

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JANUARY 22, 2024 AT 7:00 P.M.
AT THE BENSON COUNCIL CHAMBERS
599 S. DRAGOON STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor Konrad called the meeting to order at 7:04 p.m. with the Pledge of Allegiance.

ROLL CALL:

Present were: Mayor Joe A. Konrad, Vice Mayor Pat Boyle, Councilmembers Levi Johnson, Seth Judd, Toney D. King Sr., Nick Maldonado, and Cindy Tapia. Deputy City Clerk Mandy Konrad stated a quorum was established.

CALL TO THE PUBLIC – AGENDA-RELATED COMMENTS ONLY: Communications and comments from the citizens regarding the City of Benson or other matters properly addressed to the City Council shall be heard by the Council. Such remarks shall be addressed to the Council as a whole and shall be limited to five (5) minutes unless this time is adjusted at the discretion of the Mayor or Council.

Mayor Konrad stated there was no one signed up to speak on agenda-related topics.

CITY MANAGER’S SUMMARY OF CURRENT EVENTS REPORT:

City Manager Vicki Vivian addressed Council, giving the dates of upcoming meetings and events.

- Monday, February 12, 2024 – City Council Regular Meeting, 7:00 p.m., Benson Council Chambers
- Thursdays in January – Library Adult Speaker Series 10:30 a.m. in the Whetstone Room
- Saturday, January 27, 2024 – Benson Municipal Airport, Paul Kerchum Field Dedication Ceremony 2:00 p.m.

NEW BUSINESS:

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

- 1a. Minutes of the December 11, 2023 Regular Meeting
- 1b. Minutes of the May 8, 2023 Worksession
- 1c. Contract with Shell Energy North America for the supply of Natural Gas and related services
- 1d. Resolution 1-2024 of the Mayor and Council of the City of Benson, Arizona, approving a contract for the purchase of real property within the City of Benson and authorizing the City Manager to execute said contract and any other documents necessary to complete the transaction
- 1e. Invoices processed for the period from December 1, 2023, through December 31, 2023

Mayor Konrad noted the many pages of the consent agenda was due in part to information provided about the consulting firm (for Item 1d). He then asked Public Works Director Brad Hamilton for an update on hedging to avoid potentially significant increases in gas prices. Mr. Hamilton answered City staff are working with Arizona G&T on hedging, but it is more complicated than they thought it would be because the City is a government organization. He continued stating the recommendation at this time is to continue with Shell as the City’s broker, noting Arizona G&T could assist with the financial side of buying and

selling, but not so much the programming and delivery that Shell does. Mr. Hamilton stated at this point they would like to move forward with the renewal of the Shell contract.

Councilmember Judd moved to approve the Consent Agenda. Seconded by Councilmember Maldonado. Motion passed 7-0.

2. **Presentation on and possible discussion of the City’s Christmas Decorating Contest, including but not limited to the presentation of prizes for 1st, 2nd and 3rd place decorations**

City Manager Vicki Vivian stated the City held its inaugural Christmas Decorating Contest as part of the 2023 Festival of Lights, adding there were 18 residential entries and one commercial entry. She stated a map of the entries was posted on the City’s website and short videos of each entry were posted on social media with winner being determined by the number of votes they received on Facebook as well as in person at City offices between December 14 and December 25, 2023. She then stated the honorees for 2023 are:

Winner – Joshua Horney (S. Martin’s Pass Pl.)

Winner – Michael Fenn (N. Pomerene Rd.)

Winner – Brittney Batten (W. Pony Express Ln.)

Honorable Mention – Tim Cesolini (E. Comstock St.)

Honorable Mention – Sandy Steger (S. San Pedro St.)

Honorable Mention – Cindy Allen, Zearing’s Mercantile (the only commercial entry)

Ms. Vivian stated the City is grateful for all who participated and would like to make this an annual event with prizes being presented at the Council meeting the following January each year. Ms. Vivian then introduced Recreation Supervisor Melanie Hernandez, who with Mayor Konrad, presented trophies and gift cards to the winners. Mayor Konrad then thanked everyone who decorated and voted for their participation.

3. **Discussion and possible action regarding request from Benson Clean & Beautiful for services support for the “Classic Cars OFF Main” event to be held March 16, 2024**

City Manager Vicki Vivian stated Benson Clean & Beautiful has been holding a car show since 2017; first in assisting the Chamber of Commerce with the Butterfield Stage Days event, before moving it to a separate event in September. She stated this year, they would like to hold two car shows and have reserved Lion’s Park for the first Classic Cars OFF Main to be held on March 16 and for the event they are requesting that the water sprinklers be turned off, for the electricity to be working at the first ramada and at the row of outlets near the bathroom, and for traffic cones to control traffic and block off access as needed. Ms. Vivian stated the Special Event permit was applied for and issued; however, it contained the caveat that due to the cost of the repairs/upgrades to the electrical service, they would need to rent generators.

Councilmember King moved to approve the item. Seconded by Councilmember Maldonado. Mayor Konrad clarified that the motion was to approve the water sprinklers being turned off and for traffic cones to control traffic and block off access as needed with Councilmember King confirming that was his motion. Motion passed 7-0.

4. **Discussion and possible action regarding Resolution 2-2024 of the Mayor and Council of the City of Benson, Arizona accepting Benson Municipal Airport Improvement Grant Agreement – E3M4L between the Arizona Department of Transportation and the City of Benson for Taxilane Pavement Surface/Joints Crack Seal and Remark Taxilane A at the Benson Municipal Airport in the amount of \$14,584.00**

Public Works Director Brad Hamilton explained the project is complete, noting this grant will allow the City to receive matching funds for the project from the state, with ADOT.

Vice Mayor Boyle moved to approve Resolution 2-2024. Seconded by Councilmember Tapia. Motion passed 7-0.

5. **Purchase of Vermeer VAC-TRON Vacuum Excavation System for \$111,099.38 under Sourcewell contract # 110421-VRM**

Public Works Director Brad Hamilton explained this is for the replacement of the current trailer mounted vacuum excavation system, used for emergency excavation of broken water, sewer, and gas distribution lines and for general maintenance and repair of the lines. He then gave a brief description of how the system works. Mr. Hamilton stated the current system is 14 years old and is developing age-related mechanical issues that are driving up its maintenance costs.

Mayor Konrad stated this piece of equipment is money well spent as it would be very costly if they were to nick a gas line with a backhoe bucket.

Vice Mayor Boyle moved to approve the purchase of a Vermeer VAC-TRON Vacuum Excavation System for \$111,096.38 under Sourcewell contract # 110421-VRM. Seconded by Councilmember Tapia. Mayor Konrad noted for the record the purchase amount was \$111,099.38. an incorrect digit in the contract number which was acknowledged and corrected. Motion passed 7-0.

6. **Discussion and possible action regarding Procurement of leasing services for a commercial modular building for the Benson Municipal Airport to serve as a Terminal building until a new Terminal building is constructed**

Public Works Director Brad Hamilton stated Staff would like to place a temporary terminal building where the former FBO building was located until a new terminal building can be constructed. The new terminal would be constructed using FAA funding and planning is currently underway. Mr. Hamilton stated a building with a restroom and pilots' lounge would be well used and well received.

Mayor Konrad asked if the plan was to build the permanent structure in a different location. Mr. Hamilton confirmed it would be constructed in a different location. Mayor Konrad then asked if the temporary building would serve in its capacity up to and including when the permanent structure would be commissioned. Mr. Hamilton confirmed it would and explained that the location would allow access to both the land side to the air side through the terminal.

Councilmember Tapia asked Mr. Hamilton if he felt a one-year contract was best, opposed to other options. Mr. Hamilton answered they have looked into purchasing in the past, but due to the size of the building he isn't sure what use the City would have for it after serving its purpose at the airport. He stated they have also entertained the idea of moving offices from the yard, but they would not offer adequate space. Councilmember Tapia asked Mr. Hamilton if he could recall the cost of the buildings he priced that were similar in size. Mr. Hamilton replied part of the problem is companies typically want to lease buildings of that size rather than sell them unless they are in need of a lot of repairs.

Councilmember Maldonado asked who would maintain the building and what types of facilities it would have. Mr. Hamilton answered it would be very basic and include a restroom, two small rooms and a middle section that would serve as a pilots' lounge; much like what was there before, but smaller. Councilmember Maldonado asked if refreshments would be offered. Mr. Hamilton replied there would be space for a soda machine and the Airport Manager would likely work out of it once it is in place.

Vice Mayor Boyle asked if a one-year lease would be adequate with Mr. Hamilton stating the terminal building is a federal project, so by paying month-to-month, the term of the lease can be extended if

necessary. Mayor Konrad reiterated there would be no recurring costs; there would be a monthly rate until it was no longer needed.

Councilmember Judd moved to approve the lease of a commercial modular building for the Benson Municipal Airport to serve as a Terminal building until a new Terminal building is constructed. Seconded by Mayor Konrad. Motion passed 7-0.

7. **Discussion and possible action regarding Resolution 3-2024 of the Mayor and Council of the City of Benson, Arizona, approving changes to the City Council Policies and Procedures Manual**

City Manager Vicki Vivian stated at the Council retreat held on May 25 of last year, Council discussed the Council Policies and Procedures and directed Staff to make some amendments. She then stated after hiring Deputy City Manager Peter Smith, he was tasked with listening to the meeting and making those changes as directed in the Council discussion. She stated a red-lined version has been provided to show the proposed amendments. Ms. Vivian then stated Resolution 3-2024 approves the amendments and if the resolution is passed, the revised Council Policies and Procedures will be sent to all Councilmembers.

Councilmember Johnson pointed out an error in numbering in the Table of Contents. Ms. Vivian noted the error and stated it would be corrected.

Councilmember Tapia pointed out an error in the pluralization of the word recording in section 6c. Ms. Vivian stated it had been corrected in the proposed changes.

Mayor Konrad moved to approve Resolution 3-2024. Seconded by Councilmember King. Motion passed 7-0.

8. **Discussion and possible action regarding Ordinance 628 of the Mayor and Council of the City of Benson, Arizona, amending portions of the Benson City Code within Chapter 2, "Mayor and Council"**

City Manager Vicki Vivian stated after the Deputy City Manager reviewed the Council retreat held last May, he reviewed Chapter 2 of the City Code and suggested a few changes as well as some grammar and spelling corrections, adding a red-lined version has been provided to show the proposed amendments. Ms. Vivian then stated Ordinance 628 approves the amendments and if passed, the new Chapter will be sent to all Councilmembers. In addition, the City Code will be updated to reflect the changes.

Councilmember Tapia moved to approve item number 8. Seconded by Councilmember Judd. Motion passed 7-0.

9. **Discussion and possible direction to Staff regarding Billing for Out of City Limits Fire Response**

Fire Chief Keith Spangler stated in the Fiscal 24-25 Strategic Plan, the Fire Department has an item in the Fiscal Sustainability Focus Area to investigate the possibility of having a third-party vendor do billing for out of City limits responses for accidents, extrication, vehicle fires, structure fires and HazMat responses, noting this would not include mutual aid responses.

Chief Spangler then stated during the 2023 calendar year, the Benson Fire Department responded to 62 calls for service outside City limits, adding while these were necessary, they are a drain on our limited resources and a third-party vendor would assist the budget with required maintenance costs and required equipment purchases.

Chief Spangler stated his suggestion would be to have a third-party vendor take care of all the administrative tasks such as billing, to include contact with insurance companies, as opposed to our already overtaxed City staff. He noted he did speak with a department that billed in-house at one time, but it was too much work to follow up with the insurance companies.

Chief Spangler then explained that a third-party vendor would take a percentage of what is collected at the end of the month then mail a check to the City. He stated he is looking for direction to prepare a request for proposals (RFP) to find the best fit for the City of Benson.

Mayor Konrad stated the question on everybody's mind is what the amount of the percentage would be, but he believed Chief Spangler had already answered that it would be determined through the RFP process. Chief Spangler concurred, noting some companies have different percentages as well as rates of return.

Councilmember Maldonado asked if other fire departments in other cities use third-party vendors for out of City limits billing. Chief Spangler answered there are a lot of districts that rely on third-party vendors for billing as well as some cities. Councilmember Maldonado then asked if the Highway Department would pay a portion. Chief Spangler replied stating the insurance companies pay and then gave instances of circumstances they would cover such as vehicle fires.

Councilmember Tapia asked Chief Spangler if he knew of any cities similar to Benson's population that use third-party vendors for billing. Chief Spangler stated he believes Bullhead City does, but they are a bit larger than Benson, noting mainly smaller rural departments use this option because they can't afford to do it in-house. Councilmember Tapia asked if Benson would be the only City in Cochise County that would be outsourcing billing, if approved. Chief Spangler replied he believes so.

Councilmember Johnson asked who currently does this billing for the City. Chief Spangler stated nobody does. Councilmember Johnson asked if the City is absorbing the cost. Chief Spangler confirmed. Councilmember Johnson asked Chief Spangler if he knows how many man-hours it takes to complete a single billing. Chief Spangler stated he does not. Councilmember Johnson asked Chief Spangler how long he anticipates using a third-party vendor for billing, if implemented. Chief Spangler replied he believes they would know if it is worth continuing within the first year and gave examples of services third-party vendors provide, such as finding alternative ways to identify vehicles that may no longer have recognizable VIN numbers due to fires and accidents in order to bill insurance carriers. Councilmember Johnson asked Chief Spangler if he knows how much the City is losing by not billing for out of city limits responses annually. Chief Spangler stated he does not know because each incident could be charged differently.

Councilmember King stated Benson is in a unique position compared to surrounding cities due to its proximity to the interstate and he believes this option would allow the City to be paid back for providing services outside of city limits. He then pointed out nobody likes dealing with insurance companies and they should allow a third-party vendor to do it.

Councilmember Maldonado asked how this would affect the mutual aid agreements and if the City is able to charge the railroad. Chief Spangler replied this would not apply to mutual aid calls and the railroad typically pays for anything that occurs in town, so they would only be charged for incidents outside of city limits, depending on what it is.

Councilmember Judd asked for clarification on what types of incidents would be billed for outside of city limits responses and where mutual aid agreements do not apply. Chief Spangler stated there are some areas that are not in the districts, such as North Ocotillo Road as well as a couple areas south of town off Hwy. 80, so the department would have the ability to charge a homeowners' insurance company for a structure fire in those areas.

Councilmember Tapia thanked Chief Spangler for identifying where money is being lost and finding a solution.

Vice Mayor Boyle moved to direct Staff to proceed with the procurement of a third-party to implement and to administer billing for Out of City Limits Fire Response. Seconded by Councilmember King. Mayor Konrad suggested the item is brought back to Council in the form of a contract after the RFP process to touch on some of the questions that were not able to be answered and the estimated financial

impact. Chief Spangler agreed, stating the process will address specific amounts for charges, and once he has that, he can look back and see the financial impact had this been in place for 2023 so the Council could see an estimate of what could be made. Councilmember Judd asked if there is a current billing schedule for out of city limits responses with Chief Spangler stating there is not one for vehicle or structure fires and accidents, but the City does bill the Arizona Department of Forestry and Fire Management for apparatus and personnel for calls they request our services on. Chief Spangler then stated this new fee schedule would be a flat rate for apparatus that would go out for other out of City limits calls. Councilmember Judd asked Chief Spangler if he would come up with the rates or if it would be left to the billing company. Chief Spangler replied they would work together, looking at standards and fees throughout Arizona to make a determination. Councilmember Judd asked if the fee schedule would be brought back to Council with the contract. Chief Spangler confirmed it would be part of the contract that would come before the Council for consideration. Motion passed 7-0.

10. **Update on the Strategic Plan Projects**

City Manager Vicki Vivian stated this item was requested by Council and was first presented at the November meeting. Discussion at that time asked about the frequency of presenting this item with City Manager Vicki Vivian stating she would present it monthly but only discuss updates from the previous month. Ms. Vivian noted Since December, there are two items of note: The RFP for the Organizational Study was issued November 9 with responses due December 15. She continued stating a contract for services will be brought to Council once negotiations are complete.

Ms. Vivian then noted Billing for Out of City Limits Fire Response was just acted on and direction was given to Staff to pursue this option.

Ms. Vivian then listed other items not in the Strategic Action Plan including:

- Hosting the Mayor/Manager Luncheon
- Moving into the City Hall Annex building/Finishing sidewalks and ramps around the building
- The ceremony to unveil the plaque renaming the airport to Benson Municipal Airport – Paul Kerchum Field
- The purchase of property to add additional multi-use fields to the City’s infrastructure – Before Council for action
- Significant amendment to the Aquifer Protection Permit for the Wastewater Treatment Plant as required by ADEQ – Submitted December 2023
- Possible changes to the Arizona Pollutant Discharge Elimination System (AZPDES) permit – Met with ADEQ on the AZPDES and possible abandonment of the permit
- Working on Temporary Terminal building at airport
- Replacement of Vacuum Excavator equipment
- Completing the ADOT Grant for the Pavement work at the airport
- Implementing electronic W2s and 1099s as required by the IRS this year

Ms. Vivian concluded updates on these items will be communicated to Council and will be placed on future agendas as needed.

11. **Discussion during and/or after presentation by City staff of City Finances, with emphasis on November 2023 financial results, and the City’s financial position on October 31, 2023. All revenues and expenses of the City may be discussed**

Finance Director Megan Moreno presented a PowerPoint slideshow summarizing the results of City operations and the City’s financial position on November 30, 2023, noting that the results are unaudited and are subject to change based on the auditor’s findings.

Ms. Moreno stated revenues have increased for the month, and the year-to-date revenues have increased

by \$1.1 million. She noted significant revenue increases can be attributed to city and state sales tax, auto lieu tax and urban revenue sharing which are all up over the prior year. Ms. Moreno stated there are also increases in construction sales tax, funding the CIP Fund and the HURF Fund which funds the streets.

Ms. Moreno stated expenses have also increased for the month, and the year-to-date expenses have increased by about \$1.2 million. She stated significant expense increases can be seen in the Capital Projects Fund, noting the City has spent just over \$750,000 for projects such as the splash pad, the City Hall Annex, the purchase of the modular building for the new City Hall, updates to the Lions Park Master Plan and much needed improvements to the animal shelter. She stated some money was also spent on necessary pump upgrades and new meters for the Water Department in the Utility Fund.

Ms. Moreno stated the net position increased for the month of November explaining net position is revenues minus expenses; how much money is coming in versus how much is being spent. She stated it has decreased from where it was last year, but it is still a positive number. Ms. Moreno stated the net position is currently \$1.396 million. She stated all of the funds are operating in the positive with the exception of the following: the CIP Fund, Airport Fund, Transit Fund, and the Golf Course Fund.

Councilmember Judd asked why there was such a large increase under miscellaneous revenue in the General Fund. Ms. Moreno responded she did not have that information at the moment but would get back to Councilmember Judd with an answer. Councilmember Judd then asked if any of the golf course's net position could be attributed to improvements that were made. Ms. Moreno replied the figures for the Clubhouse improvements are not in the report, so she would add that in as well. Councilmember Judd asked if it was because the improvements hadn't happened yet. Ms. Moreno stated she was going to look into it because they had them in the CIP Fund at first, but they were transferred back to the Golf Course Fund. Councilmember Judd asked if there was any explanation as to why the city and state sales tax were much higher than usual. Ms. Moreno answered while it looks like a really big increase, it is due to timing, noting they weren't accruing monthly last year; they were only accruing year end. Councilmember Judd asked when it was changed to monthly with Ms. Moreno stating she would look into it. Councilmember Judd asked if the state sales tax increase was because the state had a great year. Ms. Moreno confirmed this was the case, stating the state collections have been up.

CALL TO THE PUBLIC – NON-AGENDA-RELATED COMMENTS: Communications and comments from the citizens regarding the City of Benson or other matters properly addressed to the City Council shall be heard by the Council. Such remarks shall be addressed to the Council as a whole and shall be limited to five (5) minutes unless this time is adjusted at the discretion of the Mayor or Council.

Dan Sprenkle, Cottonwood Lane, Pomerene, stated he spoke with Mayor Konrad a few months ago and expressed his concern for the potential of rapid growth. He continued stating there has been mass exodus from other parts of the country where people are leaving urban congestion and crime then trying to replicate what they just left where they relocate. Mr. Sprenkle stated he does not want Benson to grow unchecked like Vail has and expressed opposition for having big box stores in town. Mr. Sprenkle concluded we cannot stop people from coming here, but let's not make it more attractive for people who don't want to assimilate to Benson's culture.

Bob Nilson, Ocotillo Road, stated he has been with the City of Benson for 20 years and has decided it might be time for him to retire. Mr. Nilson praised the crew at the Visitor Center, Gay Spivey and Kathy Lara. Mr. Nilson then gave two weeks' notice of his resignation and recommended Ms. Lara as his replacement, noting it takes several years to train somebody for the position. He then gave examples of Ms. Lara's qualifications and knowledge of the position. Mr. Nilson stated Ms. Lara ran the Visitor Center for three months when he broke his leg. Mr. Nilson expressed his belief that there is friction between Ms. Lara and Ms. Vivian and he would like to see it straightened out. Mr. Nilson stated he would be available by phone if anybody needs something down the road.

Kathy Lara, Orr Avenue, corrected Mayor Konrad on the pronunciation of her last name then stated it has been an honor to work alongside Bob Nilson and offered a quote about leadership. Ms. Lara then gave two weeks' notice of her resignation.

Gay Spivey, Thunderbird Trail, introduced herself as the part-time clerk at the Visitor Center and noted she did not intend to resign. Ms. Spivey stated she would like to speak from the heart without retaliation. She continued stating working with Ms. Lara and Mr. Nilson at the Visitor Center has been one of her favorite jobs and listed awards and recognition the Visitor Center has received. She stated it was a wonderful two and a half years until Deputy City Manager Peter Smith was hired, noting his criticisms of Mr. Nilson's appearance and the condition of his office. Ms. Spivey stated Mr. Nilson has worked with a passion for Benson tourism for the past 21 years and has put together the best Visitor Center in Arizona. Ms. Spivey then stated Mr. Smith destroyed the morale at the Visitor Center and broke a good man who is respected and appreciated in the community.

DEPARTMENT REPORTS: No comments from Council.

ADJOURNMENT

Councilmember King moved to adjourn at 8:02 p.m. Seconded by Councilmember Tapia. Motion passed 7-0.

ATTEST:

Joe A. Konrad, Mayor

Vicki L. Vivian, CMC, City Clerk