

**WORKSESSION  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD MARCH 25, 2019 AT 6:00 P.M.  
AT THE BENSON COMMUNITY CENTER, 705 W. UNION STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Mayor King called the meeting to order at 6:00 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, Barbara Nunn and Nick Maldonado.

**NEW BUSINESS:**

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

City Manager Vicki Vivian stated this worksession has been requested to update Council on the status of the Quiet Zone and the Task Force's meeting with the various entities that would be consulted in the process of creating a Quiet Zone.

Ms. Vivian stated the notes from that meeting were taken by Carol Treuber of SAEDG. The meeting was attended by:

City of Benson

Vicki Vivian City Manager  
Brad Hamilton Public Works Director

Quiet Zone Task Force

George Scott Task Force Member  
David DiPeso Task Force Member  
Carol Treuber Task Force Assistant

Union Pacific

Nick Vineyard UP Territorial Manager  
Mara Ortega UP Signal Construction Supervisor  
Mark Forges UP Industry Public Projects/Project Coordinator  
Steve Reimer UP Project Coordinator,  
Peggy Ygbuhay UP Regional Manager for Industry and Public Projects

Federal Railroad Administration

Joe Petito Railroad Safety Specialist FRA Reg 7  
Jacob Peterson Grade Crossing Inspector FRA Reg 7

Arizona Corporation Commission

Jason Pike Grade Crossing Inspector  
Chris Watson Railroad Safety supervisor

Cochise County

Brad Simmons Civil Engineer

Ms. Vivian then stated Ms. Treuber told her that representatives from ADOT (Arizona Department of Transportation) and Amtrak were invited; then noted they did not attend.

Ms. Vivian then stated the outcome was that the study done in 2016 was conservative and that there were additional requirements not addressed, such as moving a sidewalk for pedestrians and that one street was not the needed 34' width to accommodate the required median, adding a traffic study would also need to be completed before moving forward. Ms. Vivian then stated options for funding were not discussed, but she would like to note some options would be 1) bonds, 2) a loan, 3) a temporary Quiet Zone tax, 4) a special taxing district. Ms. Vivian then stated Council can discuss all aspects of the Quiet Zone during the worksession, as noted on the agenda.

George Scott, Director of the Southeast Arizona Economic Development Group (SAEDG) and member of the Quiet Zone Task Force formed almost a year ago, introduced Ms. Carol Treuber, an Associate Director of SAEDG who stated there is a timeline of everything that has been done, adding the project has been in progress for almost a year now. Ms. Treuber then stated she has spoken with ADOT (Arizona Department of Transportation) and Amtrak and they are on board and willing to help but have restrictions; one of them being the San Pedro crossing being closed. Mayor King asked what kind of help they were talking about with Ms. Treuber stating they are willing to help with funding, safety issues and construction, adding ADOT stated they could help with construction and some funding and Amtrak was excited about getting a platform completed by the Visitor Center. Ms. Treuber stated Union Pacific has offered to help with the other two crossings or possibly give money to the City that can be used any way the City wants, but the San Pedro crossing needs to be closed. Ms. Treuber then stated if the City enters in to an agreement with the County, the County can do the work for a lot less than the City can get it done, adding they cannot get exact figures until a notice of intent is filed when the City shows they are serious; then the County will show us actual numbers. Ms. Treuber then stated there are other monies the taskforce could try and get through avenues Mr. Scott has, adding the taskforce is looking into every avenue to bring the costs down. Mr. Scott stated in the 2016 study everyone got scared off by the price tag of doing the crossings, which came to about \$180,000 per crossing. Mayor King asked if it was going to be about \$1 million to complete all the crossings with Mr. Scott stating he did not know if that was correct but the previous estimate Kimberly-Horn gave was somewhere in the range of \$200,000 per crossing; then stated in his opinion, that is the Cadillac version. Mr. Scott then stated he spoke to Cochise County Manager Ed Gilligan along with the County engineers and they stated the County would enter into an IGA (Intergovernmental Agreement) with the City of Benson to do the work, adding the County did the crossing at Dagoon and Bowie for about \$50,000 each. Mr. Scott then stated it will cost more for the City of Benson due to the safety requirements and the only way to get a price is if there is a traffic study done and a notice of intent to create a Quiet Zone, adding if Council does not like the number when the quote comes back, they can say no. Mayor King stated there are other avenues like creating a taxing district but one of the biggest things would be talking with the business owners in the area too, adding the Council would need more information on closing the San Pedro crossing. Mr. Scott stated a Quiet Zone is a quality of life issue and the County already assured him they can get the costs down, adding there is some preliminary stuff that needs to get done like the traffic study and the Council's next step would be to do a notice of intent. Mr. Scott then stated not only is it a quality of life issue, but it would help the local businesses. Mr. Scott then stated there are certain steps that need to be taken, adding Union Pacific will not give the taskforce any numbers until the City makes a commitment to start the Quiet Zone. Mr. Scott stated once the City follows the steps, if Council feels the price is too much, the Council can say no. Mr. Scott then stated he had spoken to Ms. Vivian and told her the USDA (United States Department of Agriculture) has a 0% interest loan under the REDLG (Rural Economic Development Loan and Grant) Program that could be used to do the improvements to do a Quiet Zone. Vice Mayor Konrad stated there seems to be a lot of assistance if we close the San Pedro crossing, and asked about any feedback on the downside of closing the crossing with Mr. Scott stating the only downside would be that the residences would have to use Patagonia Street. Mr. Scott then stated the City can negotiate with Union Pacific if the Council decides they would close the San Pedro crossing, adding the City could ask Union Pacific to put some money out for the safety improvements that need to be done on the Patagonia and Ocotillo crossings. Vice Mayor Konrad asked if the San Pedro crossing is the one that does not meet the 34-foot width requirement with Mr. Hamilton stating Patagonia Street is the street that doesn't meet the minimum requirement.

Councilmember Boyle asked if Union Pacific would be willing to put in a crossing at the airport if the San Pedro crossing was closed with Mr. Scott stating they said they would not, but if the City starts the notice of intent to create a Quiet Zone then we would work with the City Attorney to put a proposal together to take to Union

Pacific, but again stated their initial reaction was no. Ms. Vivian stated the Union Pacific standard is that they will trade three crossings for one. Vice Mayor Konrad asked if the number of cars crossing came into play so you could not trade a 200-car a day to a 10,000-car a day crossing with Ms. Vivian stating Union Pacific spoke about the traffic count needing to be switched over to Patagonia and using the new figure to determine the traffic there. Ms. Treuber stated when she spoke with ADOT and they would be happy if the San Pedro crossing were closed, adding they would help close it because of the amount of accidents at that crossing. Ms. Treuber then stated there are three crossings, adding there would be a little bit of costs in closing the San Pedro crossing, but most of the costs will be for the other two crossings.

Mayor King asked if we could get the crossing by the airport tied into whomever is building the road out there so it could get taken care of with Mr. Scott stating it would have to be in a proposal, but again Union Pacific's initial reaction is that they would not do that. Mr. Scott then stated Union Pacific won't start anything until the notice of intent is done. Mr. Scott stated getting a Quiet Zone done is not impossible; that it can be done for quite a bit less money than has been proposed by Kimberly-Horn.

Councilmember Nunn stated she is new to the Council and wanted to know how much the traffic study was going to cost with Mr. Scott stating he and Mr. Hamilton talked about it last week and Mr. Hamilton's initial reaction was that it would cost about \$50,000 for the study. Councilmember Maldonado asked if that would include all three railroad crossings with Mr. Hamilton stating that is a ballpark figure. Mr. Hamilton then stated Union Pacific and the FRA (Federal Railroad Administration) want more studies than what they required in 2016 when the City had the original study done. Mayor King asked what kind of study they are requiring with Mr. Hamilton stating it is a traffic study for each crossing and to look at the effect if the Council were to close the San Pedro crossing, along with a queuing and a pedestrian analysis at the Patagonia crossing. Mr. Hamilton then stated there were quite a few people crossing while everyone was at the crossing and they also pointed out the street width was too small. Mayor King asked if it would affect insurance with the response time if that crossing was closed.

Councilmember Boyle stated he lives on north Patagonia and he gets stopped by the train at least twice a day, adding the San Pedro and Patagonia crossings are so close, if one is closed, they're both closed. Councilmember Boyle then stated the only time one is open when the other is closed is when Amtrak is there and stops short of San Pedro and lets traffic through. Councilmember Boyle then stated in his opinion there is only a few seconds difference between the two crossings.

Councilmember Maldonado stated he was raised in that area and when the train would stop everyone would go to the hill and end up by the lower Circle K; then asked if the City would have to improve that road with Mr. Scott stating he did not think so. Mr. Scott then stated the improvements on Patagonia need to be made for safety. Mr. Scott then stated he was talking to the School Superintendent and they were trying to bus the kids to school because they did not want them to walk across the tracks, noting a lot of kids do, and it is a good place to stumble and fall. Mr. Scott then stated whether there is a Quiet Zone or not, the safety improvements need to be made.

Councilmember Diaz stated he knows they were talking about moving the traffic study numbers to the Patagonia crossing and the study should include the road by the hill so they can see what's happening there, as well as adding the other costs that will take place. Councilmember Diaz then stated it looks like there are utility poles there that should be at 34 foot high but they are currently only 31 foot high so it will cost more than some of the other crossings with Mr. Scott stating that will have to be done anyway.

Councilmember Dempster stated he was sorry he had not mentioned it sooner, but he had just thought about it and wanted to know if he has a conflict of interest since he owns a business right there at the Patagonia crossing with City Attorney Paul Loucks stating he did not think so because what is being discussed is a generalization of the area. Mr. Loucks then stated the discussion is not concentrated on his business and for it to be a conflict of interest, it must be substantial as to Councilmember Dempster and not generalized. Mayor King stated if Councilmember Dempster feels uncomfortable, he could sit in the audience and when Council is done discussing the issue, Councilmember Dempster could come back to his seat. Councilmember Dempster recused himself at 6:27 p.m. and sat in the audience.

Councilmember Maldonado asked if the traffic lights need to be moved on Patagonia with Mr. Scott stating Mr. Hamilton could answer that better than himself.

Mr. Scott then stated that Mr. Dan Barrera, owner of the Quarter Horse Motel & RV park would like to address the Council. Mr. Barrera stated the Hotel has about 1,000 feet of railroad noise and they are adjacent to the sign the engineers use as a signal to blow the horns as the train is headed east, noting they also hear it as the trains go west. Mr. Barrera then stated he has several people who have signed petitions and some of the people who have purchased mobile homes in the area have already left so they could not attend tonight's meeting, but they sent emails and made personal calls to Mr. Barrera to help voice their concerns and for him to bring information back to them to see what direction the City will be going. Mr. Barrera then stated he agreed Council needs to continue to seek information for due diligence in the project, adding more options are being presented upon the completion of the Dragoon and Bowie crossings which the County was able to put in at a much lower cost than was first provided to the City in the initial study. Mr. Barrera then stated one of the savings is to have an IGA with other entities in which they can help provide services and they would already have the experience, adding he is not sure what agreements would have to be made by the City. Mr. Barrera stated the City would have to come up with the cost and the material and the entity could provide the labor, and this could be a savings for the City. Mr. Barrera then stated he knows this would have to be part of the strategic plan that the City would have to come up with and give direction to the Staff, adding the staff are the people working behind the desks and getting the information from Amtrak, Union Pacific, ADOT and whatever other entity that will provide cash to make this happen if the Council seeks to pursue this. Mr. Barrera then stated as Mr. Scott stated, Council is pursuing a project and the Council has time to say it's not going to work out, adding all the data has to be gathered, but Council should not spin their wheels on information that has already been collected; then noted some of the preliminary numbers are out of order. Mr. Barrera stated the traffic count is essential and this is the first that he's heard of the possibility of closing the San Pedro crossing. Mr. Barrera then stated it's up to the Council to say what the flow of traffic should be, taking safety and the flow into consideration, as the businesses will be impacted. Mr. Barrera stated he thought that the San Pedro crossing was not 35 feet, adding the Greyhound bus has to make a tight turn and everyone can see how poorly the roads are. Mr. Barrera then stated at some point the City will have to come up with a conceptual design for the safety of foot traffic, adding he has crossed those streets all his life, but they are not safe. Mr. Barrera stated if the City put sidewalks everywhere, they would have a flow of traffic and the downtown businesses could flourish with bringing up the mode of transportation that is needed. Mr. Barrera then stated he has seen what the Dragoon crossing needed and in his opinion, if the County can do it, the City of Benson can do it, adding he has looked at some of the no median roads and he does not understand why these restrictions are being placed on the City of Benson. Mr. Barrera then stated getting information and sharing it with the public is vital, adding he will continue to support the Council and hopes they seek all the information possible and also look into the risk liability with all three crossings. Mr. Barrera stated he is seeking an improved quality of life and he appreciated the time to speak to Council.

Mayor King asked Mr. Hamilton when Council could find out how much the traffic study will cost with Mr. Hamilton stating he would have the estimate in a week or two. Mayor King stated he would like to get feedback from both the Chief of Police and the Fire Chief in what they would think about closing the San Pedro crossing. Mayor King then stated he would also like to look into a taxing district depending on where the City is financially and seeing what areas need to be looked at for a taxing district, adding he would hate to put a tax on anything but for the City to get this done, he would like to see all the options. Ms. Vivian then stated with a special taxing district, the Council would have to decide what boundaries the area would encompass and the City would need a legal description and survey done. Ms. Vivian then stated maybe another funding option would be to start a Go Fund Me account. Ms. Vivian then stated she does not believe anyone is opposed to the Quiet Zone; the issue is trying to figure out how to pay for it. Mayor King stated maybe some of the businesses could get involved and maybe they could donate something, adding there are different ways it could be done and maybe the Council could bring it up on the Agenda. Mayor King then stated Council can always say no but that might get the wheels rolling; then added the Council needs to see what the real costs will be.

Councilmember Maldonado stated he remembers when they put in the Visitor Center Depot and Amtrak was excited and wanted the City to put a platform for them; then stated maybe the City can ask Amtrak if that is something they can do with Mr. Scott stating the conversation between Ms. Treuber and Amtrak was that the

City would have a better chance of getting the platform done quicker if the City agreed to close the San Pedro crossing. Mr. Scott then stated this is something that can be negotiated and if Council doesn't like the terms, they can always leave it the way it is. Mayor King then stated the biggest thing for Council is to see the costs.

Councilmember Diaz stated there had been mention of a taxing district and he wanted to know how a bond differs from a taxing district with Ms. Vivian stating she would like to back up for one minute, if she may; then stated the first step would be to have a traffic study completed, adding Staff would get the estimates and come back to Council for the traffic study before the NOI (Notice of Intent) and then stated she would refer to Mr. Loucks to explain the differences between a bond and a taxing district. Mr. Loucks then stated the project could be paid for with a general obligation bond and what that really means is instead of forming a taxing district and having the taxing district be responsible for a bond, the City would be issuing it directly; then noted that because of the existing City bonds, a new bond would come behind those in terms of obligation, so Council would have to talk about a bonding capacity but he is sure the City would qualify because this would be a small project.

Councilmember Maldonado asked if the public would have to vote on a taxing district or a bond with Mayor King stating he thought the public would have to vote on either one. Mr. Loucks stated the taxing district would be a different election process, adding he is going off memory, but on the special taxing district once you go with a notice of formation, it would go to the property owners of the district to approve the formation and once it is approved, there is a separate bond election to issue the bond, noting there are two elections instead of just one. Mayor King stated that could get pretty expensive.

Councilmember Boyle asked if the City still had money in the City's existing bonds that have not been spent with Ms. Vivian stating the City did and Finance Director Seth Judd stating there was just under \$900,000. Councilmember Boyle asked if there were any restrictions on how that money is spent with Mr. Judd stating the bonds are restricted, but in past discussions with Mark Reader, the Managing Director with Stifel, Nicolaus and Company, Mr. Reader stated there is a process that would allow the Council to amend the bond covenants and put new projects into them, noting that is something that would have to be looked into further but it is an option, should Council decide. Ms. Vivian then stated the current restrictions are for infrastructure, noting there is a question on what exactly infrastructure is defined as, but as Mr. Judd stated, there is a process to amend that. Councilmember Boyle asked if there is something that money has already been allocated for with Ms. Vivian stating there might be.

Mayor King stated the first thing that needs to be done is a traffic study with Ms. Vivian stating it could take a couple weeks and Mr. Hamilton stating he is not sure what the timing would be. Mayor King then asked if it could be two or three months with Mr. Hamilton stating it could be, depending on the contractor's workload. Mayor King then stated he just wants the public to realize if this is what must be done, it may take a little longer for it to be brought to Council, adding there are more steps after the traffic study.

Mr. Barrera stated constituents would like to know the intent of the Council on continuing to seek a no-noise area, adding they know there are several variables that could change the direction the Council is taking. Mr. Barrera then stated when looking at the general obligation bonds, maybe in the strategic plan, the Council could not only look at a no-noise area, but look at other items that need to be repaired that have to use the financial bonds, such as streets curbing or whatever the City needs. Mr. Barrera stated those come from strategic planning, from Staff to Council and then the Council will make the decision on which way to go. Mr. Barrera then stated there could be a huge general obligation bond with line items where the money would be spent, upon the voters' approval, adding that is an option for the Council to look at.

Mayor King stated there is no way for Council to do a Notice of Intent before the traffic study. Vice Mayor Konrad stated Mr. Barrera highlighted on a key point twice in that this is part of a strategic plan, noting this is currently in the City's strategic plan in which the Council made a commitment to move forward on a Quiet Zone. Vice Mayor Konrad stated the taskforce was made with that intent, adding Council is on the right track and the traffic study needs to be done to move forward. Vice Mayor Konrad then stated the Council is committed to this, again noting it was in their strategic plan. Mayor King stated the reason he was asking questions was to keep the project moving forward and for the taskforce to bring more information to the Council. Mayor King asked Mr. Loucks if the Council put on a future agenda that they were looking at an intent to go forward based

on the information in the traffic study once it has been completed with Mr. Loucks stating he does not know if the Council can go forward with a Notice of Intent without a completed traffic study but he can certainly figure it out.

Mr. Scott stated the taskforce knows the Council is working on the budget for the coming year and one of the suggestions would be if Mr. Hamilton stated the traffic study was going to cost \$50,000, then Council should plan for that in the budget for the upcoming year, adding he knows it will take some time to get this done. Mayor King stated there are three months left in the current fiscal year and the Council could possibly put something on the agenda to look at next year's budget along with the extra costs, to see when the study will be done and consider a Notice of Intent.

Mr. Scott stated there will not be any hard numbers until there is a Notice of Intent, but the taskforce has a pretty good idea of what it costs, adding Union Pacific, the Federal Railroad Administration, the Arizona Corporation Commission, ADOT, and all the people who are involved in it will not do anything until they see a commitment from the City. Ms. Vivian stated that is what the Mayor stated the Council could possibly put on the agenda. Mr. Scott stated he would like the Council to reassure the community that the Council would like to move forward with the Quiet Zone. Mayor King stated the Council will not be able to make the final decision until they have everything in front of them. Vice Mayor Konrad stated Mr. Scott's point was that there will not be any serious negotiations until the City shows a commitment. Mr. Scott then stated that Mr. Hamilton said the City cannot proceed with a Notice of Intent until there is a traffic study with Mayor King stating he just asked the City Attorney to look at that. Mr. Barrera then stated it is part of the strategic plan to pursue a no-noise area in the community of Benson and he is a little hesitant about talking about this or that group when the negotiations have to happen between the City of Benson and the entity that own the roads and railroads, but a strong voice is mission when the City is not involved with Mayor King stating the City is involved, noting the Council agreed to have a taskforce so everyone is communicating. Mr. Barrera stated this worksession is a brainstorming session where everything is being laid out on the table, adding everyone wants clarification on who is going to be responsible for the action in this business plan, that is an extension of the City of Benson, and looks at minimizing risk, controlling the traffic flow and enhancing the downtown area. Mayor King stated he is also looking at the work the taskforce is doing behind the scenes and when the City enters into negotiations, the Council will have our Attorney, City Manager and the information the taskforce provides, so it really will be a group effort. Vice Mayor Konrad stated that the taskforce has done their job and should be commended for that and now it's the Council's job to step up and do their job based on the information the taskforce has brought them.

Councilmember Boyle asked if the \$50,000 for a traffic study could be paid for with current bond funding to expedite the expense instead of waiting until the next fiscal year with Mr. Judd stating there is money in the current budget for the Quiet Zone. Councilmember Boyle asked if it could be done right away if the numbers come back with Vice Mayor Konrad asking if there were other areas in the City that needed to be considered that were also going to require a traffic study and if it could be rolled together or if the study had to be specific to the Quiet Zone with Mr. Hamilton stating there are areas that could use a traffic study. Vice Mayor Konrad asked if it would be beneficial to broaden the scope of the study with Mr. Hamilton stating working with the federal government and the railroads, it would be easier if we concentrate on those crossings and the impact of those intersections.

**ADJOURNMENT:**

Councilmember Boyle moved to adjourn at 6:53 p.m. Seconded by Councilmember Maldonado. Motion passed 6-0 with Councilmember Dempster abstaining.

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Toney D. King, Sr., Mayor

ATTEST:

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Vicki L. Vivian, CMC, City Clerk