and will not result in any new taxes or funding. Mr. Cox then continued stating this will also enable the City to complete badly needed projects, noting that we currently run a constant risk with our aging infrastructure that something major will happen and will potentially require all the City's cash reserves, adding that many of the projects may possibly lower future operating costs, particularly electricity costs. Mr. Cox concluded stating this is basically the City's own stimulus package, but that we were not passing on debt to our grandchildren.

Mr. Cox then introduced Mark Reader, Managing Director for Public Finance at Stone & Youngberg, who was present to answer any questions Council may have. Mr. Reader then addressed Council stating Mr. Cox has spent a lot of time educating Council on the purpose of the financing and did a good job in his summary. Mr. Reader then gave Council a 20 year interest rate index chart, stating over the last 20 years, they could see how high some of the rates were. Mr. Reader then stated the markets have calmed down and there is significant demand for municipal bonds and he will be working hard with staff to secure the City's first credit rating, which is a key factor in selling bonds. Mr. Reader then stated he thinks the City will do very well with regard to our credit rating, but we will have to wait and see, adding that credit ratings are based on a number of factors. Mr. Reader then discussed credit rating factors stating the City has done a good job on our policies which credit rating agencies look at very closely along with cash reserves, noting the City has done a good job of maintaining cash reserves and that one of the reasons we're looking at this proposal is to maintain those reserves. Mr. Reader stated another component looked at is outstanding debt and stated the City doesn't have a lot of outstanding debt. Mr. Reader then stated the financial covenants and legal covenants which will be incorporated into the financing are considered very strong and he thinks the City will be in the AA category, noting that AAA is best, followed by AA and then A categories. Mr. Reader then stated if Council approves this resolution, they will proceed with the credit rating application immediately and get lined up to sell bonds in 3 to 4 weeks in order to close on July 1, which is the date the Zions Bank payment is due. Mr. Reader then said on the closing date, they will wire payoffs to Zions Bank, USDA and the balance of approximately \$2 million to the City for capital improvement projects. Mr. Reader then thanked Council for the opportunity to work for the City and stated he looks forward to completing the process, asking if Council had any questions.

Councilmember Lodzinski asked if we needed to notify USDA of our plans to pay the debt off with Mr. Cox stating he had already done so. Councilmember Lodzinski then stated since he had been on Council they had looked at trying to improve the roads and infrastructure, adding that it would require a lot more funding, but that this will at least put a dent into the needed improvements and will move the City in a positive direction. Mayor Fenn then stated he was not present for the first meeting on the proposed bond issue, but that he has had several discussions with Mr. Cox and added that Council was tutored on bonding by Mr. Reader at the last Council retreat. Mayor Fenn then said he had no questions, but in Mr. Reader's dealing with other municipalities and the market, asked him to give his opinion on the wisdom of proceeding with this right now.

Mr. Reader then said in discussions with Mr. Cox and in looking at the City's goals and objectives, he saw the City had the Zions Bank loan obligation that was putting some pressure on the General Fund and the loan with USDA, which had a relatively short amortization period from the beginning, and that he thought it made more sense to restructure these loans and amortize the debt over the useful life of the assets. Mr. Reader then stated by doing so, the City is able to layer in some new money to take advantage of the incredible buying power in the current construction cost environment as well as the great interest rate

environment and is able to maintain our cash reserves all for less annual debt service than we're paying now, which all makes sense, adding that maintaining our cash reserves as we work our way through the recession makes a lot of sense.

Mayor Fenn then asked if using the existing revenue stream for the annual debt service and the history of our debt payments were big factors in our credit rating with Mr. Reader saying they were and that for every 1 dollar of debt service, the City has 8 dollars to cover it, which is conservative and is considered very strong, that the City has a very good management team in place and that credit rating agencies look at management very carefully as well as looking at how the City managed through the recession. Mr. Reader then stated these are all positive and as he interacts with credit rating agencies, he will articulate that effectively to them which should help our credit rating. Mayor Fenn asked if any Councilmember had any comments and after receiving no comments, stated he is very much for this, but at the same time wants to recognize we are prolonging the City's obligation to debt. Mayor Fenn then stated he thinks it is smart and manageable debt, but wanted to put into perspective that the City would have paid off Zions within the next year and would have paid off the WWTP in 2017, and that this bond issue will now create debt obligation for 20 years. Mayor Fenn then stated on the other side, this debt consolidation, as it could be called, does give us some operating capital and gives the citizens of Benson some visible signs of projects in the City, rather than just upkeep. Mayor Fenn then stated he completely endorses the program and appreciates Mr. Cox's work, along with other staff and then stated Mr. Reader was very helpful in guiding the City through the process.

Councilmember Lodzinski asked if the problems in Europe will affect the bond market with Mr. Reader stating it has been good for the bond market, but hasn't been good for the equity market, adding that the stock market, because of the uncertainty in the global arena, has caused what is known as a flight to quality, meaning people want to buy bonds that are safe and secure, like the City of Benson bonds, resulting in interest rates dropping as more and more people gravitate toward these type of bonds.

Mayor Fenn asked if there was any further discussion and stated any motion made would need to include the verbal declaration of an emergency, making the resolution effective immediately in order to adhere to the proposed closing date of July 1, 2010. Vice Mayor King moved to approve Resolution 35-2010 and declare an emergency. Seconded by Councilmember Lodzinski. Motion passed 7-0.

4. **Resolution 36-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for a Department of Homeland Security, FEMA's Assistance to Firefighters Grant to fund an exhaust removal system for the City's Fire Station**

Fire Chief Keith Spangler addressed Council stating this grant application for the exhaust removal system for the fire station had been discussed during the budget process and was in the amount of \$56,310 and required a 5% match of \$2,816.00. Mayor Fenn asked how competitive the grant was with Mr. Spangler stating the FEMA grant is very competitive with 3 processes to go through for approval, adding the peer review is difficult to pass, but that the fire department has been successful in the past receiving FEMA grants for Wildland equipment, SCBAs, the fill station and turnouts. Councilmember McGoffin moved to approve Resolution 36-2010. Seconded by Councilmember Lambert. Motion passed 7-0.

5. **Resolution 37-2010 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for a Department of Homeland Security, FEMA's Assistance to Firefighters Grant to fund the purchase of a Type III Brush Truck**

Fire Chief Keith Spangler addressed Council stating this grant application was also discussed in the budget process and the amount of the brush truck would not exceed \$300,000 with the City's required match of 5% being \$15,000, coming from the established truck fund account. Chief Spangler then stated this truck would have the potential to make revenue and that we're putting in the specs for a compressed air foam (CAF) unit which would increase the chances of revenue opportunities. Vice Mayor King moved to approve Resolution 37-2010. Seconded by Councilmember Sacco. Motion passed 7-0.

6. **Resolution 38-2010 of the Mayor and Council of the City of Benson, Arizona, expressing its support for the planned copper mine in the Rosemont Canyon area of Southeastern Arizona**

Mayor Fenn stated Rosemont Copper had recently given a presentation to Council on their planned copper mine and the item was placed on the agenda for action showing support for economic development, jobs and general growth in the Southeastern Arizona area. Councilmember Boncquet moved to approve Resolution 38-2010. Seconded by Councilmember Sacco. Councilmember Lodzinski abstained, stating his son's employer had been contracted by Rosemont. Motion then passed 6-0.

**DEPARTMENT REPORTS:** None

**ADJOURNMENT:**

Councilmember McGoffin moved to adjourn at 7:44 p.m. Seconded by Vice Mayor King. Motion passed 7-0.

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Mark M. Fenn, Mayor

ATTEST:

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Vicki L. Vivian, CMC, City Clerk

May 24, 2010

TO: Mayor, Council, City of Benson

FROM: Kathy Suagee  
374 W Duane St, Benson, Arizona

I am here to retract my statement made a month ago regarding your attorney Mr. Masee. At that time, I shared with you my belief that I had heard Mr. Masee perjure himself at a Board of Adjustment hearing. However, Mr. Masee has assured me that he cannot have perjured himself, as he was not under oath at the hearing.

Mr. Ron Brooks, who chaired the Board of Adjustment hearing, dutifully attempted to swear in all parties who spoke at the hearing that night. Mr. Brooks has assured me that it was his intention to swear in Mr. Masee when he swore in all the principle parties seated at the table before the Board, as well as all potential witnesses, and he firmly believed he had sworn Mr. Masee, but apparently Mr. Masee did not swear to tell the truth when he stood up with the others.

I therefore retract my statement that Mr. Masee perjured himself, as one must swear to tell the truth before one can commit perjury, and Mr. Masee attests to me that he did not so swear.