

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD OCTOBER 23, 2017 AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor King called the meeting to order at 7:02 p.m. with the Pledge of Allegiance. Mayor King then introduced Dan from the New Life Church who offered the invocation.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Joe Konrad, Councilmembers Pat Boyle, Levi Garner, Larry Dempster and Lori McGoffin. Absent was: Councilmember David Lambert.

EMPLOYEE RECOGNITION: None

PROCLAMATION: None

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Jeff Cook, N. Huachuca Street, Benson, stated when he attempted to view Council packets online, he was unable to. Mr. Cook then addressed the Council regarding New Business Item 3, stating he would suggest that the item be tabled until another time when the Council has all had a fair chance to look at and consider everything. Mr. Cook then stated he understands there is a fair amount of intent from various people to form a private board for the special districts, which would give that private board a taxing authority. Mr. Cook then stated he has a copy of an article covering an Arizona appeals court, that shot down a government agency giving a private board taxing authority, adding the Council needs to look into that before they decide whether or not to approve the item.

Tricia Gerrodette, Eagle Ridge Drive, Sierra Vista spoke about the City Manager's Report and that it should be more than just a reading of the calendar, which, to her, is incredibly frustrating. Ms. Gerrodette then stated at the Benson Economic Luncheon, the City Manager gave a report and she would like something like that being given to Council on a monthly or quarterly basis to include what is happening, what is being planned, if the Mayor has meetings with El Dorado principals and all the information from those meetings, what was discussed or decided, and if it has been shared with all members of the Council and if it has been shared with the public. Ms. Gerrodette then stated she understands there is a requirement for the Council to get additional training on the Open Meeting Laws, adding the Council is doing public business, so the business should be shared not only between the Mayor and Council, but with the public. Ms. Gerrodette then spoke about errors in the special districts application including numbers not adding up in the CFD (Community Facilities Districts), noting the resolution reads there will be 12,167 acres, identified in the petition, but the application acre numbers add up to 12,817 acres. Ms. Gerrodette then stated there are other errors and she will present them to the City Clerk, adding she would like this noted in her comments for the record. Ms. Gerrodette then asked if the Council could move forward on an application that has an error, what the procedure would be for correcting the error and if the Council would need a new application or a new action item. Ms. Gerrodette then stated there is very misleading language about qualified electors, noting it is true there are no residents, but the letter from the Recorder says there are no registered voters and the letter doesn't attest to qualified electors, adding those are two different things and it's important for the Council to address that. Ms. Gerrodette then stated she would be happy to address the Council during the hearing and gave her list of application and resolution comments to the City Clerk, which will be retained with the Council packet.

Brandii Carrillo, Stallion Ranch, Benson addressed the Council regarding homeless people and her concerns. Ms. Carrillo gave her comments to the City Clerk and asked for them to be distributed to the Council. Ms. Carrillo's comments will be retained with the Council packet.

Scott Sinclair, S. Lee Street, St. David addressed the Council regarding news articles about the Corps of Engineers' public notice of the re-evaluation of the 404 permit and the deadline of November 4 for public comments. Mr. Sinclair then stated everyone should comment on how they feel about the water permit and the proposed development. Mr. Sinclair then stated the Corps of Engineers doesn't work by popular vote; they work under the National Environment Policy Law and there are evaluation factors, such as the impact on public interests and protection and utilization of important resources, that are used in the decision to reinstate, modify or evaluate permits. Mr. Sinclair then stated the benefit must be balanced to detriments, and all factors, such as conservation, economic, aesthetics, will be considered. Mr. Sinclair stated he has worked for federal agencies in the past, including Naval agencies and the USDA Forest Land Management Plan agency, in addition to assisting the BLM. Mr. Sinclair then stated he believes the re-evaluation of the permit is going to open up a completely new environmental impact statement and the Corps of Engineers want all the information they can get, including letters from the public, before they proceed. Mr. Sinclair then encouraged everyone to write a letter and explain why or why not the proposed development should or should not be allowed to continue and be built.

Stephen Insalaco, W. Pinto Place, J6, addressed the Council regarding the changes to the Council Policies & Procedures saying the City Attorney did a great job. Mr. Insalaco then stated he would like to add his comments, stating if the number of the Council willing to vote on an issue falls below the minimum quorum, due to attendance or abstention, the item should be tabled to a later date until the attending can vote. Mr. Insalaco then stated the Council receives a stipend to appear and participate, and should a Councilmember wish to abstain, the people are owed an explanation on why, adding a Councilmember should never refuse to vote without vocalizing why. Mr. Insalaco then stated since a conflict of interest is the only viable reason to not vote, he was not sure why that notion isn't added to the amendments. Mr. Insalaco then spoke about the Call to the Public, and that it should be reinforced that comments to the Mayor and City Council should be limited to jurisdiction under the City, adding too many times, comments are about the newspaper, radio station, etc. and that is not what the Call to the Public is for. Mr. Insalaco then stated if comments are not limited to items under the City's jurisdiction, the speaker's time should be terminated. Mr. Insalaco then stated if a group of people wish to address the Council regarding the same issue, time should be granted for all the people in that group and no one should advise the Mayor about a group speaker's time limit because it could hinder the fair expression of the group. Mr. Insalaco then asked the Council to defer this item until verbiage on his comments could be added.

CITY MANAGER REPORT:

Acting City Manager Brad Hamilton addressed Council, giving the dates of the upcoming meetings and events.

Tuesday, October 24, 2017 – Community Watershed Alliance, 6:30 p.m., City Hall
Tuesday, November 7, 2017 – Planning & Zoning Commission, 7:00 p.m., City Hall
Monday, November 13, 2017 – City Council Meeting, 7:00 p.m., City Hall
Tuesday, November 14, 2017 – Library Advisory Board, 4:00 p.m., City Library
Saturday, November 18, 2017 – Historic Preservation Commission, 9:00 a.m., City Hall
Monday, November 27, 2017 – City Council Meeting, 7:00 p.m., City Hall
Tuesday, November 28, 2017 – Community Watershed Alliance, 6:30 p.m., City Hall

Friday, November 10, 2017 – Veterans Day Observed, City Offices Closed
Saturday, November 11, 2017 – Please join us at Veterans Park, 249 E. 4th Street for the Veterans Day Ceremony

Thursday & Friday
November 23 & 24, 2017 – Thanksgiving Holiday, City Offices Closed

Mayor King then stated the Veterans Day ceremony will start at 10:30 a.m. with City Clerk Vicki Vivian confirming the time. Ms. Vivian then stated the time was not known when the Council packets were distributed.

NEW BUSINESS:

1. **Discussion and possible action on the Consent Agenda**

- 1a. Appointment of Bruce Botts to the Planning & Zoning Commission
- 1b. Resignation of Tawn Tripp from the Benson Library Advisory Board
- 1c. Appointment of Kathleen Bushman to the Benson Library Advisory Board
- 1d. Reappointment of Marion Buchanan to the Benson Library Advisory Board
- 1e. Reappointment of Janet Hearn to the Benson Library Advisory Board
- 1f. Invoices processed for the period from September 20, 2017 through October 15, 2017

Councilmember McGoffin moved to approve the Consent Agenda. Seconded by Councilmember Garner. Motion passed 6-0.

2. **Discussion and possible action regarding amending the City Council Policies & Procedures Manual**

City Attorney Gary Cohen spoke about the proposed amendments to the City Council Policies & Procedures Manual, noting that he made the revisions after the Council adopted changes to Chapter 2 of the City Code. Mr. Cohen stated the modifications he made enhance the manual and give the Council the maximum flexibility, which is the philosophy of the attorney's office. Mr. Cohen then stated he thinks the document accomplished everything that needs to be done, then added he appreciated the speakers at the Call to the Public and they are welcome to call him at any time, noting he would be happy to listen to their comments. Mr. Cohen then stated he is not always able to answer questions from the public due to his responsibilities, then added he is not adverse to admitting a mistake or that he could do something better. Mr. Cohen then briefly discussed the manual stating he didn't think the Council wanted to narrow or define the City Manager's report, but if they wanted more information, they could talk to the City Manager and ask him to give more information at the Council meetings, then noted to define or restrict the City Manager's report shouldn't be done in the manual. Mr. Cohen continued stating he specifically quoted the State law in the manual regarding the Call to the Public and left the Mayor the maximum discretion regarding a speaker for a group of people at the Call to the Public. Mr. Cohen then stated the manual addresses abstentions, adding the language is based on a lot of Council discussion and allows abstentions, adding if a Councilmember is absent or abstains, they are not considered as a member of the quorum. Mr. Cohen then stated the manual is an evolving document and staff can always try to make it a better document with changes in the future; then added the Council could make adjustments to the proposed document if they would like. Mr. Cohen then stated he would like to thank City Clerk Vicki Vivian for her assistance, adding he sent multiple drafts, but the final draft is the document before Council.

Mayor King stated he felt the revisions were appropriate.

Councilmember Boyle moved to adopt the revisions to the City Council Policies & Procedures Manual. Seconded by Vice Mayor Konrad. Motion passed 6-0.

3. **Discussion and possible action regarding Resolution 33-2017 of the Mayor and Council of the City of Benson, Arizona, declaring intent to form Revitalization Districts**

Acting City Manager Brad Hamilton stated City Attorney Paul Loucks and the counsel for special taxing districts, Mr. Ken Gukenberger would be addressing this item and answer any questions the Council may have. Mr. Loucks stated the City received an application to form 7 Revitalization Districts in the proposed Vigneto development, and as part of the process, the Council needs to consider and act on a resolution declaring the

intent to form the districts, adding if the Council approves the resolution, the process will go forward. Mr. Loucks then stated Mr. Guckenberger is the expert in this area and is available on the phone for questions.

Vice Mayor Konrad confirmed the resolution declares the intent to form districts, but does not actually form the districts with Mr. Gukenberger stating under the state statutes, the Council has to take action to start the formation process, adding the resolution also sets the public hearing date, which will be November 27 at 7:00 p.m. Vice Mayor Konrad then stated during this time, the Council could address concerns brought to them with Mr. Gukenberger stating the Council could address concerns and questions, such as why there are multiple districts, the acreage amounts, etc.

Councilmember Dempster asked about the public hearing date in Section 5 of the resolution with Mr. Loucks stating the public hearing was originally planned earlier, but due to the publication requirements, the public hearing would be on November 27. Mr. Loucks then stated should the Council decide, the public hearing could be held at a later date, but not an earlier date. Councilmember Dempster then asked if the public hearing would be done at a special meeting with Mr. Loucks stating the public hearing would be held during the November 27 regular Council meeting.

Mayor King stated some Councilmembers had questions and spoke directly to legal counsel to get them answered. Vice Mayor Konrad agreed, stating it's time for the Council to move forward and then moved to approve Resolution 33-2017. Seconded by Councilmember Garner. Mayor King agreed that it was time to move forward in this process and called for a vote. Motion passed 5-1 with Councilmember McGoffin voting nay.

DEPARTMENT REPORTS: No comments from Council.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 7:42 p.m. Seconded by Vice Mayor Konrad. Motion passed 6-0.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk