

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD ON JULY 11, 2016 AT 7:00 P.M.,  
AT BENSON CITY HALL,  
120 W. 6TH STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Mayor King called the meeting to order at 7:01 p.m. with the Pledge of Allegiance. Mayor King then introduced Pastor Kirk Sorenson of the First Assembly of God who offered the invocation.

**ROLL CALL:**

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

**EMPLOYEE RECOGNITION:** None

**PROCLAMATION:** None

**PUBLIC HEARING:** None

**CALL TO THE PUBLIC:**

Anna Lands, Cascabel Road, Benson, spoke regarding concerns of the water supply in this region; not just within the city limits of Benson. Ms. Lands stated that the USGS stage 3 study would cost an estimated \$1 million which is a pittance compared to the investment of El Dorado.

Robert L. Gent, Lt. Col., USAF, Retired Past President of the Astronomical League, S. Hohokam Drive, Sierra Vista, read the following letter; a copy of which will be kept with the Council packet. "Dear Mayor and Council: I am writing you concerning the outdoor lighting plans for both Benson and The Villages at Vigneto. As now written, these plans are inadequate to protect our region from light pollution, but there are some no cost immediate actions to resolve this issue. I am writing as a past member of lighting task forces in Cochise County and Sierra Vista. In addition, I am writing on behalf of the Astronomical League, an educational federation of 300 societies with 11 organizations and over 1,000 members in southern Arizona. I am also a member of the Cochise County Association of Astronomical Observatories with about 60 members in our area. We appreciate the much needed economic opportunities that the Villages at Vigneto offer for our area. However, before the Benson Council approves the Vigneto CMP, we recommend council form a joint committee to quickly update Benson's outdoor lighting code. This code should then apply to the Vigneto development. We have award winning lighting engineers, professional astronomers, and others willing to serve on this committee at no expense to stakeholders. To do this, we recommend the Vigneto CMP part 6. Outdoor Lighting Regulations be revised to include compliance with Benson's outdoor lighting code to be updated. This would help protect all our professional and amateur observatories from sky glow, and all of us blinding glare, light trespass, human health issues, and other problems caused by light pollution. In addition, this code update would protect the multimillion dollar astronomical research being done in southern Arizona. I look forward to working with you and the El Dorado developers to discuss how we can make Benson and the Villages at Vigneto the best lit communities in the USA. This can be done without added expenses and in a timely fashion. Everyone wins."

Joannah Hinz, a research scientist representing the MMT observatory located in the Santa Rita Mountains, spoke regarding the outdated version of the lighting code and urged the City of Benson and El Dorado to work together and update this code; Ms. Hinz and Mr. Gent have offered to volunteer their time to help with this project.

Stephen Insalaco, W. Pinto Place, J6, spoke regarding the City of Benson Airport. Mr. Insalaco recommended that the runway extension idea should be revisited and to abandon the hangar pad expansion at this time due to the newly available FAA AIP grant funding.

Tricia Gerrodette, Eagle Ridge Drive, Sierra Vista, read the following letter; a copy of which will be kept with the Council packet. "Warnings were issued about possible impacts on Kartchner Caverns more than a year ago, although not by Arizona State Parks. Nevertheless, the environmental community knew there were concerns about the caves and that's why we brought the issue up in our various comments. Geologist Dr. Bob Casavant used the word "outdated" at last week's P&Z public hearing on the CMP. I wish I had thought to use that word starting some time ago, rather than just saying how "wrong" was the general understanding of how the groundwater worked. The general understanding is based on outdated information and reports and needs to be updated. General understanding could be updated and improved by making sure that the USGS Phase III study is finally carried to completion. Again, we have been urging that for 1½ years. This study and the necessary and important resulting model will not happen quickly. But the effort does need to get started so that we can eventually have a better understanding of the impacts of groundwater pumping on private wells in the area, including artesian wells in St. David as well as impacts to the San Pedro River and to Kartchner Caverns and Pomerene. The Phase III study would allow for assessment of ongoing impacts and model (or predict) for future impacts. For the sake of the river and the caves, please make this happen. I see the CMP as your vehicle for achieving this. For clarification, if I haven't said this already before about ADWR's designation of adequate water supply. ADWR does NOT consider impacts to private wells or to river flow when making their decision about adequacy. Unless the law is changed, they will never consider such impacts. So if you have any concerns about future water flow in the river and the health of its vegetation, please do not rely on the ADWR designation of adequacy to achieve that protection. It's up to you to be involved in that protection, if you so desire. As the Gateway to the San Pedro Valley, I hope you do so desire. The lawsuit by multiple parties against the Army Corps of Engineers is an attempt to invoke the law that requires consultation with U.S. Fish & Wildlife Service when a federal action may impact threatened or endangered species. If the lawsuit is successful, and consultation does occur, the U.S. Fish & Wildlife Service may require modifications to the Vigneto plan to account for possible impacts to threatened or endangered species. I hope you feel comfortable that this possibility for necessary modification to the plan is accounted for in this CMP and that Benson will not be hurt by such modification, if they turn out to be required. Specific CMP comments -Although El Dorado Benson has touted their commitment to a minimum of 20% open space, one new word is proposed for addition in the Land Use Budget section. That word is "usable". I think that's a pretty significant change - from "open space" to "usable open space" -and greatly diminishes what I think would be the general public understanding of open space. I think we think that means undisturbed washes and areas left alone in their natural condition. I don't think we think of a golf course, or an artificial lake. Over the course of the past year and a half, Benson has received and/or paid for substantial comments and involvement in this CMP. Many of those comments, from professional firms, from the county, from Arizona Game & Fish, have been rejected by El Dorado and not incorporated into this latest version of the CMP. If you, Benson, think some of those rejected comments are worthwhile, this is the time for you to exercise your municipal powers and propose or insist that those recommendations be included. If you have concerns, you must get them taken care of now, not later. There won't be much "later". Please, please have a robust discussion about this document during next Monday's special council meeting."

Drew John, Graham County, stated he is a candidate for the House of Representatives to represent this area and he wanted to introduce himself, adding he looks forward to working with and representing this area.

Karen Corey, N. Old Divide Road, Bisbee, voiced her concerns over the availability of water and the proposed El Dorado development.

### **CITY MANAGER REPORT:**

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

- Saturday, July 16, 2016 – Historic Preservation Commission, 9:00 a.m., City Hall
- Monday, July 18, 2016 – City Council Public Hearing - CMP, 7:00 p.m., City Hall
- Monday, July 18, 2016 – Council Special Meeting - Action on CMP, 7:00 p.m., City Hall
- Wednesday, July 20, 2016 – Library Advisory Board, 10:00 a.m., City Library
- Wednesday, July 20, 2016 – Community Watershed Alliance, 6:00 p.m., City Hall
- Monday, July 25, 2016 – City Council Meeting, 7:00 p.m., City Hall
  
- June/July – Summer Recreation Programs – There are a number of camps. Information on activities and camps is available at the City’s website, [www.cityofbenison.com](http://www.cityofbenison.com) under “Summer Programs”

Mr. Stephens then stated for more events in Benson, the public could visit the City’s website: [www.cityofbenison.com](http://www.cityofbenison.com) under “What to do Today.”

**NEW BUSINESS:**

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

- 1a. Minutes of the May 9, 2016 Worksession
- 1b. Minutes of the May 9, 2016 Regular Meeting
- 1c. Minutes of the May 21, 2016 Worksession
- 1d. Reappointment of Phyllis Little to the Benson Historic Preservation Commission
- 1e. Reappointment of Gerald Thomson to the Benson Historic Preservation Commission
- 1f. Invoices processed for the period from June 18, 2016 through June 30, 2016

Councilmember Lambert moved to approve the Consent Agenda. Seconded by Councilmember Moncada. Motion passed 6-0.

2. **Discussion and possible action regarding Ordinance 581 levying upon the assessed valuation of the property within the City of Benson, Arizona, subject to taxation. A certain sum upon each One Hundred Dollars (\$100) of valuation, sufficient to raise the amount estimated to be required in the annual budget, less the amount estimated to be received from fines, licenses and other sources of revenue providing a General Fund for the General Municipal Expenses: All for the Fiscal Year ending June 30, 2017**

City Manager William Stephens stated the Property Tax Ordinance is adopted annually no earlier than fourteen days following Council’s adoption of the Budget for the next fiscal year. Mr. Stephens stated the City has followed all requirements in state law for Truth in Taxation, noting since there is no proposed rate increase or no amount increase in Property tax, nothing had to be posted or published concerning Truth in Taxation. Mr. Stephens stated property taxes are 2.8% of the City’s General Fund revenues and the Final Budget for Fiscal Year 2016-2017 approved a property tax levy rate of 0.5838 with budgeted revenues of \$226,000, noting Fiscal Year 2015-2016 levy rate was 0.5838 with budgeted revenues of \$230,000. Mr. Stephens stated for the past eight years, the City portion of property taxes collected has gradually increased from \$195,000 to \$230,000 annually, adding each year the levy rate has been adjusted, usually downward, as assessed valuations of property have fluctuated, usually upward. Mr. Stephens stated this fiscal year the proposed tax rate is the same even though property values continued to fall, which in-turn means the City will collect less property tax. Mr. Stephens stated it is important to note that the City is a small portion of the total property taxes paid to the County each year, adding the vast majority of each tax bill goes to support the Benson School District, the San Pedro Valley Hospital and Cochise County. Mr. Stephens stated this tax levy ordinance is an administrative method of setting apart funds necessary for use and maintenance and therefore, it does not require an extraordinary  $\frac{3}{4}$  vote to make it effective immediately, adding this determination is based on a Supreme Court decision and is fully explained in the Municipal Budget and Financial Manual provided by the Arizona League of Cities and Towns.

Mayor and Council discussed the item, with Councilmember Cook expressing concerns regarding the language used; he considered the language would lead to the citizens of Benson thinking property taxes were going to be increased.

Councilmember Lambert moved to approve Ordinance 581. Seconded by Councilmember Moncada. Motion passed 6-0.

3. **Discussion and possible action regarding Resolution 25-2016 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of the Court Consolidation Agreement by and between the City of Benson (CITY) Cochise County (COUNTY) to permit Consolidated Municipal Court with the Justice Court**

City Manager William Stephens stated this resolution approves and authorizes the Court Consolidation Agreement by and between the City of Benson and Cochise County to continue as a consolidated Municipal Court and Justice Court, adding the Court Consolidation agreement reflects a full definition of roles and responsibilities.

Mayor and Council discussed the item.

Councilmember Moncada moved to approve Resolution 25-2016. Seconded by Councilmember Boyle. Motion passed 6-0.

4. **Discussion and possible action regarding Resolution 26-2016 of the Mayor and Council of the City of Benson, Arizona, consenting to property outside the City corporate limits being added to a water improvement district**

City Manager William Stephens stated the San Pedro Domestic Water Improvement District has requested that the City Council consider and consent to the expansion of the San Pedro Domestic Water District. Mr. Stephens stated also present is attorney Steve Wayne representing the San Pedro Domestic Water Improvement District.

Mayor and Council discussed the item.

Councilmember Moncada moved to approve Resolution 26-2016. Seconded by Councilmember Lambert. Motion passed 5-0 with Councilmember Cook abstaining.

**EXECUTIVE SESSION:** As authorized by A.R.S. §38-431.03(A)(3) and (4), regarding issues with Andreas Mueller and/or ZBB Canine Team, LLC

Councilmember Moncada moved to enter into an executive session with the Mayor and Council, the City Manager, the City Attorney, the Chief of Police and the Deputy City Clerk at 7:46 p.m. Seconded by Councilmember Konrad. Motion passed 6-0.

Council reconvened at 7:51 p.m.

**DEPARTMENT REPORTS:** No comments from Council.

**ADJOURNMENT**

Councilmember Moncada moved to adjourn the meeting at 7:52 p.m. Seconded by Councilmember Lambert. Motion passed 6-0.

ATTEST:

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Toney D. King, Sr., Mayor

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Vicki L. Vivian, CMC, City Clerk