

**MINUTES - BENSON CITY COUNCIL - REGULAR MEETING
AUGUST 20, 2012**

The meeting was called to order at 5:30 p.m. by Mayor Kittelson. Members present: Paul Kittelson, Mike Fugleberg, Ben Hess, Sue Fitz. Members Absent: Gary Landmark. Also present: City Manager Rob Wolfington, Director of Finance Glen Pederson, Building Inspector Mike Jacobson, Assistant City Attorney Ben Wilcox, Chief of Police Mike Jambor, Helen Flodstrom, Anita Flodstrom and Mark Anderson.

The Mayor opened the Public Hearing to determine a Public Nuisance at 810 Kansas Avenue. Wolfington reviewed the reason for the public hearing. He stated there were currently 3 zoning violations; first is a fence installed on the property that encroaches on the City right of Way that needs to be corrected; second is a garage moved onto this property without a moving or building permit, which is also in violation of zoning regulations in the B2 district; third there is a canvas hoop building in front of this property which is not permitted in a B2 zone. Wolfington reported that the fence blocked the view of any junk that might be remaining and recommended that the junk complaint be satisfied. It was the consensus of the Council to dismiss the junk complaint. Wilcox approached the Council and stated moving the garage without a permit is a violation, and requires a variance in that zone in order to add another ancillary building onto the lot.

Mark Anderson stated he believes there is a problem with variance procedure, and asked if Flodstroms could get a permit for the garage. Helen Flodstrom recounted conversations she had with Building Official Jacobson, and Swift County zoning officer Scott Collins, where she felt she did not receive proper instruction on bringing the garage onto her property.

Wolfington stated the decision Ms. Flodstrom needs to make are either to remove the building, or apply for a variance. Mayor Kittelson explained that a variance application would go to the Planning Commission for approval or denial. Then their decision goes to the City Council for the final decision. Ms. Flodstrom stated she isn't interested in breaking the law, and wasn't asking to be held to a different standard than anyone else and respectfully asked what she needs to do next with the garage. Wolfington stated either remove the garage or apply for the variance and bring it up to code.

The next item addressed at 810 Kansas Avenue is the violation of the fence placed on the City Right of Way. The Council directed staff to work with Ms. Flodstrom to help locate the property lines in order to determine where the fence needs to be moved to.

Lastly, the Council discussed the temporary structure in front of the property. Mark Anderson asked if it violated City Code, and stated it was a tent. Wolfington stated staff determined it was indeed a temporary hoop structure and is in violation of City Ordinance. Ms. Flodstrom questioned other similar structures in town. After discussion, the Council agreed to table this item until a future meeting.

Council member Fugleberg offered the following resolution:

**RESOLUTION TO ORDER REMOVAL OF ZONING VIOLATION
RESOLUTION NO. 2012-20**

WHEREAS, the City Council has heard the report of the City Building Inspector regarding the relocated garage on the property located at 810 Kansas Avenue in Benson, Minnesota, legally described as follows:

Beginning at a point on the Easterly prolongation of the North line of Block Five (5) in the Original Townsite of the City of Benson, Two Hundred Feet (200') Easterly on said prolongation of the intersection of an Easterly prolongation of the said North line of said Block Five (5) with the East line of Ninth Street in the City of Benson; thence running in an Easterly direction on the Easterly prolongation of the North line of said Block Five (5) a distance of Eighty-five feet (85');

thence running in a Southerly direction on a line parallel with the East line of Ninth Street in the City of Benson a distance of One Hundred Thirty feet (130'); thence running in a Westerly direction on a prolongation of the South line of said Block Five (5) a distance of Eighty-five feet (85'); thence running in a Northerly direction on a line parallel to the East line of said Ninth Street in the City of Benson a distance of One Hundred Thirty feet (130') to the place of beginning, and all being a part of the Southeast Quarter of the Southwest Quarter (SE ¼-SW ¼) of Section Five (5), Township One Hundred Twenty-one (121), Range Thirty-nine (39), Swift County, Minnesota.

WHEREAS, the City Council has determined, based on said report, that said garage constitutes a violation of Chapter 154 of the City of Benson Code of Ordinances

NOW THEREFORE, pursuant to Chapter 154 of the City of Benson Code of Ordinances and Minnesota Statutes, chapter 463, The City Council of the City of Benson, Minnesota resolves:

1. That the above described property is a residential lot in an area zoned "B-2", which is a non-conforming use, and that any additions to this property require a variance granted by the City of Benson.
2. That an order to remove the above described garage be served upon the owners of the above described property in accordance with §154.175 of the City of Benson Code of Ordinances, unless the property owners apply for and are granted a variance, have the garage inspected by the City Building Inspector, and obtain other necessary permits.

Councilmember Hess seconded the motion and the following vote was recorded: AYES: Kittelson, Fitz, Fugelberg, Hess. NAYS: None. Whereupon the Mayor declared Resolution 2012-20 duly passed and adopted.

Helen Flodstrom stated she feels there is a safety issue on Pacific Avenue behind her property. No one obeys the posted speed limit, especially when there is a train and she is concerned for the 6 children in the area. Mayor Kittelson said staff will take note.

Anderson stated he lives at 735 Kansas Ave. He said at one time he gave permission for someone to access a barn east of his property through his yard. Now there are cars driving through that property as a through road. He asked for it to be posted. The Mayor stated they would take it under advisement.

Mayor Kittelson closed the public hearing at 6:12 p.m.

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

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

- August 6, 2012 City Council Meeting

The Council was reminded of one vacancy on the Airport Commission and two on the Park Board.

Next for discussion was the Commercial Storm Water Fees. Wolfington stated staff studied the Storm Water fee formula and calculated adjustments based on estimated impervious surface coverage for the commercial accounts as discussed at the August 6, 2012 Council meeting. Wolfington stated they are ready to send letters out to the non-residential property owners.

Councilmember Fitz offered the following Resolution:

**RESOLUTION ESTABLISHING STORM WATER UTILITY BASE RATE
(RESOLUTION No. 2012-21)**

WHEREAS, the Benson City Council has adopted an ordinance establishing Section 55, Stormwater Utility and

WHEREAS, the rate structure uses a base rate that is charged to each residential parcel and is also used to calculate the non-residential Stormwater fee.

NOW, THEREFORE, be it resolved that the following rate is hereby adopted:

Stormwater Base Rate And Minimum Charge \$2.00

Councilmember Hess seconded the motion and the following vote was recorded: AYES: Kittelson, Fitz, Fugleberg, Hess. NAYS: None. Whereupon the Mayor declared Resolution 2012-21 duly passed and adopted.

There was an invitation from the Benson Newcomers Service to become a member, which presents a bag full of information about Benson to new residents. It was moved by Fugleberg, seconded by Fitz and carried unanimously to pay the \$15.00 membership fee to the Benson Newcomers service.

Next there was information on the 8th annual Water Festival sponsored by Swift County Soil & Water Conservation District, held at Ambush Park in September for 5th & 6th grade students. There was a monetary request to help sponsor the event. It was moved by Hess, seconded by Fugleberg and carried unanimously to sponsor the Water Festival in the amount of \$25.00.

There was a request from the Coalition of Greater Minnesota Cities (CGMCIT) for the 2013 annual membership dues. After discussion, it was moved by Fitz, seconded by Fugleberg and carried unanimously to approve the CGMCIT 2013 membership dues in the amount of \$4,763.00

Next Wolfington presented a letter to the Council referring to the Charter Communications Cable Television Franchise renewal. Lawyer Brian Grogan of Moss & Barnett has represented us in the past with our Charter agreements, and is suggesting we leave the franchise fee at 3% of sales, but seek reimbursement for legal fees. It was moved by Hess, seconded by Fitz and carried unanimously to send the letter to Charter stating our intent to renew the franchise agreement.

Wolfington presented a pay request from Hard Rock Screening, LLC for concrete crushing services. After discussion, it was moved by Fitz, seconded by Fugleberg and carried unanimously to approve the pay request from Hard Rock Screening, LLC in the amount of \$79,362.60.

Wolfington stated they had the final inspection at the Water Treatment plant, and were very pleased with the project. The TH 12 underground electrical project started out slow, but now is caught up. Staff is waiting for 4 customers to do some electrical upgrades in order for us to finish that project.

Wolfington stated it has come to staff's attention, 3 kettle lights in the ceiling of the armory are not working. After staff reviewing this, there are two options. We can replace the kettle lights as are, or install new energy efficient lighting at a bid of \$6,987.00 from Loen Electric. After reviewing all the activities in the armory from gymnastics to voting, it was moved by Fitz, second by Fugleberg and carried unanimously to replace the kettle lights in the armory.

It was moved by Hess, seconded by Fugleberg and carried unanimously to pay the bills and warrants in the amount of \$308,025.66.

There was a request from the Benson Women of Today to waive the armory rental fee for their 10th Annual Holiday Expo on October 20, 2012. It was moved by Hess, seconded by Fugleberg and carried unanimously to waive the rental fee.

Wolfington stated the next City Council meeting is scheduled for Monday, September 3, which is Labor Day. It was moved by Fugleberg, seconded by Fitz and carried unanimously to hold one City Council meeting in September on Monday September 10, 2012.

Wolfington presented the 2012 evaluation of our Well Head Protection Plan. He stated that the plan is soon due to be updated. Staff will be working on it over the next 3-6 months.

There being no other business, it was moved by Fitz seconded by Fugleberg and carried unanimously to adjourn the meeting at 6:34 p.m.

Mayor

City Manager