

**WORKSESSION
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JUNE 11, 2018 AT 6:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor King called the meeting to order at 6:05 p.m. with the Pledge of Allegiance.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Joe Konrad, Councilmembers Pat Boyle, Larry Dempster, Lupe Diaz, Levi Garner and David Lambert.

NEW BUSINESS:

1. **Discussion about obtaining Railroad Quiet Zones for the City of Benson; may include feasibility, funding options, and the research of opportunities to achieve Quiet Zones, including the approval of outside persons to pursue obtaining Railroad Quiet Zones**

Councilmember Boyle stated in 2016 the Economic Development Committee did a lot of research on the quiet zones and they felt it was an important thing to have happen because of all the complaints and the negative aspects of the noise around town and businesses. Councilmember Boyle then stated the Committee gave all the information to the City Manager, but at the time, the City was in bad financial condition, adding the City instituted furloughs and was barely getting by, so there was no funding for any of this, but things have picked up a little bit now. Councilmember Boyle then stated since that time, an engineering study was done and the amount to establish a quiet zone was estimated at \$500,000 for the City's three crossings. Councilmember Boyle then stated the City doesn't have an extra \$500,000 to work with so there would be a couple options that could be considered, adding the first option would be a temporary tax increase that would go specifically to the quiet zone project and when the project was complete, the tax increase would fall off the books. Councilmember Boyle then stated prior to choosing that option, a questionnaire or survey could be done to see if the citizens of Benson would be willing to pay the increase for the quiet zones. Councilmember Boyle then stated the reason to consider a sales tax is that the entire community who shops in Benson would help pay for this project, instead of just the City residents. Councilmember Boyle then stated a second option is a bond, adding if the Council chooses this option, the City of Benson would be solely responsible, noting a tax increase would spread the cost out. Councilmember Boyle then stated if the City put a temporary tax increase on the ballot and if the citizens voted for it, the City would take that approval to the bank, borrow the money and build the quiet zones and then take the money as it comes in and pay it off, adding as soon as it would be paid off, the temporary tax increase would end. Councilmember Boyle then stated he didn't have all the details of it, but there are some citizens of Benson who have a lot of expertise and have served in different positions in the community like former Mayors who are interested in helping the City with the quiet zone. Councilmember Boyle stated with their former contacts and business dealings, they might be able to help the City get this done in a circuitous route to where the City may be able to find third-party funding or something along that route and have the cost be less than \$500,000. Councilmember Boyle then stated because of the interest in the quiet zone, he feels it is something that needs to be addressed.

Councilmember Dempster stated he wanted to address some of the feelings in the community that are incorrect, that the Council for some reason is against the quiet zone, adding he doesn't think that's true and he doesn't think there is a disagreement on whether the quiet zone is a good thing or not. Councilmember Dempster then stated it's only a matter of how the City can do it in the most efficient and cheapest way to accomplish it. Councilmember Dempster stated it was his hope that the Council work on that first; then stated he feels a tax increase, or any kind of fundraising should be the last option. Councilmember Dempster then stated the City should be able to come up with money through grants or support from different organizations to accomplish it well below the estimated \$500,000 and that is what they need to work on before doing surveys and going that route. Councilmember Dempster stated the Council is not arguing whether the quiet zone is a good thing or not,

only on how to fund it. Councilmember Boyle asked Councilmember Dempster if he was opposed to doing a survey anyway to have it, then stated if the other options don't pan out, the City will have the survey done and could move forward. Councilmember Boyle stated with all the letters and the petitions the City already has it wouldn't hurt anybody who is doing the negotiating or talking to agencies to have a survey in their pocket along with the letter and the petitions to strengthen the case.

Mayor King stated he likes the fact that there are two options on the table, adding at least if one doesn't work out, there is a second option. Mayor King stated it is very important to make sure the Council has all options on the table. Vice Mayor Konrad stated this project was included in the Benson strategic plan so Councilmember Dempster did say it correctly, adding there is no opposition to having a quiet zone, again noting it is in the plan, the question is how to get it accomplished. Vice Mayor Konrad then stated there is a rare opportunity coming up in the next couple of months with the League Conference which has fourteen other cities and towns within the state that do have quiet zones, adding the City could coordinate a meeting with some of the Town Managers or Engineers and ask them how they accomplished theirs, noting the last thing the Council wants to do is reinvent the wheel. Vice Mayor Konrad then asked if there was an easier way to do this or if there were other ideas that would match up with what works for our City. Vice Mayor Konrad stated Cochise County is another good resource as they have been doing this throughout the County. Vice Mayor Konrad then asked if there's a way to coordinate a meeting with other City representatives and get a hand full of people together and bounce ideas around.

Interim City Manager Vicki Vivian then addressed Council stating Councilmember Boyle's idea about putting out a survey was because any type of a sales tax increase could not be put on a ballot. Ms. Vivian then stated the City could look to doing some sort of survey through the utility bills or something like that. Ms. Vivian then stated the issue that could go on a ballot would be a bond election to pay for the quiet zone, adding if approved, this would place a secondary property tax on the City's current residents, which is why a temporary sales tax was considered as an option. Ms. Vivian then stated a temporary sales tax would capture the cost from people in the surrounding areas and those who shop in Benson, which would spread the cost over more than just City residents. Ms. Vivian then stated she did speak to Mr. Brad Simmons of Cochise County's Engineering Department, and he discussed the needed steps to acquire a quiet zone, which is basically what the completed study shows. Ms. Vivian stated a lot of the cost in the study is what Mr. Simmons would call "deferred maintenance" on the streets that lead up to the railroad crossing. Ms. Vivian then stated financial constraints have meant the City's pavement management has decreased and has focused on repairs, adding HURF (Highway User Revenue Funds) get swept by the State and there isn't the funding to address a more proactive streets maintenance program. Ms. Vivian stated even if the deferred maintenance would have been completed, it would only remove about \$50,000 to \$70,000 at each crossing and the City would still be looking at \$300,000. Ms. Vivian stated she spoke with Mr. Simmons and he said the Dragoon crossings the County is working on only requires the installation of concrete medians and doesn't include any alignment, paving, or repairing roads. Ms. Vivian then stated the concrete medians cost about \$40,000, adding part of the cost is when someone is going to be working 10 – 25 feet from the side of the railroad tracks, they must have a UP (Union Pacific) person there. Ms. Vivian then stated the UP person dictates when the tracks must be cleared and when the workers can begin again, adding the Dragoon project has gone from 10 days to 17 days because of this and drove the cost up. Ms. Vivian then stated Mr. Simmons also told her that the County risk pool covers the County for the liability in case there's an accident at those sites in the future. Ms. Vivian stated she then asked if the City would be liable for any accident if the City established a quiet zone and Mr. Simmons told her he thought the City would. Ms. Vivian then stated she sent an email to the City's insurance carrier asking about coverage in conjunction with establishing quiet zones and unfortunately, she hadn't heard back from Mr. Bantel before the worksession. Ms. Vivian stated this is a question she will pursue an answer to and let Council know, adding she doesn't believe anyone is against establishing a quiet zone; the issue is figuring out how to pay for it. Ms. Vivian stated she can find out who is attending the League conference and set up a round table with them and exchange ideas but noted she will probably get more facts than ideas. Ms. Vivian stated there are safety issues that need to be addressed due to the safety index rating that is calculated online. Brad Hamilton, Public Works Director, asked if Council had any questions. Councilmember Boyle stated what needs to be explained is that the City of Benson has different variables in it that change the cost, adding community members can say a quiet zone was created somewhere for nothing, but Benson has its own specific limitations, including train incidents that were suicides. Councilmember Boyle then stated those incidents count as a liability and a lack of safety to stop those incidents, which changes the dynamics and leads to more costs on the City. Councilmember Boyle asked Mr. Hamilton if the City had any state crossings with Mr. Hamilton stating the City

does not, adding he knew the City of Willcox's quiet zone has been brought up as an example, but because Maley Street is a state highway, the state came in and did all the maintenance to make the crossing safer and Willcox was only responsible for some signage and a little bit of median work. Mr. Hamilton stated Willcox also has an agreement with Union Pacific (UP) to appease the financial responsibility and UP did the engineering for that project. Councilmember Boyle stated the City does not have any state highways that cross the tracks, so consequently the City must pay for all of it and then noted the City does not have any way to defer the cost to some other organization. Councilmember Boyle then stated it is not fair to for people to say the City of Willcox got it done and that Benson should be able to do the same, when it's a different situation and that's what it really boils down to. Councilmember Boyle then stated again, he doesn't think the Council is against a quiet zone, but they need to figure out how to fund it without burdening the City, yet when they mention raising the sales tax, everyone starts pulling their hair out.

Councilmember Dempster stated the City has another advantage with SAEDG, adding Mark Fenn, David DiPeso and George Scott, the Director of Southeastern Arizona Economic Development Group have a lot of contacts and are an asset the other cities don't have. Councilmember Dempster then stated the City can use them to do the grunt work.

Vice Mayor Konrad stated the City heard a big "No" loud and clear from the RV and retail community on a sales tax increase, but the RV community wants a quiet zone. Vice Mayor Konrad stated he also wants to stay away from a tax increase, adding the City has already experienced a tax increase which was unpopular, and he feels another increase would not be good for Benson. Vice Mayor Konrad stated the City needs to get around this, be creative and reach out to others, adding Ms. Vivian was correct in the required safety upgrades, but it wouldn't hurt to reach out and see what can be done. Ms. Vivian stated she did speak with Mr. Scott a few weeks ago and talked about meeting with different agencies and bringing all parties to the table to see what could be done, adding she would be happy to meet with anybody and everybody who could help the City and to explore all opportunities and bring them back to Council for consideration.

Councilmember David Lambert stated he would like to bring up the fact that there are only three intersections to consider inside the City limits of Benson, but there are four intersections that the train lays on the horn at, adding the crossing on Airport Road is within 50 feet of the City limits. Councilmember Lambert then stated when the train horn sounds at Airport Road, everyone in the south end of town hears that horn, noting everyone in those five or six houses, including former Mayor Fenn who lives right there, can hear the horn on Airport Road. Councilmember Lambert stated these are things to take into consideration, adding even though there are only three crossings in the City limits, the City would need to deal with the County for the crossing on Airport Road, noting if the three crossings are upgraded and a quiet zone is established, everyone is still going to complain about the loud horns because they sound the horn in both directions.

Vice Mayor Konrad asked if the Ocotillo crossing was the City's biggest crossing and if it was a challenge due to the width of the crossing with Mr. Hamilton stating the estimate for the Ocotillo crossing is \$178,000, adding it is a long big intersection and has a lot of area to cover. Mr. Hamilton continued, stated that crossing has more curving on the other side of the median. Vice Mayor Konrad then stated the crossing in Dagoon looked so simple, adding people hear about that and that it happened so fast and so cheap but if you look at the geography of the Dagoon Road crossing versus the City's Ocotillo crossing, it is much different due to the width and the length of the crossing. Mr. Hamilton stated the Dagoon crossing also didn't have the grading issues the City has, adding the Dagoon crossing didn't require any grading and only needed concrete medians built, which were expensive. Mayor King stated the City would have to take additional precautions into account with Mr. Hamilton stating the study addressed mostly curbing, but also included some sidewalk work on Patagonia to address pedestrian issues, adding this was primarily due to the number of kids crossing there after school. Mr. Hamilton then stated the Patagonia crossing is also the City's most dangerous crossing and has the most fatalities. Mayor King questioned the fact that many years ago there was talk of shutting down the San Pedro crossing with Mr. Hamilton stating he has gone back and forth discussing the option of having UP close down one crossing and trading it for the installation of a crossing near the airport; however, UP would like to shut down the San Pedro crossing, which is the cheapest of the three crossings to address at about \$140,000.

Mayor King stated he would like to bring up George Scott and Mark Fenn to address Council; then asked them about what insight they were looking for, who they planned on talking to and if they could give the public

information on what their plans were in being involved in the process. Mr. Fenn then stated he had called the Horseshoe Cafe to order take out and the train horn kept them from talking on the phone. Mr. Fenn then stated he can open his windows at home at night and he does hear the horns on Airport Road, but it's not bad as it is distant enough, adding he can hear the train horns in town just as well. Mr. Fenn then stated he had been purchasing gas in town at Benson Fuel and a train that had stopped began blasting their horn when the train was barely chugging to get up the hill, adding he's not sure why they have to blast the horn so many times when the train is moving so slow and the gates are down. Mr. Fenn then stated he would like someone to talk to Union Pacific and find out if they have ever participated financially and if that is something the City can pursue. Mr. Hamilton stated he had spoken to UP before the only possible way they would consider contributing minimal finance assistance is if the City closes the San Pedro crossing. Mr. Fenn stated he had heard the same information when he was on Council many years ago and he wasn't sure how many other factors come into play, including the increased traffic at the Patagonia crossing that would result in. Mr. Fenn then stated what he and Mr. Scott are offering are time and a little push in the efforts, adding he knows how it is to be on Council and that Councilmembers have a lot of things going on. Mr. Fenn then stated the study was done in 2016 and it's now two years later, and no one has done anything about it because other things were going on and there was no funding for it. Mr. Fenn then stated he feels the cost estimates in the study are a little on the high end and he believes the installation of the requirements could be done for less money. Mr. Hamilton then stated the study gave estimates and as the City moved forward with actual plans and designs, the estimates would be closer to the actual costs, adding the numbers may come in lower, but he couldn't say for sure. Mr. Fenn then stated he would like to contact the County and see what resources would be available through them and meet with UP to see if they could offer anything, adding he would also like to see if the scope of the project could be toned down a little bit, given that other quiet zones have been completed with less requirements. Mr. Fenn then stated he wasn't sure of liability issues, but again, what he and Mr. Scott were offering was their time and resources at no cost to the City, adding they are just wanting to participate as concerned citizens and want to help the City any way they can.

Councilmember Boyle stated he would like to have a crossing at the airport that would take someone to Highway 90 and continue to the airport and get rid of the long route where it currently is, adding one of the advantages would be that Vigneto can have a nice access to the airport straight off the highway so people can fly in and out. Councilmember Boyle then stated Vigneto would have a vested interest in a nice crossing and if the City chose to close down the San Pedro crossing in exchange for one near the airport, Vigneto may see that it would be beneficial and help get the road paved all the way out to the airport. Councilmember Boyle then stated closing the crossing would also save the City money. Mr. Fenn asked if anyone knew if UP had a certain allotment or if it took an act of congress to get UP to help pay for crossings with Mr. Hamilton stating UP's goal is to eliminate crossings; not to create them. Mr. Fenn asked if UP agreed to trade the crossings, would they contribute at all to gates or equipment involved in a new crossing with Mr. Hamilton stating he has not seen that to be the case, but it can be asked.

Councilmember Lambert stated he wanted to comment on Mr. Fenn's earlier remarks about when the horn is sounded. Councilmember Lambert then stated he had met with the previous Regional Director and asked her what was mandatory when it came to sounding horns and he was told that they require two short bursts of the horn and one long one at each intersection, but that it was up to the engineer to decide what "short" is and what "long" is, as there is no defined time on the sounds. Councilmember Lambert then stated some engineers sound the horn all the way through town for their "long" sound and then they don't have to do any "short" required sounds.

Vice Mayor Konrad stated the Council heard several comments in 2016 and again this evening that UP doesn't like the quiet zones, but he knows UP also considers themselves to be a community partner, adding he would like to reach out to UP and he wouldn't mind having a conversation with the UP representative about this. Councilmember Dempster stated the rule on the horn is four sounds with the last sounding of the horn being held through the intersection. Councilmember Dempster then stated if the City could eliminate the San Pedro crossing there would have to be a horn blown through Patagonia but that would be all. Mayor King stated he believes there has been a change in the UP representative and asked if anyone had met them yet. Ms. Vivian stated the new representative came to the City a few months ago and she has spoken with him, but it was not related to the quiet zone. Mayor King then stated Staff could find out when he could come back and meet on the issue, adding whomever wants to meet with him, including Mr. Fenn and Mr. Scott, could attend. Mayor King then stated UP likes to talk about "Train Town, USA" and that they may be willing to shut down a crossing or assist in upgrading

the crossings. Mr. Fenn stated if the San Pedro crossing were to be shut down, maybe, at a minimum the City could get the Patagonia crossing upgraded, which seems to be the most bothersome, adding Ocotillo is a little further away from 4th Street and from residential areas. Councilmember Boyle stated the Ocotillo crossing is the one Butterfield RV Park was complaining about. Mr. Fenn stated sometimes the sound really travels and other times, it can barely be heard, adding it all depends on the air and wind and everything else, but again, at a minimum, addressing the Patagonia crossing is a start. Mayor King stated it needs to be all or nothing because the public has pushed so hard to establish these quiet zones. Mayor Fenn then stated the assistance Mr. Fenn and Mr. Scott are offering is very honorable. Mayor King then stated its going to take the whole community to get this done. Mr. Scott stated this is the most important project that can be done right now with all the opportunities coming up with the Villages of Vigneto. Councilmember Boyle asked about the survey the Chamber of Commerce has been doing with Mr. Scott stating there were over 330 signatures on a petition in favor of quiet zones, in addition to 38 individual letters of complaints about the noise and 18 letters of support. Mr. Scott then stated the City can use the survey they have already done or do whatever the Council decides they need. Mr. Scott stated he understands what Councilmember Boyle is saying about the cost, but thinks between Mr. Fenn, himself and Mr. DiPeso are pretty good about negotiating things and can probably negotiate the price and the improvements down quite a bit. Mr. Scott then stated they just need to find out what UP wants and they may be able to find a way to get it done. Mr. Scott then stated he thinks they can get the crossing at the airport and maybe get UP to pay for most of the quiet zone requirements. Mr. Scott then stated when Ocotillo Road was put into the freeway, ADOT (Arizona Department of Transportation) built it and then turned the road over to the City, but he was not sure if the City formally accepted the road with Mr. Hamilton stating State law is written so that if ADOT decides to turn a road over to the local jurisdiction, the local jurisdiction doesn't have a choice. Mr. Hamilton then stated a city can argue a little bit and the road must be within serviceable condition for 5 years, but if the State says the road is the City's, then it's the City's. Mr. Scott stated possibly ADOT would help improve it for the quiet zone. Mr. Scott then stated he's offering assistance to the City to work on the quiet zone establishment; they just need the authorization from Council, adding they can work with Staff, UP, the County and whoever else is involved to try and bring the City of Benson the best possible solution for the quiet zone at the least price. Mr. Scott then asked if the Council, while they were working on the budget, could set aside \$180,000 for one crossing and that way, the City could possible do one crossing this year and one crossing next year. Mr. Scott then stated he, Mr. DiPeso and Mr. Fenn were offering their assistance, adding he knows it would be a good thing for the community, the businesses and the people who live within hearing range of the track. Mayor King stated he appreciates their offer, then stated he feels all the crossing should be addressed at the same time, stating his concern on addressing one crossing at a time is the backlash the Council may hear from the public on why the Council did one instead of the other in addition to the Council election coming up. Mayor King stated the Council could address one crossing with plans to do more in the future, but there could be new Councilmembers who decide not to pursue upgrading those other crossings in the future.

Councilmember Dempster stated he doesn't feel the political consequences are that important, but the City needs to look at all the options and one option is completing one crossing at a time. Councilmember Dempster then stated Council should look at all the options to accomplish quiet zones, but he feels that any kind of sales tax is not a good option.

Councilmember Diaz stated he has looked at the project and one of the things he noticed about the railroad crossing is that there's a high point and for the City to get the job done the City will need to regrade that, adding there are a lot of the cars that bottom out when they cross there. Councilmember Diaz then stated the cost of the \$500,000 is to grade and level the crossings and to put medians in, adding the City is not sure if UP is on board or what other organizations or corporations are willing to do, but the project really does come down to the money and just as Councilmember Boyle said the City does not have the money now. Councilmember Diaz then stated he felt the biggest question is where the City would get it; then stated raising the sales tax would delay the project because the City would have to collect the extra \$500,000 before work on the project could be started, adding he agrees that all the crossings should be addressed at the same time. Councilmember Diaz then stated he likes the principle behind a sales tax because it allows everyone to pay for it, instead of just the residents of Benson, but personally he doesn't like a sales tax increase and he doesn't want to see that as an option for the City. Councilmember Diaz then stated another funding option would be a bond, adding he likes the bond option, even though it is a tax, because it involves the voice and opinion of the citizenship, noting a survey will tell the Council what the citizens want, but not if they are willing to put up the money to pay for it. Councilmember Diaz then stated a bond is a good way to go even though it would fall on the shoulders of the residents because it would be

something they wanted, and the City could start the project almost immediately. Councilmember Diaz then stated he is open to other ideas, but it really just comes down to the funding.

Mayor King stated the Council is not objecting to the establishment of the quiet zones, but the question is the financing behind it, adding if a bond is put into place, Benson residents will pay for the quiet zones and if a tax increase were put in place, everyone who shops in Benson would pay for the quiet zones. Mayor King then stated there are a lot of decisions to be made when it comes to financing this project and the Council has a lot to take into consideration to decide what the best way to go would be. Mayor King then stated he would like to have the survey the Chamber of Commerce did and maybe add more questions to see what the residents would like, adding he thinks the Council should be open to all options. Ms. Vivian stated if the Council does pursue a survey, they need to consider some of the parameters of the survey, such as whether the Council would want to survey just the residents or everyone around the City, adding people who live in the City and have a choice between a bond and a sales tax, would likely choose a sales tax, while those who live in the County, would likely choose a bond option as they would not have to pay on a bond.

Vice Mayor Konrad stated the San Pedro crossing has come up several times this evening; the pros and cons on the crossing, abandoning the crossing and not abandoning the crossing, adding it's easy for him to say there's not much traffic on it as he doesn't live there, adding this is why the Council needs to hear from the community.

Ms. Vivian then stated the Council should consider all options and she would like to bring every idea to the Council, but she would also want the Council to discuss why some options should not be considered. Ms. Vivian then stated she has heard that closing the San Pedro crossing may present a public safety issue, which is something the Council should consider as they move forward, adding she thinks the Council could consider everything, but be aware and consider the ramifications of all the options.

Councilmember Lambert asked how difficult it would be to put a meter on that street and see how many cars use that crossing with Mr. Hamilton stating he could check into it; then added there were some traffic counts just completed by SEAGO (South Eastern Arizona Governments Organization) and he could find out if the counts included the San Pedro crossing or not. Councilmember Lambert stated one of the things discussed before was the safety rating, adding the rating affects how much will have to be done to the crossings to upgrade them and ultimately determine the cost. Councilmember Lambert then stated he was aware of three deaths prior to the survey in 2016 and there has been one more since then with Mr. Hamilton confirming that was correct. Councilmember Lambert stated whether the fatalities are accidents or suicides, the fatalities still count against the index rating.

There was no further discussion.

ADJOURNMENT:

Councilmember Boyle moved to adjourn at 6:55 p.m. Seconded by Vice Mayor Konrad. Motion passed 7-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk