

**MINUTES - BENSON CITY COUNCIL - REGULAR MEETING
JUNE 22, 2009**

The meeting was called to order at 5:30 p.m. by Mayor Paul Kittelson. Members present: Sue Fitz, Anne Johnson, 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, Joe Sullivan, Patty Grube, and Brett Aamodt.

There was no one under unscheduled business to come before the Council.

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

- a. June 8, 2009 Regular City Council Meeting
- b. May 13, 2009 Benson HRA Meeting
- c. May 22, 2009 Special Benson HRA Meeting

The City Manager reviewed the following correspondence with the Council:

- a. KSCR Radio Station dated: 6.12.09
- b. UMRDC RE: Small Cities Development Program, Environmental Review – Notice of Intent to Request Release of Funds

It was moved by Fitz, seconded by Johnson and carried unanimously to approve a Special Use Permit to Allow Disposing of Sludge and Sewage into the WWTP to Len Worsech & Company of Montevideo, MN.

Patty Grube and Brett Aamot from Conway, Deuth and Schmiesing presented the 2008 Audit. It was noted that the City received a clean opinion with no management recommendations being made.

Joe Sullivan, Attorney from the Coalition of Greater Minnesota Cities (CGMC) briefed the Council on what happened at the 2009 legislative session, unallotment, CGMC Summer Meeting, and encouraged renewing the City's membership to the CGMC.

The Police Chief informed the Council that up to 11 counties with about 30 police departments are in the process of applying for a Regional Records Management System/CAD Grant. The City of Montevideo will be the fiscal agent.

It was moved by Fitz, seconded by Claussen and carried unanimously to authorize the Mayor and City Clerk to sign a Minnesota BCA Joint Powers Agreement.

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

**RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT
(RESOLUTION NO. 2009-11)**

Be it resolved that Benson Police Department enter into a grant agreement with the Minnesota Department of Public Safety, Office of Traffic Safety for the project entitled SAFE & SOBER COMMUNITIES during the period from October 1, 2009 through September 30, 2010.

Be it further resolved that the Kandiyohi County Sheriff's Department is hereby authorized to execute the grant, be the fiscal agent and administer this grant on behalf of the Benson Police Department.

Member Fitz seconded the foregoing Resolution and the following vote was recorded: AYES: Claussen, Fitz, Johnson, Landmark, Kittelson. NAYS: None. Whereupon the Mayor declared Resolution No. 2009-11 duly passed and adopted.

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

**POLICE OFFICER DECLARATION
(RESOLUTION NO. 2009-12)**

WHEREAS, the policy of the State of Minnesota as declared in Minnesota Statutes 353.63 is to give special consideration to employees who perform hazardous work and devote their time and skills to protecting the property and personal safety of others; and

WHEREAS, Minnesota Statutes Section 353.64 permits governmental subdivisions to request coverage in the Public Employees Police and Fire plan for eligible employees of police departments whose position duties meet the requirements stated therein and listed below.

BE IT RESOLVED that the City Council of the City of Benson hereby declares that the position titled Part-Time Police Officer, currently held by Michael A. Hammerschmidt, meets all of the following Police and Fire membership requirements:

1. Said position requires a license by the Minnesota peace officer standards and training board under sections 626.84 to 626.863 and this employee is so licensed;
2. Said position's primary (over 50%) duty is to enforce the general criminal laws of the state;
3. Said position charges this employee with the prevention and detection of crime;
4. Said position gives this employee the full power of arrest, and
5. Said position is assigned to a designated police or sheriff's department.

BE IT FURTHER RESOLVED that this governing body hereby requests that the above-named employee be accepted as a member of the Public Employees Police and Fire Plan effective the date of this employee's initial Police and Fire salary deduction by the governmental subdivision.

Member Claussen seconded the foregoing Resolution and the following vote was recorded: AYES: Landmark, Claussen, Fitz, Johnson, Kittelson. NAYS: None. Whereupon the Mayor declared Resolution No. 2009-12 duly passed and adopted.

The Police Chief informed the Council that they have received 71 applications for the full-time police officer position.

The Public Works Director informed the Council that the following two bids were received for the 2009 Airport CIP Program:

Struck & Irwin Paving, Inc., DeForest, WI	\$49,980
Fahrner Asphalt Sealers, LLC, Eau Claire, WI	\$62,400

The Public Works Director recommended awarding the bid to Struck & Irwin Paving, Inc. It was moved by Johnson, seconded by Fitz and carried unanimously to award the bid to Struck & Irwin Paving, Inc. in the amount of \$49,980 for the 2009 Airport CIP Program.

It was moved by Fitz, seconded by Johnson and carried unanimously to approve Supplemental Authorization No. 1 for TKDA for the 2009 Capital Improvement Program.

The Public Works Director requested authorization to advertise for bids for the 2009 Bituminous Work. He estimates the 2009 Bituminous Work is about five blocks or 1600 ton: about 1100 ton for McKinney Avenue and Idaho Avenue and an addition 500 ton for the parking lot at the Golf Club. It was moved by Landmark, seconded by Claussen and carried unanimously to authorize staff to advertise for the 2009 Bituminous Work up to 1600 Ton.

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

**APPROVING THE PROPOSED REORGANIZATION OF CHARTER
COMMUNICATIONS, INC.
(RESOLUTION NO. 2009-13)**

RECITALS:

1. The City of Benson, Minnesota ("City") has granted a Cable Television Franchise ("Franchise") that is currently held by CC VIII Operating, LLC ("Franchisee"), an indirect, wholly-owned subsidiary of Charter Communications, Inc. ("Charter").
2. Franchisee owns, operates and maintains a cable television system ("System") in the City.
3. On March 27, 2009, Charter and certain of its subsidiaries filed voluntary petitions in the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") seeking relief under the provisions of Chapter 11 of Title 11 of the United States Code to order to effectuate a financial restructuring - Case No. 09-11435.
4. Pursuant to the terms of agreements entered into between Charter and its key bondholders, Charter's current Class A Common Stock and Class B Common Stock will be cancelled and replaced with new voting stock owned by Paul G. Allen and such bondholders, as described in filings with the Bankruptcy Court (the "Reorganization").
5. Under both the Franchise and Minnesota Statutes Section 238.083, the City has concluded that its written approval is necessary for the above described Reorganization.
6. Franchisee has submitted to the City FCC Form 394 - Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise ("Form 394") which provides substantial information regarding the reorganization and qualifications of Charter and Franchisee following completion of the Reorganization.
7. Based on information received by the City from Franchisee, Form 394, and filings and documentation received by the City related to the proceedings before the Bankruptcy Court, the City has elected to consent to the Reorganization.

NOW, THEREFORE, THE CITY OF BENSON, MINNESOTA HEREBY RESOLVES AS FOLLOWS:

1. The Franchise is in full force and effect and Franchisee is the lawful holder of the Franchise.
2. Each of the foregoing recitals are hereby incorporated by reference.
3. The City hereby consents and approves of the Reorganization.
4. Since the Franchisee remains unchanged as a result of the Reorganization, nothing in this Resolution shall be interpreted to modify or alter Franchisee's past performance under the Franchise and Franchisee shall remain fully liable for any and all franchise obligations unless specifically modified or altered by the Bankruptcy Court.
5. By this consent the City does not waive any of Franchisee's commitments, duties and obligations under the Franchise, including any accrued and unfulfilled obligation of the Franchisee, whether known or unknown, relating to the Franchise.
6. In the event the Reorganization is not completed, for any reason, or is modified in any material manner, the City's consent provided hereunder shall not be effective.

This Resolution shall take effect and continue and remain in effect from and after the date of its passage, approval, and adoption.

Member Johnson seconded the foregoing Resolution and the following vote was recorded: AYES: Claussen, Johnson, Fitz, Landmark, Kittelson. NAYS: None. Whereupon the Mayor declared Resolution No. 2009-13 duly passed and adopted.

The Finance Director briefed the Council on the Budget Report through May 31, 2009.

It was moved by Claussen, seconded by Landmark and carried unanimously to approve the Bills and Warrants in the amount of \$681,618.99.

It was moved by Fitz, seconded by Johnson and carried unanimously to adjourn the meeting at 6:45 p.m.

Mayor

Attest: _____
City Clerk