

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JUNE 22, 2009 AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**MAYOR FENN
OPENED THE MEETING AT 7:00 P.M. WITH
THE PLEDGE OF ALLEGIANCE.**

**PRESENT WERE: MAYOR MARK M. FENN, VICE MAYOR TONEY KING, SR.
COUNCILMEMBERS JO DEEN BONCQUET, DAVID LAMBERT, JOHN LODZINSKI,
LORI McGOFFIN and AL SACCO**

INVOCATION:

Mayor Fenn introduced Mr. Carl Fenn who gave the invocation.

**EMPLOYEE
RECOGNITION:**

None.

CALL TO THE PUBLIC:

Mr. Glen Jenkins addressed Council stating his concerns about neighboring property violating City Code. Mr. Jenkins comments are incorporated in the minutes.

CITY MANAGER REPORT:

Mr. Nichols announced that Mr. Tom Meyer, a career counselor of the Army Career Alumni Program at Ft. Huachuca will be offering a free seminar titled, "Job Search Strategies for a Tough Economy" on June 27, 2009 from 9:00 a.m. to noon in the City Council Chambers. Mr. Nichols stated anyone interested in attending the seminar can contact Mr. Dean Kartchner.

City Manager Glenn Nichols addressed Council with upcoming meetings and events:

July 3, 2009	– HOLIDAY, City Offices Closed
July 4, 2009	– 4th of July Celebration, Lions Park – Parade 9:00 a.m., Firefighter activities during the day at the park and fireworks at dusk
July 6, 2009	– Economic Development Subcommittee, 5:15 p.m., City Hall
July 7, 2009	– Planning & Zoning Commission, 7:00 p.m., City Hall
July 13, 2009	– City Council Meeting, 7:00 p.m., City Hall
July 14, 2009	– Arts Commission, 9:00 a.m., City Hall Library Advisory Board Meeting, 4:00 p.m., City Library
July 18, 2009	– Historic Preservation Commission Meeting, 9:00 a.m., City Hall
July 27, 2009	– City Council Meeting, 7:00 p.m., City Hall
July 28, 2009	– Community Watershed Alliance, 6:30 p.m., City Hall

CONSENT AGENDA:

- 1a. Approval of Minutes of the June 8, 2009 Regular Meeting
- 1b. Vendor Agreement for Emergency & Case Management Services between South Eastern Arizona Community Action Program, Inc. (SEACAP)
- 1c. Processed Invoices for June 2, 2009 through June 15, 2009

Vice Mayor King moved to approve the Consent Agenda. Seconded by Councilmember McGoffin. Motion passed 7-0.

NEW BUSINESS:

1. **Presentation of Certificates of Election for the City of Benson Primary Election held in and for the City of Benson on March 10, 2009 and Swearing In and Seating of the newly elected Mayor and Councilmembers**

City Clerk Vicki Vivian presented Certificates of Election and swore in newly elected Mayor Fenn and newly elected Councilmembers Toney King, Sr., Lori McGoffin and David Lambert, who were then seated.

2. **Selection of Vice Mayor for the City of Benson City Council**

Mayor Fenn stated after an election, Council addressed the position of Vice Mayor which is a position that is elected within Council. Mayor Fenn then opened this item for discussion. Councilmember Boncquet nominated Councilmember Toney King, Sr. for Vice Mayor. Seconded by Councilmember McGoffin. Motion passed 7-0.

3. **Resolution 45-2009 of the Mayor and Council of the City of Benson, Arizona approving a Special Event License for the Fraternal Order of Eagles Aerie 3593, for July 4, 2009 at Lions Park, on Adams Street in Benson, Arizona**

Gina Hielckert representing the Fraternal Order of Eagles Aerie 3593 addressed Council requesting approval of the special use permit to host a beer garden at the park on the 4th of July. Ms. Hielckert stated the beer garden will be a roped off area, with 3 people on staff throughout the day to give out wristbands after checking identification. Ms. Hielckert stated in order to purchase a ticket for beer, you must have a wristband. Ms. Hielckert then stated those who will be working have taken the required class and are certified by the Liquor License Department and the Eagles will have 2 people present for security purposes. Ms. Hielckert then stated the benefits will go to Senior Meals on Wheels program. Mayor Fenn stated it was good to see the event benefiting a good cause. Vice Mayor King stated there have been beer gardens in the past for different occasions and they had gone well in the past. Vice Mayor King verified the alcohol must be consumed in the beer garden area. Vice Mayor King then moved to approve Resolution 45-2009. Seconded by Councilmember Sacco. Motion passed 7-0.

4. **Amendment to the Court Consolidation Agreement between the City of Benson and Cochise County**

City Manager Glenn Nichols addressed Council stating this was an agreement between the City and the County for the use of the Magistrate and Justice Court system. Mr. Nichols stated this year the contract was extended with an adjustment on the City's cost. Mr. Nichols stated the County Board of Supervisors has approved the amendment as written and was now before Council for action. Councilmember Lodzinski asked if this put Benson in line with other cities, with Mr. Nichols stating the County had created a new agreement that will be used county-wide, but had not presented it to Benson in time for review and approval, therefore had offered to extend our current agreement with an adjustment on the cost. Councilmember Lodzinski then asked if the extension was more than we were currently paying with Mr. Nichols stating the City would be paying a small fee in addition to the current costs of a prosecutor and clerk, indicating the fee was tied to the expenses of the court. Vice Mayor King asked if this fee was budgeted with Finance Director Jim Cox indicating it was. Councilmember McGoffin moved to approve Amendment One to the Court Consolidation Agreement between the City of Benson and Cochise County. Seconded by Councilmember Lodzinski. Motion passed 7-0.

5. **Resolution 46-2009 of the Mayor and Council of the City of Benson, Arizona adopting of the City of Benson Fiscal Year 2009-2010 Budget**

Finance Director Jim Cox addressed Council stating all budget worksessions were completed, Council had adopted the Tentative budget which was published in accordance with state law, public hearings were held in accordance with state law and the only remaining action left was for Council to adopt a budget. Mr. Cox stated this was an important time, signifying the completion of the budget process. Mr. Cox then stated this was the most harmonious year in forming the budget and thanked Council for their guidance, City Manager Glenn Nichols for his leadership and all department heads for their thoughtful insights, all of which made the process smooth and efficient. Mayor Fenn then thanked Mr. Cox and staff for guiding Council through the process and stated we should all feel very blessed we're able to have a balanced budget to operate with during the next fiscal year. Councilmember Boncquet thanked Mr. Cox for all the information presented to Council during the budget process. Councilmember Sacco then thanked Mr. Cox for the good work he did on the budget. Vice Mayor King thanked Mr. Cox, staff and department heads for looking deep and cutting their budgets, knowing what the City is up against in the current economic environment. Councilmember Lodzinski stated the budget is far improved from when he first became a Councilmember, stating it is now easy to understand for both Council and the public. Councilmember Sacco moved to approve the budget as presented to the Council. Seconded by Vice Mayor King. Councilmember Sacco then amended his motion to approve Resolution 46-2009. Amended motion seconded by Vice Mayor King. Motion passed 6-0 with Councilmember McGoffin abstaining.

6. **Jennella Drive Pre-Annexation Water Extension Agreement between Jim and Ruby Williams and the City of Benson**

Public Works Director Brad Hamilton addressed Council stating this agreement was approved by Council on January 14, 2008 with a minor amendment, but upon contacting the customer at that time, they were unsure about moving forward with the request. Mr. Hamilton stated Mr. and Mrs. Williams had now contacted the City and had submitted the required contract and payment to move forward with the request at this time. Mayor Fenn stated the agreement extends City water to the requestor for a hook-up fee of \$10,000.00 and requires a pre-annexation agreement stating should annexation move forward in that area, that they would agree to the annexation. Mr. Hamilton stated the agreement stays with the property and gives the City the rights to any water that would be underneath it. Councilmember Lodzinski stated when the water line was constructed in this area, an offer to have City water for \$5,000.00 was extended to help defray the cost of the water line construction and that after the completion of the water line, Council felt that \$10,000.00 was an acceptable fee to obtain City water service. Councilmember Lodzinski moved to approve the Jennella Drive Pre-Annexation Water Extension Agreement between Jim and Ruby Williams and the City of Benson. Seconded by Councilmember Sacco. Motion passed 7-0.

7. **Resolution 47-2009 of the Mayor and Council of the City of Benson, Arizona, accepting an Aeronautics Division Grant from the State of Arizona, Department of Transportation for Improvements to the Benson Municipal Airport (E9F60)**

Councilmember Lodzinski was excused from New Business Items 7 and 8, after stating his son worked for Stantec Consulting, Inc. Public Works Director Brad Hamilton addressed Council stating items 7 and 8 were both regarding a Federal Aviation Administration (FAA) Grant for design services for the Benson Airport Helipad and Rehabilitate Runway 10/28 Project in the amount of \$68,656.00. Mr. Hamilton stated the FAA grant would cover 95% of the cost with Resolution 47-2009 accepting a state grant that would cover 2.5% of the cost leaving the City to pay the remaining 2.5% or \$1,792.00. Mr. Hamilton stated once the project is brought to final plans, the City would submit to the FAA for construction funds. Councilmember McGoffin moved to approve Resolution 47-2009. Seconded by Councilmember Boncquet. Motion passed 6-0 with Councilmember Lodzinski abstaining.

8. **Resolution 48-2009 of the Mayor and Council of the City of Benson, Arizona, approving the Authorization of Stantec Consulting, Inc. under the City of Benson On-Call Engineering Contract to conduct design services for the Benson Municipal Airport Helipad and Rehabilitate Runway 10/28 Project in the amount of \$68,656.00**

Public Works Director Brad Hamilton addressed Council stating Resolution 48-2009 authorizes Stantec to move forward with the grants Council has discussed and approved. Councilmember Boncquet moved to approve Resolution 48-2009. Seconded by Councilmember Sacco. Motion passed 6-0 with Councilmember Lodzinski abstaining.

9. **Review and discussion of City Finances with emphasis on May, 2009, financial results**

Finance Director Jim Cox addressed Council stating that the City's cash had decreased by \$325,000.00 stating this was anticipated and was due to the debt payment to Wal-Mart and a pavement management project undertaken in June. Mr. Cox stated the City's cash would be depleted in the next 30 days, due to the \$360,000.00 payment to Zion's National Bank, with the 2nd of 3 payments due in July, 2009 and the final payment in July, 2010. Mr. Cox then stated the citywide fund balances decreased in the month of May, but that they were slightly positive year-to-date and that he expected a break-even year-end despite the current economic conditions. Mr. Cox stated trend-wise, revenues were down 5% and expenditures were down 7%, which has helped the City stay in the black, even making the \$583,000.00 in debt payments that were not made in previous years. Mr. Cox then addressed the summary of all City funds, which includes personnel, the general fund and the enterprise funds. Mr. Cox then addressed City Tax collections, including Sales Tax, Construction Tax and Bed Tax collections. Mr. Cox stated our sales tax collections were up 2% compared to sales tax collections in May, 2008. Mayor Fenn thanked Mr. Cox for his update on the City's finances.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 7:51 p.m. Seconded by Councilmember Lodzinski. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk

Glen Jenkins
204 South Land Avenue
Benson, AZ 85602
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June 22, 2009

ITEMS OF CONCERN

1. 33-41 Sign.....This sign in front of my residence has caused me problems because it says that I reside in a lot numbered from thirty-three to forty-one. That is wrong. I am not part of the park. I own my land and my address is 204 South Land Avenue. I have been told that the sign will be removed in less than two weeks. So I think it will be taken care of.
2. Rocks.....I had placed some rocks extending my fence line to use as a boundary line between me and my neighbor. These also protected my fence since it is in direct line of a possible driveway cut in the curb. City employees took them without contacting me. When I confronted the employee, I was told the city can take anything off their property. I believe this was discrimination because rocks twenty-five feet away on my neighbors property were not disturbed. I have been told that the rocks will be returned but I can not put them on city property. While checking the legalities of the rocks location I have found many code violations by my neighbor of that same area of city property. There are some trailers actually sitting on that city property. Cars are being parked in that space. My neighbor has eight lines of rocks in the same city property along the street. One line of rocks, within twenty-five feet of mine that were removed, was not touched. The city only removed mine. Discrimination again! Why did they take only mine?

3. Over sized trailer next door.....On April 22, 2009 a trailer approximately sixty-eight feet long was backed in the lot next door even though I called the police and tried to get them to stop it. They told me it was a zoning matter and that I should talk to the neighbor. I tried. Got nowhere.

At 8AM I showed up at Benson City Planning and Zoning. There I was given a copy of TABLE ONE-SETBACKS, AREA, BULK AND PLACEMENT REQUIREMENTS. After explaining my situation I was also given a copy of SECTION SIXTEEN – MANUFACTURED HOME PARKS (revised by Ordinance No.398 1/1/98) and was told the trailer had to meet the requirements.

When I arrived at home I saw workers getting ready to set the trailer on blocks. Being the nice guy I am, I felt it my responsibility to save extra work. So I went to the workers and told them I had papers that said the trailer was illegal. They said all requirements were met. I told them the setback was not there. We measured the distance from the curb to the trailer. It was a little over thirteen feet. He said that was okay and went back to work.

I felt frustrated so I went back to Benson Zoning. There I was met by Mac, who informed me that the trailer did not require new construction codes, and setback was measured from the center of the street. I went back and apologized to the workers even though I didn't believe his definition of setback. (I was latter issued a protective order – harassment for this)

Monday morning (4/27/09) I went to planning and zoning to see if they actually measure from the center of the road. Mac informed me that was correct. I pointed out that a

street having a width of forty-four feet as 5th street is, with a setback of fifteen feet, would allow building in the road. He brought out a fire code book and showed me where it said to use the center of the street. I asked if he had a building code book. He said they went by the fire code book. I asked for a card with his phone number to call if I or an attorney needed to contact him.

When I got home I called Bisbee Planning and Zoning to ask them where they measure setback from. They said edge of road or property line. I knew I had my work cut out for me.

I have researched codes and found that setback should be measured from the property line or edge of the road even in Benson. I have tried to solve these problems out of the city council with very little success. I apologize to members of the city council that I contacted as an individual instead of bringing this information to the council. I have realized your strength is in the council and not as an individual. So I am here at Benson City Council Meeting.

4. Trailers on City Property.....As pointed out earlier, while I was checking the legalities of the rocks location I found that some of the trailers on ^{5th}~~4th~~ Street are sitting on the same space where the rocks were, which is city property. I understand some of them were put there while the park manager was on the city council. This violates the trust of the residents of Benson. This also violates the city council position of upholding the rules and regulations of the city to get these trailers to pass inspection when they are sitting on city property.

SUMMARY

1. 33-42 Sign.....I believe the sign should come down quicker than two weeks. Or give me permission to take it down.
2. Rocks.....They should be returned to me. Either let me put them where they were on city property or enforce the code on the street and city wide. I wasn't informed they were against the code until I was told they will be returned.
3. Over sized trailer next door.....This trailer is in lot #41. It should not be allowed to stay there. It does not meet the setback code requirements. The owner knew it did not meet the requirements. The lot is only twenty-five feet wide at the curb and too small. The lot size is indicative of an RV instead of a manufactured home. The only parking is on city property. The trailer was placed while under protest. Other code violations can be found by inspection. Inspection passed while in violation of codes as the other trailers that are on city property. These codes are enforced in other areas of the city and should be enforced here. Should I have to live next to an over-sized trailer on an undersized lot due to someone else's errors? Discrimination?
4. Trailers on City Property.....They probably affect my property value and aesthetics of the area. I believe all elected officials should be held responsible for their actions. I believe these trailers involve the city more than me. The one next to me is my priority right now.