

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD OCTOBER 24, 2016 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 7:10 p.m. with the Pledge of Allegiance.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Lori McGoffin, Councilmembers Pat Boyle, Jeff Cook, Joe Konrad and David Lambert. Absent was: Councilmember Chris Moncada.

EMPLOYEE RECOGNITION: Mayor King recognized Chester Hoover for 5 years of service with the City.

PROCLAMATION:

Councilmember Konrad read a proclamation of the Mayor and Council declaring November 1, 2016 as “Extra Mile Day.”

Mayor King then read a proclamation of the Mayor and Council urging all citizens of our community to commend America’s veterans and to observe with solemn pride November 11, 2016 as Veterans Day and to take part in as many ceremonies and events as possible to honor these men and women. Mayor King then stated there would be a ceremony at the Veterans Park on November 11 at 10:30 a.m. and encouraged those present to attend. Councilmember Lambert stated the ceremony will include the dedication of Benson being proclaimed a Purple Heart City.

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Dave Thompson, La Cuesta Drive, Benson, spoke about an incident at the airport, stating an aircraft landed with the gear up and it turned out to be very minor incident, with no injuries, no fuel spill and no property damage. Mr. Thompson then stated he wanted to thank the City for the way everyone responded, adding it could have been a bad situation, but it turned out to be a very positive situation. Mr. Thompson then stated the runway was closed until the aircraft could be taken off the runway and everything was handled very well.

Greg Hall, Mesquite Drive, St. David, spoke about Post Ranch Road, stating he was here to educate people about the situation. Mr. Hall then stated he went through Cochise County files and found that color codes for road signs are becoming a nationwide thing, adding the green signs are municipality maintained roads and the red signs indicate more private roads. Mr. Hall then stated he had a picture of a green Post Ranch Road sign, but the road has been gated off at both ends. Mr. Hall stated Post Ranch Road is a public road and obviously has been publicly maintained as indicated by the County’s color codes. Mr. Hall then stated he had been trying to drum up support for this and asked those present to raise their hands if they wanted the gates at Post Ranch Road taken down so the road could be used.

Scott Sinclair, S. Lee Street, St. David, stated he also owned property in Whetstone Ranch in Benson. Mr. Sinclair then spoke about Post Ranch Road and asked if the Council and Staff if they knew what the National Environmental Policy was, stating it is a federal level policy and is the driving force behind all environmental documents on any major federal undertaking. Mr. Hall then stated he was not for or against the big development that El Dorado has going on, noting the issue is in court at the federal level with the Core of Engineers and the US Fish and Wildlife Service being sued by a number of environmental organizations for failing to comply with existing environmental laws. Mr. Hall then stated it takes years for these things to work

their way through federal court, especially if it goes up to the appeals court level. Mr. Hall then stated his point was that it may take up to a decade or more before the developer satisfies all the requirements and is allowed to break ground, adding the requirements are for the permit from the Core of Engineers and the Endangered Species Act (ESA) of the US Fish and Wildlife. Mr. Hall stated the ESA drives everything and because the Core of Engineers and the US Fish and Wildlife are both involved, this is considered a federal action. Mr. Hall then stated the US Fish and Wildlife will probably issue a biological opinion on the matter that will be appealed and an Environmental Impact Statement will have to be put together, adding at the federal level, it could very well take 4 or 5 years before any appeals are heard and a record of decision is signed. Mr. Hall then stated he wanted the Council to know what is going on and the fact that it could take a long time before the developer is allowed to break ground. Mr. Hall stated he doesn't know if this applies to the 1,000 lots the developer bought at Whetstone, adding he thinks those lots can be developed, but they may be tied to the other property. Mr. Hall then encouraged the Council to look up the National Environmental Policy Act and educate themselves on it, adding it will be a driving force in whether the development progresses or not.

Stephen Insalaco, W. Pinto Place, J6, addressed the Council concerning the incident at the airport and the Airport Services Coordinator (ASC) position, stating Mr. Thompson, the lead candidate for the ASC position, contacted the newspaper about the landing event and justified his actions to the airport community member by claiming his need to beat Mr. Insalaco to the punch. Mr. Insalaco stated he didn't report the incident to the newspaper and it was never his intention to do so. Mr. Insalaco then stated he feels Mr. Thompson is an opportunist. Mr. Insalaco then stated he was pursuing a 2-year degree in journalism and that while this incident may be a newsworthy story, he already understands the pitfalls of exploiting an unfortunate situation of a fellow pilot for personal gain, adding Mr. Thompson doesn't seem to understand this. Mr. Insalaco stated the pilot of the aircraft felt bad enough, adding the pilot damaged the plane with his daughter aboard, he had to contact the co-owner of the aircraft, many of his fellow pilots witnessed a portion of the event, the City Manager and local police was called to the scene, a notice was issued for the airport to be closed and he had to rely on the assistance of others to recover the aircraft. Mr. Insalaco then stated the pilot didn't need any additional publicity and he thinks Mr. Thompson should apologize to the pilot for publicly exploiting the pilot's misfortune. Mr. Insalaco then stated he understands the RFP (Request for Proposals) for the ASC was on the City's website for 1 day and it was never published in the paper. Mr. Insalaco then stated the Council packet includes a contract already signed by Mr. Thompson and no information is being brought forward concerning the qualifications of other candidates. Mr. Insalaco then stated this RFP process shouts with impropriety and it is obvious that someone in City government intended to ramrod this candidate through the RFP process with a minimal amount of transparency. Mr. Thompson's bid came in at the lowest of 3 candidates at \$7,332 per year and asked the Council if they weren't embarrassed at the idea of hiring an airport manager for an annual salary that is equal to a part-time high school dishwasher position, adding the Council will look silly if Mr. Thompson fails in this endeavor. Mr. Insalaco then stated Mr. Thompson was instrumental in the destruction of the previous airport advisory committee and refused to work with the economic development committee in hosting a joint airport open house event, adding Mr. Thompson and the former airport advisory committee chairperson publicly attacked no less than 2 City Councilmembers, once with a camera to exploit emotional responses and once for personal gain in securing his seat on the Council. Mr. Insalaco then suggested the Council discontinue further embarrassment to themselves by aborting the agenda item as flawed and relabel the position as an airport manager, post a new RFP on the City's website for no less than 2 weeks, spend municipal funds proportionate to the seriousness of this position by advertising both in the local and regional newspaper and get a properly vetted candidate with real credentials behind him to perform this important job.

Cynthia Sinclair, S. Lee Street, St. David, stated she also owns property in Whetstone Ranch. Ms. Sinclair then spoke about Post Ranch Road, stating she represents multitudes of citizens who have questions, adding she has been contacted over and over by many people in town and by business owners asking her how a road can go from a public access road to a private road denying people access to 2,000 acres of state trust land and how a road can have City and County maintenance, City and County signs and then someone can come in and put gates up. Ms. Sinclair then stated the road is a public road and is shown on the City of Benson's General Development Plan and the Department of Transportation's Kartchner Corridor Plan. Ms. Sinclair then stated

the Department of Transportation told the City to record the road as an easement. Ms. Sinclair then stated in Arizona, there is statutory and common law; no one has recorded the road and no one owns the road, except by common law, the people and asked the City to get the gates off the road.

CITY MANAGER REPORT:

Public Works Director Brad Hamilton addressed Council, giving the dates of upcoming meetings and events.

- Tuesday, October 25, 2016 – Community Watershed Alliance, 6:30 p.m., City Hall
- Tuesday, November 1, 2016 – Planning & Zoning Meeting, 7:00 p.m., City Hall
- Tuesday, November 8, 2016 – Library Advisory Board, 4:00 p.m., City Library
- Monday, November 14, 2016 – City Council Meeting, 7:00 p.m., City Hall
- The Lighting Code Task Force – The task force held two meetings in October, with further meetings planned for November; for details please contact Michelle Johnson at City Hall.

- Friday, November 11, 2016 – Please join us at Veterans Park, 249 E. 4th Street at 10:30 a.m. for the unveiling of the City’s Purple Heart sign and the Veterans Day Ceremony
- Friday, November 11, 2016 – Veterans Day – City Offices Closed
- Thursday and Friday, November 24 and 25, 2016 – Thanksgiving Holiday – City Offices Closed

Mr. Hamilton then stated for more information on City events can be found at the City’s website at www.cityofbenison.com. Mayor King reminded those present to vote on November 8. Councilmember Konrad then stated he wanted to express his appreciation for the Lighting Task Force and the work that has been put into it and asked that it be passed onto Ms. Johnson.

NEW BUSINESS:

1. Discussion and possible action on the Consent Agenda

- 1a. Minutes of the August 8, 2016 Regular Meeting
- 1b. Invoices processed for the period from September 17, 2016 through October 1, 2016
- 1c. Invoices processed for the period from October 2, 2016 through October 16, 2016

Vice Mayor McGoffin moved to approve the Consent Agenda. Seconded by Councilmember Lambert. Motion passed 5-0. Councilmember Konrad asked if the ADEQ certifications were obtained by new employees with Mr. Hamilton stating the certifications were obtained by both newer employees and employees who have been here awhile, noting it was a lot of work to pass the certification tests. Councilmember Konrad stated he was glad to see it happening, adding the certifications add value to Staff. Motion then passed 6-0.

2. Discussion and possible action regarding Resolution 35-2016 of the Mayor and Council of the City of Benson, Arizona, approving Hannah’s Hill Enterprises, LLC’s application for a November 4, 2016 Wine Festival License/Wine Fair License at Cochise Terrace, 1030 S. Barrel Cactus Ridge, Benson, Arizona

City Clerk Vicki Vivian stated Hannah’s Hill Enterprises, LLC, has applied for a Wine Festival License/Wine Fair License, adding A.R.S. §4-203.03 reads that any domestic farm winery may apply for a wine festival license pursuant to state law, which allows a licensed domestic farm winery to serve samples of its products on the wine festival premises, the sale of such products for consumption on the wine festival premises, and the sale of such products in original containers for consumption off the wine festival premises. Ms. Vivian then stated the license is subject to the approval of the governing body of a city or town where the wine festival is to take place and up to twenty five (25) wine festival licenses for each licensed domestic farm

winery can be issued in a calendar year for up to a cumulative total of seventy five (75) calendar days. Ms. Vivian then stated Hannah's Hill Enterprises, LLC is requesting the permit for an event to be held at Cochise Terrace on Friday, November 4, 2016 from 2:00 p.m. to 6:00 p.m., adding Ann Gardner of Hannah's Hill is present should Council have any questions.

Ann Gardner, of Hannah's Hill, addressed Council stating she has a vineyard in Elgin, Arizona and has held this event in various parts of the state, but this is her first event in Cochise County. Ms. Gardner then stated the host for this event is Cochise Terrace, an RV park for 55 and older, and stated the event will be very easy to manage. Councilmember Lambert asked about the drawing of the event area with Ms. Gardner stating she brought a detailed drawing, which was distributed to the Council. City Clerk Vicki Vivian stated the additional drawing could be submitted to the state with the application.

Vice Mayor McGoffin moved to approve Resolution 35-2016. Seconded by Mayor King. Motion passed 6-0.

3. **Discussion and possible action regarding a contract with David Thompson for an Airport Services Coordinator**

Councilmember Konrad moved to table this item until the next Council meeting. Mayor King stated he also had some questions and didn't get to discuss them with the City Manager; then seconded the motion. Vice Mayor McGoffin asked how long the Request for Proposals (RFP) was advertised with Public Works Director Brad Hamilton stating it would have been advertised for a minimum of 2 weeks, but he believed this RFP was advertised for about 3 weeks and was published twice in the local newspaper. Vice Mayor McGoffin clarified that the FBO (Fixed Base Operator) is not the ASC (Airport Services Coordinator) and that they are two separate jobs with Mr. Hamilton stating the FBO, the ASC and the Airport Manager are all separate jobs, adding the Airport Manager responsibilities have a lot more to do with grants and construction. Mayor King then stated the reason he wanted to table this item is not due to the comments made at the Call to the Public, but was due to questions he had. Mr. Hamilton then stated he would get the specific advertising details to the Council. The motion passed 6-0.

4. **Discussion and possible action regarding a contract with Prologic Technology Group, LLC, an Arizona limited liability company for Information Technology Services**

Finance Director Dustin DeSpain stated the City's IT services up for renewal, adding the contract with Executech has been on a month-to-month basis through the procurement process. Mr. DeSpain then stated the City received 6 bids, adding Prologic is the most qualified within the budgeted amount and Staff is recommending approval of the contract with Prologic.

Vice Mayor McGoffin noted Prologic was local with Mr. DeSpain stating the owner lives in Benson and also has an office in Tucson. Mayor King asked about security with Mr. DeSpain stating he is very confident in Prologic, adding they have worked for the City in the past. Public Works Director Brad Hamilton stated Prologic worked for the City between RikerTek and Executech, adding Prologic previously put in a bid, but were outbid by Executech. City Attorney Paul Loucks stated Prologic also responded in an emergency IT situation when one of the City's servers crashed. Councilmember Konrad asked about Executech and the change in providers with Mr. DeSpain stating Executech was ranked second and has agreed to stay on to help with the transition.

Councilmember Cook asked about the bid amounts with Mr. DeSpain stating Prologic's bid was \$4,200 a month and Executech was \$4,750 with the other bids being quite a bit more. Mr. DeSpain then stated other things were taken into consideration as well, adding Prologic's bid was inclusive of some items that Executech considered extra and would result in extra charges at the rate of \$120 per hour.

Vice Mayor McGoffin moved to approve the contract with Prologic Technology Group, LLC, an Arizona limited liability company for Information Technology Services. Seconded by Councilmember Lambert. Motion passed 6-0.

5. **Discussion and possible action regarding Resolution 36-2016 of the Mayor and Council of the City of Benson, Arizona, authorizing execution of a Water Facilities Development Agreement between the City of Benson and Mark Kartchner for the project known as Ranchitos Los Alamos**

Public Works Director Brad Hamilton stated this item is a development agreement for the City to provide water to lots just outside the City limits, adding the property owner will build the needed infrastructure and then turn it over to the City and in turn, the property owner will give the City his well that the City is currently using. Mr. Hamilton then stated the well is a backup for irrigation at the golf course. Councilmember Konrad asked if the well had been tested for arsenic levels with Mr. Hamilton stating it hasn't been tested. Mr. Hamilton then stated the property owner has let the City use the well for the golf course irrigation for several years, adding a few years ago, the City did some work to the well, but it's a good well and is definitely needed.

Councilmember Konrad moved to approve Resolution 36-2016. Seconded by Mayor King. Motion passed 6-0.

6. **Discussion continued from the October 24 Worksession, if needed, regarding City Hall facility issues; this will include a site inspection to view and discuss structural and other building issues**

Mayor King stated he would like Staff to look at the cost of building and possible locations, including the current City Hall location and stated he was hoping to tie this item and the next item together. Councilmember Konrad stated something else the Council may wish to be informed of are any short-term interim solutions to the building issues, such as rental properties to get the City by for a brief period with Public Works Director Brad Hamilton stating Staff can look at those possibilities.

Vice Mayor McGoffin agreed and stated she knows how long things can take and that the Council needs to move forward while the current building was still standing.

Councilmember Cook stated the Council was suggesting that Staff move forward with a site study and all the other issues connected with it and asked how much it would cost and where the funding would come from. Mr. Hamilton stated he didn't have an estimate yet, adding Staff will put that information together for Council. Mr. Hamilton then stated the funding would have to come from the contingency funds since it was not budgeted for and Council would have to approve using contingency funds to proceed with the study. There was no further discussion.

7. **Discussion and possible action regarding the Railroad Quiet Zone; discussion to include the review of the City of Benson Railroad Quiet Zone Feasibility Study prepared by Kimley-Horn and Associates, Inc.**

Mayor King stated he wanted to have Staff look at funding options, including combing loans for the previous item and this item, the CDBG (Community Development Block Grant) and asked Councilmember Boyle to ask Annette Buechel to look at other grant opportunities. Mayor King then stated the quiet zones don't all have to be done at once, adding the Council can look at addressing individual crossings or maybe do them all over 2 years or so, adding he would like Staff to present options to Council. Public Works Director Brad Hamilton asked if the Council wanted him to come back with a quote for design and construction documents with the Council indicating they did. Mayor King then stated he wanted to have all the information brought to Council with nothing held back, adding the more information the Council had, the better they would be able to make a decision.

Councilmember Boyle stated he had been to all the RV parks in the last month or so talking to the managers and different staff people on another matter, but all of the people he spoke to think the quiet zone is the most important thing the City can do and that it would make a huge difference in the number of people who would come to Benson in the wintertime and they all said it would help them immensely. Mayor King stated he had been approached by downtown business owners telling him the same thing.

Councilmember Konrad asked if anyone had reached out to the railroad, where they stand on the issues of quiet zones and if they offered any assistance with Mr. Hamilton stating railroads do not like quiet zones as they feel quiet zones are very unsafe.

Mayor King then stated he has heard a lot about how easy and cheap Willcox achieved their quiet zone and that Councilmember Cook had actually spoken to the City Manager in Willcox and found out that the railroad owed Willcox about \$85,000, which was taken into consideration in obtaining their quiet zone. Mayor King then stated Willcox's quiet zone didn't come as cheap as people think and people need to understand that Benson has 3 railroad crossings to address for a quiet zone, adding before people start complaining, they need to find out the facts. Mayor King then stated the Council is working on the quiet zone, but it may take a little longer to accomplish.

8. **Review of City Finances with emphasis on September financial results, and the City's financial position as of September 30, 2016**

Finance Director Dustin DeSpain reviewed Citywide financial highlights focusing on September, stating historically, September is usually one of the City's worst months, adding this September was a 3-payroll month and the City paid a large portion of our insurance policies, including workers' compensation, but noted the City has been able to increase its cash reserves to \$1.9 million up from \$1.7 million in July. Mr. DeSpain then stated the bond proceeds remain at \$1.07 million, which are available for emergency infrastructure repairs, adding payments would not be extended should the City have to utilize the proceeds. Mr. DeSpain stated citywide revenues did not exceed expenditures for the month of September and were short \$304,000 and were down \$92,000 year-to-date, noting last year at this time, the fund was at \$50,000. Mr. DeSpain then stated monthly revenues citywide were \$690,000 for September and were \$2.3 million year-to-date, which is a \$124,000 increase from September, 2015. Mr. DeSpain then stated citywide monthly personnel costs for September was \$340,000, which is an increase of about \$4,000 from September of last year. Mr. DeSpain stated other citywide expenditures were \$649,000 for September which is an increase of \$439,000, due to some serious maintenance issues at the wastewater treatment plant and other things that had to be done. Mayor King noted the Council was aware of the maintenance issues and had budgeted for such and then noted September is usually one of the worst months for the City. Mayor King then stated as the holidays approach, the City usually bounces back. Mr. DeSpain then stated September represents revenues from July, adding June, July and August are the City's worst months for revenue.

Mr. DeSpain then reviewed the General Fund stating revenues for the month of September were \$412,000 and were \$1.4 million year-to-date which is an increase of \$237,000 million from last year. General Fund personnel costs for September were \$220,000, which is a \$1,000 decrease from last September. Mr. DeSpain then stated other General Fund expenses for the month of September, which include all of the City's insurance for employees as well as workers' compensation, was \$334,000 which is an increase of \$203,000 from last September. Mr. DeSpain then stated General Fund revenues did not exceeded expenditures by \$142,000 for the month of September and the General Fund year-to-date fund balance was down \$156,000, compared to being down \$153,000 last year at this time.

Mr. DeSpain then reviewed Enterprise Funds stating the City had to spend a significant amount of money on utilities. Mr. DeSpain then stated due to the warm weather, the Gas Fund revenue for the month of September was \$37,000; the year-to-date revenue was \$104,000 and the fund balance was down \$44,000, noting the City did purchase a new on-call truck and part of the cost came from the gas reserves. Mr. DeSpain then continued stating the Water Fund revenue for the month of September was \$66,000; the year-to-date revenue was \$200,000 and the fund balance was holding at \$38,000. Mr. DeSpain stated the Wastewater Fund revenue for the month of September was \$57,000; the year-to-date revenue was \$181,000 and the fund balance was down \$3,000, adding this is due to the budgeted maintenance issues the City had to perform at the wastewater treatment plant to function correctly and stay in compliance. Mayor King asked about the utility rate studies and when they would be coming to the Council with Mr. DeSpain stating the gas, water and wastewater rate studies are being reviewed and will be brought to Council in the near future. Mr. DeSpain then stated the sanitation rate study has not been completed due to the not knowing what the increased charges from the

County will be, noting the County will implement those changes in November and the Council will see the fund balance start to decrease very quickly due to the County's new fee structure. Mr. DeSpain then stated in addition to these new County fees, the County will implement another new fee structure next year. Mr. DeSpain then continued, stating the Golf Course Operations lost \$38,000 the month of September and was down \$75,000 year-to-date, compared to last September when the Golf Course operations lost \$48,000 and was at a year-to-date balance of -\$69,000; the Golf Course Food & Beverage was down \$810 for the month of September, the year-to-date balance was \$1,000, compared to last September when they lost \$6,000 and year-to-date last September was -\$10,000.

Mr. DeSpain then reviewed sales tax stating the City is just above September in 2015 and 2016, adding the City did not drop as far as it has in the past in August and September, which means the City is doing better. Mr. DeSpain then stated Bed Tax is down from last year by about \$1,000 and Construction Sales Tax was down in September, noting the collection was only \$1,841.00 due to very little construction happening in Benson. Mr. DeSpain then stated Total City Sales tax collection is about \$20,000 higher than last September, which does still show a little recovery in the economy, adding the City should hold steady and even with last year. Mr. DeSpain then stated the State retail tax shows a slight decrease from the 14-15 collection, which indicates the State is not showing as much strength in the retail area as the City is.

Vice Mayor McGoffin stated she attended the recent economic luncheon where Mr. Carreira reported the City's revenues were down 12% and asked how that could be with Mr. DeSpain stating Mr. Carreira doesn't include the City's biggest months, which are November and December, adding unfortunately Mr. Carreira gets his information from the State of Arizona as a general inquiry. Mayor King then thanked Mr. DeSpain for the presentation Mr. DeSpain gave at the economic luncheon and stated he is glad the Council has realistic information.

Councilmember Cook stated he spoke to both Mr. DeSpain and Mr. Carreira and that they both are using the same information year-to-year, so even if Mr. Carreira left out 2 months, his presentation would be consistently leaving out the same 2 months and shouldn't show a 12% decrease. Councilmember Cook then stated it was still confusing. Mr. DeSpain then stated his understanding was that Mr. Carreira was taking out the big months, adding the State can give Mr. Carreira the amount that is to be deposited, but the City reports to Council what actually was deposited, adding there have been some cases in the past of the State not depositing what the City was owed or the State taking back money that was overpaid to the City, noting Mr. Carreira's information could have included those instances.

DEPARTMENT REPORTS: No comments from Council.

ADJOURNMENT:

Councilmember Konrad moved to adjourn at 8:18 p.m. Seconded by Vice Mayor McGoffin. Motion passed 6-0.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk