

**City Council Regular Meeting Agenda
City Council Chambers
September 9, 2013**

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|------|--|
| | 1. 5:30 p.m. Call the Meeting to Order at City Hall (Mayor) |
| | 2. Persons with Unscheduled Business to Come Before the City Council (Mayor) |
| | 3. Review the Consent Agenda: (Mayor) |
| 2-4 | a. Minutes:
▪ 8.19.13 City Council Meeting |
| | b. Applications:

▪ <u>Vacancies on Boards & Commissions:</u>
▪ Park Board – 3
▪ Benson Area Tourism Board – 1
▪ Airport – 1
▪ Planning Commission - 1 |
| 5-6 | c. Correspondence |
| 7 | ▪ U.S. Environmental Protection Agency – RICE Standard Extension
▪ Benson Public Schools Thank You |
| | d. Overnight Travel:
▪ |
| | 4. 810 Kansas Ave. Property Review |
| 8 | 5. Consider Resolution to Increase Charter Franchise Fee |
| | 6. Parks Building |
| 9-10 | 7. Consider Resolution Adopting Proposed 2013 Property Tax Levy Collectible in 2014 |
| 11 | 8. Consider Resolution Certifying the 2014 General Fund Operating Budget |
| 12 | 9. Consider Resolution Transferring \$200,000 from the General Fund to the Storm Water Fund for Emergency Repair of Storm Sewer Under Rail Bed on West Hwy 9 |
| 13 | 10. Consider Resolution Designating Absentee Ballot Voting |
| 14 | 11. Consider Resolution Establishing an Absentee Ballot Board |
| | 12. Adjourn: Mayor |

Draft

**MINUTES - BENSON CITY COUNCIL - REGULAR MEETING
AUGUST 19, 2013**

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

There was no one with unscheduled business.

At 5:31 p.m. the Mayor opened the Public Hearing to determine a public nuisance at 810 Kansas Avenue. Kittelson reviewed ordinance infractions on the property. There was discussion about multiple vehicles and other items that have accumulated in the yard. Flodstrom stated they are in the process of cleaning up the property. It was the consensus of the Council to issue an order for Flodstroms to clean the property by the next Council Meeting, and to make sure an inspection is conducted the afternoon of the next Council meeting. Flodstrom asked to be present at the inspection. Staff will set up a time for the inspection. The Mayor declared the public hearing closed at 5:43 p.m.

At 5:44 p.m. the Mayor opened the Public Hearing to determine a public nuisance at 314 – 16th St. N. The property owner was not present. The garage is full of garbage. Countryside Public Health sent orders to clean the garbage out of the garage, but nothing had been cleaned out. It was moved by Fitz, seconded by Fugleberg and carried unanimously to issue an order to the homeowner to abate the nuisance in three days to avoid City assessments. The Public hearing was closed at 5:45p.m.

Next the Council addressed a standing order to raze and remove a garage at 212 – 15th St. S. that had been in a fire last year. The garage still needs siding and a door installed. It was moved by Fugleberg, seconded by Fitz and carried unanimously to send a final order to obtain a certificate of occupancy within 30 days to avoid execution of the standing raze and remove order of the garage.

Carol Gilbertson owner of commercial property at 503 – 14th St. S. addressed the Council disputing mowing charges to her property. She says it only takes her 1 hour to mow her property, and there was no warning of the tree that was removed from her property. Chief Hodge stated the voluntary tree was obstructing line of sight for drivers. Wolfington stated we send only one notice to landowners during the mowing season, and Ms. Gilbertson was sent a letter on May 30, 2013 in regards to her property. After discussion, it was the consensus of the Council that mowing charges will stand.

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

- August 5, 2013 City Council Meeting
- July 1, 2013 Planning Commission Meeting
- July 18, 2013 EDA Meeting

The Mayor acknowledged openings on the Park Board, Airport Commission, Planning Commission and Benson Area Tourism Board.

The Mayor acknowledged a thank you from the Bloodmobile for use of the Armory.

There was notice from CenterPoint Energy they have filed with the Minnesota Public Utilities Commission to change its rates for utility distribution service. The process for changing the rates will take about one year, with interim rates implemented on October 1, 2013, and final rates implemented in 2014.

Next was notice from the Coalition of Greater Minnesota Cities. The membership voted to increase base dues and annual rates the next two years. Dues have remained the same since 2003.

The Mayor acknowledged a thank you from Missouri River Energy Services for 45 years of partnership.

Wolfington presented the final Reserved Capacity Agreement from Missouri River Energy Services (MRES) for review. Wilcox Law Office was given a copy for their legal opinion. After discussion, it was moved by Fugleberg, seconded by Fitz and carried unanimously to approve the final Reserved Capacity Agreement for generating capacities between MRES and the City of Benson, and also directing the Mayor and City Manager to execute the contract.

Councilmember Fitz offered the following resolution:

**A RESOLUTION FOR APPROVAL OF RESERVED CAPACITY AGREEMENT
WITH MISSOURI BASIN MUNICIPAL POWER AGENCY
D/B/A MISSOURI RIVER ENERGY SERVICES
(RESOLUTION 2013-14)**

WHEREAS the City of Benson (Municipality) is currently party to a Capacity Purchase Agreement with Missouri Basin Municipal Power Agency d/b/a Missouri River Energy Services (MRES) pursuant to which the City sells and MRES purchases the capacity of the Municipality's electric generating facilities for the purpose of furnishing firm electric power and associated energy at wholesale to meet the requirements of the Municipality and other members under a Power Sale Agreement and to meet MRES obligations; and

WHEREAS the Municipality desires to terminate that Capacity Purchase Agreement effective December 31, 2013 by amending said Agreement, and to substitute in its place the Reserved Capacity Agreement which will continue through May 31, 2029;

NOW THEREFORE BE IT RESOLVED by the City of Benson as follows:

1. The agreements with MRES, entitled "Third Amendment to the Capacity Purchase Agreement" and "Reserved Capacity Agreement", between MRES and the City of Benson, are hereby approved in substantially the form presented to this meeting.
2. The Mayor and/or City Manager shall be, and each of them are hereby authorized and directed to execute and deliver the agreements on behalf of the City of Benson.

Council Member Fugleberg seconded the foregoing Resolution and the following vote was recorded: AYES: Fitz, Kittelson, Fugleberg. NAYS: None. Thereupon the Mayor declared Resolution 2013-14 duly passed and adopted.

Wolfington told the Council the new "Welcome to Benson" Signs have been installed coming into Benson on east Highway 9 and north Highway 29.

Next was a memo from Pioneerland Library System, requesting a 3% increase for local programs and services for 2014. This request will be considered in the 2014 Budget.

There was a change order from Meier Electric Inc. for work at the power plant. It was moved by Fitz, seconded by Fugleberg and carried unanimously to approve Change Order #1 decrease in the amount of \$8,500.00. Also presented was a Certificate of Completion for the Power Plant RICE standards upgrade. It was moved Fitz, seconded by Fugleberg and carried unanimously to approve the Certificate of Substantial Completion of the Power Plant Equipment Upgrades.

Wolfington presented an e-mail from Lori Vanderhider from Minnesota Department of Transportation (MnDOT) in regards to repairs of storm sewer that is failing under the railroad and under trunk highway 9. Since video taping of the storm sewer under highway 9 revealed repairs can wait,

MnDOT has plans to repair that section of highway in 2017, and will agree to cost share in the sewer repair project if the City will wait until the 2017 highway repairs. It was the consensus of the council to hold off repairing that section of storm sewer until the 2017 highway project.

Discussion of the Parks building was tabled until the next meeting.

Pederson approached the Council, and discussed the Benson Fire Department Relief Association actuarial valuation and 2014 minimum contribution obligation notice.

Pederson presented the July 2013 budget report.

Pederson presented bills and warrants for July 2013. It was moved by Fitz, seconded by Fugleberg and carried unanimously to approve the bills and warrants in the amount of \$434,929.14.

The Council discussed the extension of the Charter Communications Franchise agreement.

Councilmember Fugleberg offered the following resolution:

**A RESOLUTION GRANTING CHARTER COMMUNICATIONS, INC.
A FRANCHISE EXTENSION TO SEPTEMBER 19, 2014
(RESOLUTION NO. 2013-15)**

WHEREAS, on or about July 14, 2003, the City of Benson, Minnesota ("City") granted a Cable Television Franchise Ordinance ("Franchise") CC VIII Operating, LLC d/b/a Charter Communications; and

WHEREAS, the initial term of the Franchise will expire on or about September 18, 2013; and

WHEREAS, both the City and Charter desire to extend the term of the Franchise to facilitate renewal negotiations under state and federal law.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Benson, Minnesota hereby resolves as follows:

1. The Franchise is hereby amended by extending the term of the Franchise from September 19, 2013 through and including September 19, 2014.
2. Except as specifically modified hereby, the Franchise shall remain in full force and effect.
3. The City and Charter hereby agree that neither waives any rights either may have under the Franchise or applicable law.
4. This Resolution shall become effective upon the occurrence of both of the following conditions: (1) The Resolution being passed and adopted by the Benson City Council; and (2) Charter's acceptance of this Resolution.

Council Member Fitz seconded the foregoing Resolution and the following vote was recorded: AYES: Fitz, Kittelson, Fugleberg. NAYS: None. Thereupon the Mayor declared Resolution 2013-15 duly passed and adopted.

There being no other business, a motion was made by Fugleberg, seconded by Fitz and carried unanimously to adjourn the meeting at 6:24 p.m.

Mayor

City Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 16 2013

REPLY TO THE ATTENTION OF:

Elliot C. Nelson
Public Works Director
Benson Municipal Utilities
1410 Kansas Ave.
Benson, Minnesota 56215

W
8/26/13
VAG-cc
9/9/13

Dear Mr. Nelson:

This letter is in response to your letter, dated December 28, 2012, requesting an extension of time to comply with the requirements of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines (RICE), at 40 C.F.R. Part 63, Subpart ZZZZ, as related to five compression ignition RICE located at Benson Municipal Utilities' facility at 1410 Kansas Ave., Benson, Minnesota 56215. Currently, Benson Municipal Utilities is required to achieve compliance with the applicable provisions of Subpart ZZZZ no later than May 3, 2013. In your request letter, you stated that a compliance extension is needed because Benson Municipal Utilities needs additional time to install and operate the pollution control equipment needed to comply with the requirements of Subpart ZZZZ.

According to the compliance extension provisions, at 40 C.F.R. § 63.6(i)(4)(i)(A), the owner or operator of an existing source who is unable to comply with a relevant standard established under this part pursuant to section 112(d) of the Clean Air Act may request that the Administrator grant an extension allowing the source up to one additional year to comply with the standard, if such additional period is necessary for the installation of controls. In your request letter, you stated that Benson Municipal Utilities plans to achieve compliance with Subpart ZZZZ requirements by installing a catalytic converter and modifying the existing exhaust stack and crankcase ventilation system on the five compression ignition RICE. Benson Municipal Utilities plans to begin installation of the pollution control equipment by January 31, 2014, and achieve compliance with the requirements of Subpart ZZZZ by May 3, 2014. For the reasons stated above, you requested a one-year extension to comply with the requirements of Subpart ZZZZ.

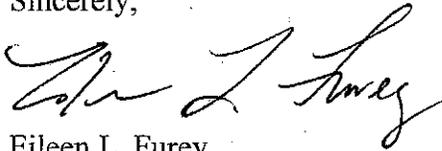
40 C.F.R. § 63.6(i)(8) allows the Administrator to grant an extension of compliance with an emission standard. EPA has reviewed the information you provided, the underlying regulations and previous determinations. Based on our review, we are granting a one-year extension of time to Benson Municipal Utilities to install and operate the pollution control equipment needed to comply with the requirement of Subpart ZZZZ for the five compression ignition RICE located at the Benson Municipal Utilities facility in Benson, Minnesota. This one-year compliance extension is granted under 40 C.F.R. § 63.6(i), and it is based on the information you provided to EPA in your December 28, 2012 letter.

The one-year compliance extension only applies if Benson Municipal Utilities is required to install pollution control equipment on the following five compression ignition RICE located at its Benson, Minnesota facility to comply with Subpart ZZZZ:

Manufacturer	Capacity	Fuel	Designation
Caterpillar	2,000 kW	Diesel	Unit 7
Caterpillar	2,000 kW	Diesel	Unit 8
Caterpillar	2,000 kW	Diesel	Unit 9
Caterpillar	2,000 kW	Diesel	Unit 10
Caterpillar	2,000 kW	Diesel	Unit 11

If you have any questions or concerns regarding this determination, please feel free to call Reza Bagherian at (312) 886-0674.

Sincerely,



Eileen L. Furey
Acting Chief
Air Enforcement and Compliance Assurance Branch

Benson Public Schools



District #777

1400 Montana Ave., Benson, MN 56215

Phone: (320) 843-2710

Fax: 843-2262

CC
✓
Sept 9. 13

September 3, 2013

Mr. Rob Wolfington
City of Benson
1410 Kansas Avenue
Benson, MN 56215

Dear Mr. Wolfington,

On behalf of the Benson School District, I would like to thank you for the work done by city employees in running a water line from the Northside Elementary School building to the garden on school grounds. We appreciate the time and work it took to cut a trench for the water line, to dispose of the tar, and to cover the trench with new black top.

Your generosity and assistance with this project is greatly appreciated.

Sincerely,

Brad Johnson
K-4 Principal
Northside Elementary

**A RESOLUTION AUTHORIZING CITY STAFF TO PROVIDE WRITTEN NOTICE TO INCREASE THE FRANCHISE FEE AMOUNT AS PERMITTED UNDER THE CABLE TELEVISION FRANCHISE ORDINANCE GRANTED TO CC VIII OPERATING, LLC D/B/A/CHARTER COMMUNICATIONS
(RESOLUTION NO. 2013-)**

WHEREAS, on or about July 14, 2003, the City of Benson, Minnesota ("City") granted a Cable Television Franchise Ordinance ("Franchise") CCVIII Operating, LLC d/b/a Charter Communications ("Grantee"); and

WHEREAS, Grantee is currently paying a franchise fee to the City in an amount equal to three percent (3%) of its quarterly gross revenues; and

WHEREAS, pursuant to the Section 7.3 of the Franchise the City has the right to charge Grantee a five percent (5%) franchise fee.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Benson, Minnesota hereby resolves as follows:

1. City staff is authorized to provide written notice to Grantee to increase the franchise fee from three percent (3%) to five percent (5%), pursuant to Section 7.3 of the Franchise.
2. Except as specifically modified hereby, the Franchise shall remain in full force and effect.

2014 Proposed Levy

2012 Actual Levy	Tax Capacity Levy	Market Value Levy	Final 2012 Levy
Description			
General Fund	573,525		573,525
2011 LGA/MVHC Reductions	148,390		148,390
Claussen Properties II Abatement	22,000		22,000
Police Personnel	534,081		534,081
Library Fund	116,311		116,311
G.O. Capital Street Equipment 2006	35,516		35,516
G.O. Swimming Pool	<u>0</u>	<u>79,562</u>	<u>79,562</u>
Total Levy	1,429,823	79,562	1,509,385
Percent increase from 2011 Levy			5.7%

2013 Actual Levy	Tax Capacity Levy	Market Value Levy	Final 2013 Levy
Description			
General Fund	578,000		578,000
Claussen Properties II Abatement	22,000		22,000
Police Personnel	556,500		556,500
Library Fund	104,450		104,450
G.O. Swimming Pool	<u>0</u>	<u>71,211</u>	<u>71,211</u>
Total Levy	1,260,950	71,211	1,332,161
Percent increase from 2012 Levy			-11.7%

2014 Proposed Levy	Tax Capacity Levy	Market Value Levy	Proposed 2014 Levy
Description			
General Fund	772,293		772,293
Claussen Properties II Abatement	20,000		20,000
Police Personnel	600,730		600,730
Library Fund	106,800		106,800
G.O. Swimming Pool	<u>0</u>	<u>70,896</u>	<u>70,896</u>
Total Levy	1,499,823	70,896	1,570,719
Percent increase from 2013 Levy			17.9%

**RESOLUTION ADOPTING PROPOSED 2013 PROPERTY
TAX LEVY, COLLECTIBLE IN 2014
(RESOLUTION NO. 2013-)**

BE IT RESOLVED by the City Council of the City of Benson, County of Swift, Minnesota that the following proposed sums of money be levied for the current year, collectible in 2014, upon the taxable property in the City of Benson, for the following purposes:

General Fund Levy	\$772,293
Police Personnel	600,730
Claussen Properties II Abatement	20,000
Library Fund Levy	<u>106,800</u>
Total	\$1,499,823

BE IT FURTHER RESOLVED that the following sum of money be levied for the current year, collectible in 2014, based upon the market value of the taxable property in the City of Benson, for the following purpose:

G.O. Swimming Pool	<u>70,896</u>
Total	\$70,896

BE IT FURTHER RESOLVED that the City Council will hold its Truth in Taxation Hearing on Monday, December 9, 2013 at 6:00 p.m. in the Benson City Council Chambers. Comments may be made by calling 320-843-4775, email to staff@bensonmn.org or by postal mail to 1410 Kansas Avenue, Benson, MN 56215.

**RESOLUTION CERTIFYING THE PROPOSED GENERAL FUND OPERATING BUDGET
FOR THE CALENDAR YEAR 2014 FOR THE CITY OF BENSON, MINNESOTA
(RESOLUTION NO. 2013-)**

BE IT RESOLVED, that the proposed Operating Budget for the General Fund of the City of Benson, Minnesota, for the fiscal year beginning January 1, 2014 and ending December 31, 2014 is hereby approved.

BE IT FURTHER RESOLVED, that the budget is summarized as follows:

<u>Revenues</u>	
Taxes - General	\$1,393,023
Taxes - Library	106,800
State Grants and Aids	1,187,577
Other Revenues	<u>1,135,473</u>
Total Revenues	\$3,822,873
 <u>Expenditures</u>	
General Government	\$632,700
Public Safety	1,021,220
Highways, Streets and Roads	590,650
Parks and Recreation	389,550
Public Transit	187,000
Public Library	109,250
Capital Outlay	450,000
Other Expenditures	<u>207,583</u>
Total Expenditures	\$3,587,953
 Excess (Deficiency) of Revenues over Expenditures	 \$234,920

BE IT FURTHER RESOLVED, that the City Manager shall cause the entire Proposed Operating Budget to be printed and filed in the City Office for inspection and reference by the public.

**RESOLUTION TRANSFERRING \$200,000 FROM THE GENERAL FUND TO THE
STORM WATER FUND FOR EMERGENCY REPAIR
(RESOLUTION 2013-)**

WHEREAS, the City Council of the City of Benson declared a special emergency on June 3, 2013 to repair the storm water outlet near the river on West Hwy 9; and,

WHEREAS, immediate action to respond to the situation was needed in order to protect the health, safety and welfare of the community; and,

WHEREAS, the hiring of a general contractor capable of making necessary repairs to the City's storm sewer system and the purchase of materials necessary for such repairs was required in order to effectively respond to the emergency; and,

WHEREAS, the Storm Water Fund has insufficient monies available to pay for the needed repairs.

NOW THEREFORE BE IT RESOLVED that the Director of Finance is authorized to transfer \$200,000 from the City of Benson General Fund to the Storm Water Fund to cover the costs of these emergency repairs.

(RESOLUTION NO. 2013-)
RESOLUTION DESIGNATING LOCATION FOR ABSENTEE BALLOT VOTING FOR
2013 GENERAL ELECTION

WHEREAS, the City of Benson is holding a General Election on November 5, 2013 to elect a Mayor and two (2) City Council members and

WHEREAS, the City of Benson has agreed to administer the absentee ballot process for School District 777 for their referendum election on the same date and

WHEREAS, the City is required to designate a location for absentee voting.

NOW, THEREFORE, be it resolved that City Hall, 1410 Kansas Avenue, Benson, MN 56215 is designated as the location for absentee voting at the City General Election and Independent School District 777 excess levy referendum election.

**A RESOLUTION ESTABLISHING AN ABSENTEE BALLOT BOARD
(RESOLUTION NO. 2013-)**

WHEREAS, The City of Benson is required by Minnesota Statute 203B.121; Subd. 1 to establish an Absentee Ballot Board effective September 10, 2013; and

WHEREAS, The City of Benson has agreed to perform all election duties for Independent School District 777; and

WHEREAS, this board will bring uniformity in the processing of accepting or rejecting returned absentee ballots in the City of Benson and Independent School District 777; and

WHEREAS, the Absentee Ballot Board would consist of a sufficient number of election judges or officials as provided in sections 204B.19 to 204B.22;

NOW, THEREFORE, BE IT RESOLVED THAT, the City Council of the City of Benson hereby establishes an Absentee Ballot Board to consist of the following individuals as provided in sections 204B.19 to 204B.22 to perform the task.

City Manager	Rob Wolfington
City Clerk	Glen Pederson
Administrative Assistant	Valerie Alsaker
Swift County Auditor	Kim Saterbak