

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD DECEMBER 12, 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 7:00 p.m. with the Pledge of Allegiance. Mayor King then introduced Bob Brimmer of the Ba’Hai Faith who offered the invocation.

ROLL CALL:

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

EMPLOYEE RECOGNITION: Mayor King recognized Franchesca Hinecker for 10 years of service.

PROCLAMATION: None

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Greg Hall, Mesquite Drive, St. David stated he appreciated the Council holding a worksession to talk about Post Ranch Road, adding he appreciated Council taking the time to talk about it to see what is going on. Mr. Hall then stated he wished he could have been there but he understands why he wasn’t. Mr. Hall then stated he hopes the Council will realize that the gates are illegally up and the City has every right to have them taken down or take them down because it’s a public road.

Scott Sinclair, S. Lee Street, St. David, stated he owns property in Benson in the Canyons and wished the Council happy holidays. Mr. Sinclair then spoke about Post Ranch Road, stating he wanted to let the Council know he has collected nearly 1,000 petition signatures and he may have as many as 1,500 by the time the petition is withdrawn and sent to the Council and El Dorado Benson, LLC. Mr. Sinclair then stated he submitted an application to get the Post Ranch Road issue recognized as an official agenda item, but he hasn’t heard whether it was accepted or declined, adding he submitted it several weeks ago and he may need some clarification on that from the City Clerk. Mr. Sinclair stated the road is considered a historically long used public roadway, citing A.R.S. §28-741C, and then read an opinion letter that was published in the Sierra Vista Herald. The opinion letter read, “In March 2012 there was a tragic fatality on Highway 90, north of Sierra Vista. The mishap killed a soldier stationed on Fort Huachuca and resulted in another being charged with manslaughter. The crash closed Highway 90 for hours and required traffic coming to Fort Huachuca and Sierra Vista to be diverted through the old North Gate. Northbound traffic had to take a 70-mile detour, traveling from Sierra Vista to Tombstone and connecting with Highway 80, then heading north up to I10. It’s an example of how dependent all of Cochise County is on our limited network of local highways. Motorists trying to get from Willcox to Benson can be tied up in traffic for hours if a crash occurs at certain spots along I-10. It’s the same for travelers heading north out of Sierra Vista and those trying to get from Bisbee to Douglas. We are a county that depends on a small number of major highways to keep the traffic flowing to our local cities. That’s one reason the Post Ranch Road debate is important to more than just the property owners who are being affected by its recent closure. Post Road is one of the few thoroughfares that connects two major north-south highways — Highways 90 and 80. That connectivity can provide quicker access for emergency vehicles, or it can serve as a detour road when there is a need to close either of the highways. Post Ranch Road also serves as an important connection to the St. David area and represents an opportunity for the City of Benson to establish easy access into the future development of Villages of Vigneto, the massive residential and commercial project scheduled to start next year. Still, the road has been gated and closed since August and now city officials are being urged by county officials to push for its reopening. Benson council members hold enough authority over what happens next on Post Road to make a difference in this debate. The importance of this connecting road to the future of Cochise County should already be a consideration for El

Dorado Holdings, Inc., which is the developer of Villages of Vigneto and the instigator of closing Post Road. Since that does not appear to be a concern for the company, it's up to the Benson City Council to exert its authority to get this road reopened." Mr. Sinclair then stated the City has broken the law by allowing the gates to be placed and locked on a public road, and the public must demand that the Council immediately direct the Chief of Police to have police officers unlock and dismantle the gates posthaste.

Mayor King stated the Council has been looking into the issue and the City hasn't broken any laws.

Cindy Sinclair, S. Lee Street, St. David, stated she also owns property in Benson. Ms. Sinclair then stated she wanted to help the Council by explaining in her novice form things she has gotten from the American Bar Association publications. Ms. Sinclair then stated in Arizona a public road can be established through a statutory dedication, which is recorded and is on a deed, but Arizona also recognizes a common-law dedication, where, unlike a statutory dedication, the fee title for the road passes to the relative governmental entity. Ms. Sinclair then stated a common-law dedication creates an easement for public use and allows public to use the road, adding this is from Pleak vs. Entrada, which went all the way to the Arizona Supreme Court. Ms. Sinclair then stated a common-law dedication occurs in two parts, the first part is called an offer and no particular words, ceremonies or form of conveyance is necessary to dedicate the land to public use. Ms. Sinclair then stated anything fully demonstrating the intent of its owner to dedicate can suffice, adding there doesn't have to be anything in writing, it can be just allowing someone to use the road. Ms. Sinclair then stated the second part is that the offer must be accepted by the general public and in Arizona, common law acceptance of the public road by the public requires no formality. Ms. Sinclair then stated public repair, maintenance and depiction of a road on official maps are signs of the public acceptance of the dedication of the right of way for a common-law road. Ms. Sinclair then stated Hunt v. Richardson & Arizona declares that a roadway or easement for public use may be created by common law dedication and that acceptance occurs when some members of the public, including those nearby use the road; once the offer and acceptance occurs, the dedication of a road as a public roadway is irrevocable and if the road remains within the private parcels that originally was traversed and the private owners have demonstrated long acquiescence in the existence of the road and the local government's efforts to maintain it, it is a common law road. Ms. Sinclair then stated in Arizona, the rights of any person holding an easement in the land of another are measured and defined by the purpose and character of the easement. Ms. Sinclair then stated Post Ranch Road is a public road and asked how anyone can justify gating a road that has been maintained at taxpayers' expense.

Roy Jones, W. Aviation Drive, Benson, stated the City has a wonderful asset in the Benson municipal airport, adding a lot of businesses in the area depend on its services. Mr. Jones then stated medivac helicopters fly in, especially during holidays and full moons and greatly appreciate the services at the airport, including hot fueling, which is very important for them. Mr. Jones then stated a lot of locals, young people and people from all over the area are learning to fly at the airport because the atmosphere is better than most anywhere in Arizona, adding everyone at the airport is easy to get along with and it's a good environment to learn to fly. Mr. Jones then stated if someone asks any pilot where they will be on the 3rd Saturday of every month, they will say they will be in Benson at the fly-in, noting the next fly-in will be the 48th fly-in as this event has happened every month since November 17, 2012. Mr. Jones then stated the biggest fly-in was a year ago in August, with 65 planes and 150 people coming to Benson. Mr. Jones then stated those people have kept coming back to enjoy things such as the wonderful restaurants in town. Mr. Jones then stated comments about airport can be found at www.airnav.com, adding one comment reads that the "Benson airport is the best, they lent me a car, got me a cheap hotel and directed to me to the best Mexican restaurant around, Mi Casa. (Benson is) a terrific stop if you are going to Tucson or to see the saguaros." Mr. Jones stated another comment was that the airport provided great service, helpful service personnel, very good fuel prices and that they enjoyed the caverns. Mr. Jones then stated lots of people come to Benson and enjoy the area and he just wanted to let the Council know what a wonderful asset the Benson municipal airport is.

Stephen Insalaco, W. Pinto Place, J-6 Ranch, stated Mr. Jones is doing an excellent job at the airport and that Mr. Jones' pancake breakfast has been successful in drawing many people to the airport once a month. Mr. Insalaco then spoke about the 2017 Airport Open House and fly-in event, which is different from the event Mr. Jones spoke about. Mr. Insalaco then stated the intention of the former airport advisory committee was to conduct this event on an annual basis on the same day each year, in the Spring. Mr. Insalaco then stated he had met with Dave

Thompson (the Airport Services Coordinator) at the airport yesterday and was pleased to report they had a cordial discussion regarding this event and they shared many of the same ideas. Mr. Insalaco the suggested that the newly-appointed Airport Services Coordinator keep the 2017 event as a first effort, adding the event should not be used just as an outreach to fellow pilots, but also to reach out and introduce young people and family members to aircraft, airport operations and general aviation. Mr. Insalaco then stated he believes there is some capacity to attract future airport developers to the event and that the City might wish to prepare some materials and a display to promote that idea. Mr. Insalaco then stated there should also be some kind of food and beverage services provided during the event and suggested outsourcing this to one or more local food service providers. Mr. Insalaco then stated there should also be provisions to bring small business vendors to the event, who should be allowed to sell products and establish new business contacts, whether they are aviation vendors or not and their cost to participate should be minimal. Mr. Insalaco stated the idea shouldn't be to try and make a ton of money for the City directly by this event alone, but to promote the airport into better financial health to collect greater future revenue streams through more natural methods such as new airport property leases, gas flows fees and parking fees. Mr. Insalaco then stated the Airport Services Coordinator mentioned the possibility of having static military and emergency response displays at the event and Mr. Insalaco thinks they would be a real attention getter, adding the event should also include local UAV operators making an appearance during the event with their displays and maybe in doing so, more agreements might be secured for the City that could add to the current airport revenue stream. Mr. Insalaco then stated he hoped the Council and Staff will think how best to host this event, how they can contribute and that they might make a public appearance during the event to promote the airport.

CITY MANAGER REPORT:

City Manager William Stephens addressed Council, giving the dates of upcoming meetings and events.

- Tuesday, December 13, 2016 – Library Advisory Board, 4:00 p.m., City Library
- Thursday, December 15, 2016 – Planning & Zoning, Special Meeting, 1:00 p.m., City Hall
- Tuesday, January 3, 2017 – Council Special Meeting, 7:00 p.m., City Hall

- Monday, December 26, 2016 – Christmas Holiday – City Offices Closed
- Monday, January 2, 2017 – New Year’s Holiday – City Offices Closed

Mr. Stephens stated the special Council meeting will be held to swear in the newly-elected Mayor and Councilmembers and recognize outgoing Councilmembers for their service. Mr. Stephens also stated the Lighting Code Task Force continues to meet and anyone who would like to participate can contact Michelle Johnson for details. Mr. Stephens then stated for more events in Benson, the public could visit the City’s website: www.cityofbenson.com under “What to do Today.”

Mayor King wished everyone present a Merry Christmas and to be safe in their travels. Mayor King then asked those present to remember what Christmas is all about and enjoy the holiday.

NEW BUSINESS:

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

- 1a. Minutes of the September 26, 2016 Regular Meeting
- 1b. Invoices processed for the period from November 19, 2016 through December 2, 2016

Councilmember Konrad moved to approve the Consent Agenda. Seconded by Councilmember Boyle. Motion passed 5-0.

2. **Presentation of the December 3, 2016 Festival of Lights – Light Parade float prizes for 1st, 2nd and 3rd place floats; prizes donated by Sulphur Springs Valley Electric Cooperatives**

City Manager Bill Stephens stated the City held the Festival of Lights Light Parade on December 3, followed by the Christmas Tree Lighting at City Hall, adding each year, the parade and event get bigger and better with 19 entries in the parade this year. Mr. Stephens then stated a big sponsor of the parade is SSVEC, and noted SSVEC brought out two bucket trucks to help the City decorate two trees at City Hall for the tree lighting. Mr. Stephens then stated not only does SSVEC provide the float Santa is on, but they also donate gifts and cash to the 1st, 2nd and 3rd place floats as chosen by the judges, adding the prizes were being presented at the Council meeting.

Mayor King thanked SSVEC for what they have done, adding the decorations on the street and at City Hall look beautiful. Mr. David Bryan, Planning Engineer at SSVEC addressed Council stating another service the service crew at SSVEC provides is turning off the lights for the parade and turning them back on immediately following the parade. Mr. Bryan then stated he and Mr. Karl Berryhill (also from SSVEC) have been doing the parades for quite a while. Mr. Bryan then presented the first-place prize to the Benson High School Student Council. Representatives presented the Mayor with a certificate thanking the City for the parade. Mr. Bryan then awarded the second-place prize to Mr. Jake McCoy, the Park Manager for Kartchner Caverns. Mr. Bryan then awarded the third-place prize to the American Legion Auxiliary Benson 45 with Audrey Palma accepting the prize on their behalf.

Councilmember Lambert stated he would like to acknowledge City Staff for their hard work put into the event, adding Dorothy Moncada worked several hours on the parade and everything else and thanked the Chief of Police for the department handling the parade route. Councilmember Lambert then stated all the staff put many hours in on the event and thanked them. Mayor King stated he came to City Hall a few days before the event and saw Staff decorating, adding they did an amazing job and the decorations were beautiful. Mayor King then invited those present to view the decorations after the meeting.

3. **Discussion and possible action regarding a Commercial Lease Agreement between the Benson Area Food Bank and the City of Benson for a portion of space upon real property located at 370 S. Huachuca Street, Benson, Arizona**

City Manager Bill Stephens stated a letter had been submitted, per the contract, from the Benson Area Food Bank requesting the continuation of the lease for the real property located at 370 S. Huachuca Street for the period beginning January 1, 2017 and ending December 31, 2017 and noted there have not been any issues with the lease of this property to the Benson Area Food Bank.

Mayor King stated the Food Bank is amazing for the community and that it helps a lot of citizens. Mayor King then thanked the Food Bank for their services and stated he thinks the lease should be continued. Councilmember Lambert then stated the only change to the lease was the date of the lease. Councilmember Cook stated the Food Bank does a great service for the City and then stated 2 years ago, the Food Bank was helpful in assisting City employees on work furloughs, noting City employees went an entire month without pay and he saw a lot of food bank items in the City offices.

Councilmember Boyle moved to approve the lease agreement between the Benson Area Food Bank and the City of Benson for a portion of space upon real property located at 370 S. Huachuca Street, Benson, Arizona. Seconded by Councilmember Lambert. Motion passed 5-0.

4. **Discussion and possible action regarding the cancellation of the December 26, 2016 Regular Council Meeting**

City Manager Bill Stephens stated the second regular Council meeting falls on December 26, the day after Christmas, which is a federal holiday as well as being a City-observed holiday. Mr. Stephens stated in the past, if there were no pressing issues that needed to come before the Council, this meeting would be cancelled, adding if a critical issue would arise, the Mayor could call for a Special Meeting. Mayor King stated this is something the Council has done in the past and if something comes up, the Council could have a special meeting.

Councilmember Konrad moved to cancel December 26, 2016 regular meeting. Seconded by Councilmember Boyle. Motion passed 5-0.

5. **Discussion and possible action regarding additional time off for the holidays in recognition of City Employee Service**

City Manager Bill Stephens stated during the holiday time of year, the City Council gives direction on how to thank Staff for their service to the City of Benson, adding Staff continues to provide excellent service to the Community. Mr. Stephens then stated in recent years, the City Council has recognized Staff's service with an additional day off at Christmas and New Year's with essential services being covered. Mr. Stephens then stated this year, Christmas Day and New Year's Day fall on Sundays, noting a possibility would be to approve Friday, December 23 and Friday, December 30 as additional time off.

Mayor King stated this is something the Council has done for several years and is a way the Council can show their appreciation and recognition to Staff for their services. Mayor King then stated giving additional time off would allow employees to travel on Thursday evening and come home on Monday, adding he knows a lot of people travel during this time of year. Mayor King then moved to approve Friday, December 23, 2016 and Friday, December 30, 2016 as additional holidays. Seconded by Councilmember Konrad. Councilmember Konrad then stated this is consistent with most organizations that follow a 2-day format for the holidays. Motion passed 5-0.

DEPARTMENT REPORTS: No comments from Council.

ADJOURNMENT:

Lambert moved to adjourn at 7:36. Second by Councilmember Konrad. Motion passed 5-0. Mayor King wished everyone a very Merry Christmas.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk