

**MINUTES - BENSON CITY COUNCIL - REGULAR MEETING
JANUARY 19, 2010**

The meeting was called to order at 5:30 p.m. by Mayor Paul Kittelson. Members present: Sue Fitz, Ben Hess, Bob Claussen, Gary Landmark, and Paul Kittelson. Members absent: None. Also present: City Manager Rob Wolfington, Finance Director Glen Pederson, Public Works Director Elliot Nelson, Police Chief Jim Crace, Assistant City Attorney Tara Ulmaniec, John Goulet, Barry Glienke with Bolton & Menk, and Nathan Miller.

Under unscheduled business, Nathan Miller, 412 – 15th Street South, came before the Council to request reimbursement for expenses due to a sewer backup at his residence. The problem was initially caused when the City electric crew was boring lines in the right-of-way. After discussion, Council Member Fitz offered the following Resolution and moved its adoption:

**A RESOLUTION OF THE BENSON CITY COUNCIL IDENTIFYING
AND RATIFYING SETTLEMENT OF A CONTROVERSY INVOLVING
REPAIR OF A WASTEWATER LINE LOCATED AT THE FOLLOWING
PRIVATE PROPERTY: 412 15th STREET SOUTH, BENSON, MINNESOTA
(RESOLUTION NO. 2010-01)**

WHEREAS, Nathan Miller has filed a claim with the City of Benson, Minnesota seeking damages arising out of damage to the wastewater line located at 412 15th Street South, Benson, Minnesota; and

WHEREAS, the damage to the wastewater line occurred when the City was boring electric lines in the right-of-way; and

WHEREAS, the claimant has asserted damages in the amount of \$2,640.45, in full and complete satisfaction and settlement of its claim against the City of Benson, Minnesota; and

WHEREAS, the City Council agrees that the claim of Nathan Miller should be settled for the sum of \$2,640.45, for payment of direct damages incurred from the wastewater line damage at the property located at 412 15th Street South, Benson, Minnesota.

THEREFORE, BE IT RESOLVED, upon execution by claimant of all necessary documentation confirming full, final, and complete satisfaction of any and all claims, the Council of the City of Benson, Minnesota, hereby ratifies payment of \$2,640.45 by the City of Benson of any and all claims Nathan Miller may have stemming from damages sustained to its wastewater line on or about September 6, 2009;

BE IT FURTHER RESOLVED that the city council does not consider the resolution of this controversy to be of any precedent setting value for the future and indicates that this controversy settlement resolution should not be cited or relied on in the future as precedent of any value, although the city council hereby approves and ratifies the settlement resolution attained in this specific set of factual circumstances.

BE IT FURTHER RESOLVED that the City of Benson hereby authorized to pay the above mentioned sum pursuant to the terms set forth herein.

Council Member Landmark seconded the foregoing Resolution and the following vote was recorded: AYES: Fitz, Landmark, Hess, Claussen, Kittelson. NAYS: None. Whereupon the Mayor declared Resolution No. 2010-01 duly passed and adopted.

It was moved by Fitz, seconded by Claussen and carried unanimously to pay \$2,640.45 to Nathan Miller of 412 – 15th Street South.

It was moved by Landmark, seconded by Claussen and carried unanimously to approve the following minutes on the consent agenda:

- a. January 4, 2010 Regular City Council Meeting
- b. January 4, 2010 Benson Planning Commission Meeting
- c. December 9, 2009 and January 6, 2010 Benson HRA Meetings
- d. January 14, 2010 Benson Safety Committee Meeting

Under correspondence, the City Manager informed the Council that Mn/DOT notified the City about a construction project to pave a portion of Hwy. 9 from the Chippewa River bridge west to the county line. He also mentioned that Mn/DOT will be doing some work on Hwy 29 from the intersection of Highways 29/12/9 in Benson north to the Chippewa River bridge.

It was moved by Claussen, seconded by Fitz and carried unanimously to approve a gambling permit to the Swift County Pheasants Forever for a raffle on March 5, 2010 at McKinney's on Southside.

It was moved by Fitz, seconded by Landmark and carried unanimously to appoint Becky Lysen (term expiring December 31, 2012) and Sheila Dokken (term expiring December 31, 2010) to the Benson Area Tourism Board.

It was moved by Landmark, seconded by Fitz and carried unanimously to appoint William Sprigler to the Cemetery Board with his term expiring December 31, 2012.

A conference call to Steve Carlson, Pinnacle Engineering, was held to discuss the Benson Market Elevator Phase II project. After discussion, there was consensus of the Council to see if there is additional funding for demolition of the Benson Market Elevator and delay demolition until Spring of 2011, have staff secure the structure this year and to prepare plans and specifications for demolition of the elevator.

The Assistant City Attorney and Police Chief reviewed proposed changes to Chapter 90, Animals, of the Benson City Code. It was moved by Claussen, seconded by Fitz and carried unanimously to approve the First Reading of An Ordinance to Amend Chapter 90, Animals, of the City of Benson Code of Ordinances.

The City Manager informed the Council that Steve Mattheisen of Mattheisen Disposal has asked the Council to consider the following three changes to the proposed amendment to Chapter 51, Solid Waste: 1) change the dates that dumpsters are not allowed in the public right-of-way from November 1 to the next following April 1 to December 1 to the next following April 1, 2) include language in the ordinance that deals with other containers, and 3) procedure for applying for a variance to allow a dumpster in the public right-of-way for special circumstances. After discussion, the Council directed staff to include Mattheisen's proposed changes except the date change and have the ordinance updated for the Council to consider at their February 1 meeting.

The Public Works Director and John Goulet, Electric Department Lineman, came before the Council to request authorization to go out for bids and approve specifications for a 50 foot Aerial Man Lift Device with Service Body for the Electric Department. It was moved by Landmark, seconded by Fitz and carried unanimously to approve specifications and set a bid opening date for February 11, 2010 at 3:00 p.m. for a 50 foot Aerial Man Lift Device with Service Body.

Council Members Fitz and Landmark excused themselves from the meeting at 6:37 p.m.

Council Member Claussen offered the following Resolution and moved its adoption:

**RESOLUTION ADOPTING FEE FOR
RESIDENTIAL SMOKE FALSE ALARMS
(RESOLUTION NO. 2010-02)**

WHEREAS, the City Council of the City of Benson, Minnesota resolved:

In Section 3 of the Benson Rate Resolution that the following Fee is hereby established with adoption of this resolution:

Fee for Residential Smoke False Alarms: \$350.00

Council Member Hess seconded the foregoing Resolution and the following vote was recorded: AYES: Claussen, Hess, Kittelson. NAYS: None. ABSENT: Fitz, Landmark. Whereupon the Mayor declared Resolution No. 2010-02 duly passed and adopted.

The Public Works Director updated the Council on the following:

- Engineering Firm Review: The Public Works Director and City Manager recommended that the City continue working with Bonestroo. This item was deferred to the February 1 Council meeting.
- PFA Projects: Well House, 11th Street South, Lift Station: Preliminary applications due by March 6th
- Filter House Rehabilitation Project: Currently being chlorinated
- Well #32 Construction: Preparing punch list for finalizing project
- Benson Residential Garbage Pick-up Change: February 1 to May 15 there will be No Garbage Pick-up in Alleys

The Finance Director presented a number of budgets for the Council's consideration. After review, it was moved by Claussen, seconded by Hess and carried unanimously to approve the following 2010 budgets: EDA, Concrete Projects Fund, Storm Water Fund, Library Endowment Fund, Perpetual Care Cemetery, Tax Increment District #4, and Tax Increment District #5.

Council Member Claussen offered the following Resolution and moved its adoption:

**RESOLUTION TRANSFERRING \$60,000
FROM THE ECONOMIC DEVELOPMENT AUTHORITY (EDA)
TO THE GENERAL CAPITAL OUTLAY FUND
(RESOLUTION NO. 2010-03)**

WHEREAS, the Benson City Council established a budget for the General Capital Outlay Fund for calendar year 2009; and

WHEREAS, the Atlantic Avenue Sidewalk Project was an identified project for the Fund and was completed within the year; and

WHEREAS, a transfer of \$60,000 from the EDA was to be used as a funding source for this project.

NOW, THEREFORE, BE IT RESOLVED that \$60,000 be transferred from the Economic Development Authority Fund to the General Capital Outlay Fund to be reflected in the 2009 financial statements.

Council Member Hess seconded the foregoing Resolution and the following vote was recorded: AYES: Claussen, Hess, Kittelson. NAYS: None. ABSENT: Fitz, Landmark. Whereupon the Mayor declared Resolution No. 2010-03 duly passed and adopted.

Council Member Claussen offered the following Resolution and moved its adoption:

**RESOLUTION TRANSFERRING \$60,000
FROM THE DEVELOPMENT DISTRICT
TO THE GENERAL CAPITAL OUTLAY FUND
(RESOLUTION NO. 2010-04)**

WHEREAS, the Benson City Council established a budget for the General Capital Outlay Fund for calendar year 2009; and

WHEREAS, the Atlantic Avenue Sidewalk Project was an identified project for the Fund and was completed within the year; and

WHEREAS, a transfer of \$60,000 from the Development District was to be used as a funding source for this project.

NOW, THEREFORE, BE IT RESOLVED that \$60,000 be transferred from the Development District Fund to the General Capital Outlay Fund to be reflected in the 2009 financial statements.

Council Member Hess seconded the foregoing Resolution and the following vote was recorded: AYES: Claussen, Hess, Kittelson. NAYS: None. ABSENT: Fitz, Landmark. Whereupon the Mayor declared Resolution No. 2010-04 duly passed and adopted.

It was moved by Claussen, seconded by Hess and carried unanimously to approve two sets of bills and warrants in the amount of \$712,994.38.

It was moved by Claussen, seconded by Hess and carried unanimously to adjourn the meeting at 7:02 p.m.

Mayor

Attest: _____
City Clerk