

Lloyd Carnahan- Mayor
Stephanie Hoegh- City Clerk-Treasurer
Cristy McGee-Deputy Clerk-Treasurer
Bob Spink- City Engineer
Lee Kerr, City Attorney



Lisa Stade-Councilwoman
Lynn Johnson- Councilman
Bob Bruce- Councilman
Lorna Deckert- Councilwoman
Honda Johnson - Councilwoman

REGULAR CITY COUNCIL MEETING

April 7, 2009

A G E N D A

Council Chamber- 7:00 P.M.

TURN OFF ALL CELL PHONES & PAGERS-EMERGENCY PERSONNEL USE SILENT ALERT

A. CALL TO ORDER/PRESENTATION OF COLORS

B. ROLL CALL

C. READING AND APPROVAL OF MINUTES

- REGULAR MEETING MARCH 17, 2009
- SPECIAL MEETING MARCH 30, 2009

D. OPENING REMARKS, "HOUSEKEEPING" ITEMS, EXECUTIVE SESSION REQUESTS, ETC.

E. APPROVAL OF AGENDA

(Only essential changes not requiring preparation, legal & staff review; public notice, or action may be added)

VISITOR COMMENTS- for not-on-agenda items- comments simply listened to and noted usually without response. **Council will not take action on an item not already on agenda without time to research, read, and receive staff report.** Items may be added on future agenda, but not current agenda. Please do not speak or make remarks unless recognized by the Chair, then if you are called, come forward to microphone, & give name and address for minutes recorder. Chamber over-flow will be moved to City Community Center.

F. REGULAR REPORTS:

1. EDC Report
2. Staff Reports
3. Engineer Report
4. Council Committee Reports

G. ITEMS FOR APPROVAL:

1. Resolution #2009-06 - Designating May 1, 2009 as "Silver Star Banner Day"
2. Resolution #2009-07- Public Records Request
3. Resolution #2009-08 - Amending Resolution #2008-24
4. Resolution #2009-09- Authorizing Mayor to Sign agreement with BIAS and Xpress Bill Pay
5. Second Reading - Ord. 855 - Amending Section 13A.08.030
6. First Reading – Ord. –Sidewalk Construction
7. Dodge Bed Replacement
8. VOUCHERS

H. ITEMS FOR DISCUSSION:

1. Renew Yourself, Renew the Earth Update

I. GENERAL COUNCIL COMMENTS

J. ADJOURNMENT –Chair

**City of Benton City
Regular Council Meeting Minutes
March 17, 2009**

CALL TO ORDER –Mayor Carnahan called the March 17th, 2009 Regular Council meeting to order at 7:00 p.m. (*/*/***) - Audio tracking not available)

PRESENTATION OF THE COLORS – Boy Scout Troop 205 led the Council and audience in the Pledge of Allegiance. (*/*/***)

ROLL CALL – (*/*/***) Council Members Present –
Bob Bruce
Lorna Deckert
Honda Johnson
Lisa Stade (Late – excused)

Council Members Not Present –
Lynn Johnson (Excused – Illness)

City Staff Present –
Stephanie Hoegh, City Clerk/Treasurer

Other Professionals Present –
Bob Spink, City Engineer
Bronson Brown, City Attorney
Capt. Steve Keane, Benton County Sheriff's Office

Councilwoman Deckert: Mr. Mayor, I move to excuse Mr. Johnson.

Councilman Bruce: I second.

MOTION #1- C. L. Deckert moved and C. B. Bruce seconded to excuse Councilman Johnson from Council Meeting due to illness.

VOICE VOTE #1- C. H. Johnson, C. L. Deckert, C. B. Bruce
ALL YEAS. Motion carried.

READING AND APPROVAL OF MINUTES (*/*/***)
- REGULAR MEETING MARCH 3RD, 2009

Councilwoman Deckert: Mr. Mayor, I would move that we approve the minutes as typed.

Councilwoman Johnson: Second.

MOTION #2- C. L. Deckert moved and C. H. Johnson seconded to approve the minutes of the March 3rd, 2009 Regular Council Meeting as presented.

VOICE VOTE #2- C. H. Johnson, C. L. Deckert, C. B. Bruce
ALL YEAS. Motion carried.

OPENING REMARKS, “HOUSEKEEPING” ITEMS, EXECUTIVE SESSION REQUESTS, ETC. –
(*/*/***)

Mayor Carnahan – Liquor License Renewals
- American Legion Post #115
- Pick a Pop #2 at 505 9th Street
- Ki-Be Red Apple Market

Councilwoman Deckert: Mr. Mayor, I would move that we accept the renewals of the liquor licenses.

Councilman Bruce: I second.

MOTION #3- C. L. Deckert moved and C. B. Bruce seconded to accept the renewals of three liquor licenses.

VOICE VOTE #3- C. H. Johnson, C. L. Deckert, C. B. Bruce
ALL YEAS. Motion carried.

APPROVAL OF AGENDA – (*/*/***)

Councilwoman Johnson: Mayor, I'd say we approve of the Agenda for March 17th, 2009 as typed.

Councilwoman Deckert: I'll second that.

MOTION #4- C. H. Johnson moved and C. L. Deckert seconded to approve the Agenda as presented.

VOICE VOTE #4- C. H. Johnson, C. L. Deckert, C. B. Bruce
ALL YEAS. Motion carried.

1. VISITOR COMMENTS – (*/*/***)

Silvia Peterson – Property in UGA

- Utilities in Kiona
- End of 2nd Street on other side of Railroad
- Timeline dependent on Railroad

Mr. Spink – After road is constructed, water/sewer will expand - go up E. Jacobs

Mayor Carnahan – Stimulus money to help fund later this summer

- Railroad bridge constructed
- Moved to the southeast
- Roundabout 2010/2011 budget

REGULAR REPORTS

1. SHERIFF REPORT (*/*/***)

Captain Steve Keane, Benton County Sheriff's Office

- 353 Calls for Service v. 201 in 2008
- 39 Case Offenses v. 31 in 2008
- 28 Infraction Offenses issued

2. STAFF REPORTS – (*/*/***)

Stephanie Hoegh –

- WCA training – Land Use Liability – April 8th; 6:30 pm to 8:30 pm
 - Mayor Carnahan – Yes
 - Councilwoman Johnson – Yes
 - Councilwoman Deckert – No
 - Councilman Bruce – Will contact Ms. Hoegh tomorrow
- WWTP monitor/sensor
 - Received in mail; installation status unsure
- Dirt from Webber Canyon

3. COUNCIL COMMITTEE REPORT – (***/**/**)

Councilwoman Johnson – Pass

Councilman Bruce – Pass

Councilwoman Deckert – Ridges to Rivers – Info back to City Councils

Mayor Carnahan – Benton Franklin Council of Governments

- Stimulus Report – Sidewalk Project both sides of 7th to City Limits

4. ENGINEER REPORT – (**/**/**)

Bob Spink –

- 7th Street – Letter to State to explain project
 - Cultural & Ecological Resources Report and environmental work may be required
 - Photos from 2005 found – shows problem needs solving
- Bid opening – Parks Project - 7 bids
 - Engineer Estimate: \$130,000
 - Bid Tab: Low Bid - \$98,051.28
 - Four bids close in range
 - Recommend award project to SunScapes, Inc. for \$98,051.28
 - 24” fish culverts included (side by side 2 ft. between)

Councilwoman Deckert: Mr. Mayor, I would move that we approve bid from SunScapes, Inc. for \$98,051.28.

Councilwoman Stade: I second.

MOTION #5- C. H. Johnson moved and C. L. Deckert seconded to approve bid from SunScapes, Inc. in the amount of \$98,051.28.

ROLL CALL VOTE #5- C. L. Deckert, C. B. Bruce, C. L. Stade, C. H. Johnson
ALL YEAS. Motion carried.

**** Project to start by 1st of April, 2009 ****

ITEMS FOR APPROVAL:

1. FIRST READING – ORDINANCE AMENDING SECTION 13A.08.030 (***/**/**)

Councilwoman Stade: Mr. Mayor, I move to approve on the First Reading, an ordinance of the City of Benton City, Washington, amending Section 13A.08.030 “Violation – Penalty”

Councilwoman Deckert: Second that.

MOTION #6- C. L. Stade moved and C. L. Deckert seconded to approve on the First Reading, an ordinance of the City of Benton City, Washington, amending Section 13A.08.030 “Violation – Penalty”

VOICE VOTE #6- C. H. Johnson, C. L. Deckert, C. B. Bruce C. L. Stade
ALL YEAS. Motion carried.

2. PLANNING COMMISSION VACANCY (***/**/**)

Donald Allen

- Changes for the best of City
- Addressed by City
- Dead end streets
- Open mind, listen
- Involved in City politics
- Good start for future

John H. Cloud

- Better help serve
- Help with problems
- Zoning/Laws/Ordinances
- La Clinica – Founding Board of Directors
 - Chairman – Budget & Finance Review Committee 1986 - 1988
- Carry the message
- Life of recovery
- Lived in Benton City since 2002

Michelle Hoffman

- Involved in government
- Economic development
- Planning
- Growth – Bring to Benton City
- By-laws/rules of boundaries
- Pre-qual – Steps to take
- With Benton City informally for 6-7 months with SCM
 - 2 years as paid consultant

Council votes: **D. Allen** - C.H. Johnson, C. B. Bruce, C. L. Deckert

J. Cloud - None

M. Hoffman - C. L. Stade

**** Donald Allen appointed to Benton City Planning Commission ****

3. EARTH DAY BUDGET (***/**/**)

- Celeste Pace
 - Helmets
 - Donations (may not use budget)
 - Lions/K
 - Snacks
 - Prizes – Top 10 finishers
 - Recycle projects
 - 7th Street re-routed
 - Runners first
 - Walkers second
 - Sheriff's Department
 - One bike donated
 - One more
 - \$1,000 budget

Councilwoman Deckert: Mr. Mayor, I move to approve the Earth Day budget of \$1,000 as presented.

Councilman Bruce: I second.

MOTION #7– C. L. Deckert moved and C. B. Bruce seconded to approve the Earth Day Budget of \$1,000 as presented.

ROLL CALL VOTE #7- C. L. Stade, C. B. Bruce, C. L. Deckert, C. H. Johnson
ALL YEAS. Motion carried.

5. VOUCHERS (***/*/***)

Councilwoman Deckert: Mr. Mayor, we the City Council of the City of Benton City, Washington, do hereby authorize payment of voucher check numbers 21914 thru 21943 as listed in the amount of \$26,144.23; payroll check numbers 21801 thru 21820 & 21857 thru 21873 & 21898 thru 21902 as listed in the amount of \$48,822.89 & void voucher check numbers 21875 & 21879 in the amount of \$19,138.56. These checks are approved for payment this 17th day of March, 2009.

Councilman Bruce: Second.

MOTION #8– C. L. Deckert moved and C. L. Bruce seconded for the City Council of the City of Benton City, Washington, to hereby authorize payment of Voucher Check Numbers 21914 thru 21943 as listed in the amount of \$26,144.23; payroll check numbers 21801 thru 21820 & 21857 thru 21873 & 21898 thru 21902 as listed in the amount of \$48,822.89 & void voucher check numbers 21875 & 21879 in the amount of \$19,138.56. These checks are approved for payment this 17th day of March, 2009.

ROLL CALL VOTE #8– C. H. Johnson, C. L. Deckert, C. L. Stade, C. B. Bruce
ALL YEAS. Motion carries.

ITEMS FOR DISCUSSION – (***/*/***)

- Legislature Meeting
 - Klippert, Haler
 - Slideshow by EDC
- John Bequette Award
 - Draft award resolution
 - Lloyd Carnahan presented - Carol Doctor, Winner

GENERAL COUNCIL COMMENTS – None (***/*/***)

- School recycle can contest - won 1st Place last year

ADJOURNMENT – Mayor Carnahan (***/*/***)

Councilman Bruce: Move to adjourn, Mr. Mayor.

Councilwoman Deckert: I second.

MOTION #9– C. B. Bruce moved and C. L. Deckert seconded to adjourn the March 17th, 2009 Regular Council Meeting.

VOICE VOTE #9– C. L. Deckert, C. H. Johnson, C. B. Bruce, C. L. Stade
ALL YEAS. Motion carried.

Meeting adjourned at 7:52 p.m. (***/**/**)

Lloyd Carnahan
Mayor, City of Benton City

Stephanie Hoegh
City Clerk-Treasurer

Date: _____

**City of Benton City
Special Council Meeting Minutes
March 30, 2009**

1. CALL TO ORDER – Mayor Carnahan called to order the Special Council Meeting at Benton City Hall in Benton City, Washington at 5:30 p.m.

2. ROLL CALL –

Council Members Present –

Bob Bruce
Lorna Deckert
Honda Johnson
Lisa Stade

Council Members Absent –

Lynn Johnson

Other Professionals Present –

Stephanie Hoegh, City Clerk/Treasurer

Councilwoman Deckert: Mr. Mayor, I move to excuse Mr. Johnson.

Councilman Bruce: I second.

MOTION #1 – C. L. Deckert moved and C. B. Bruce seconded to excuse Councilman Johnson from the Special Council Meeting.

VOICE VOTE #1 – C. H. Johnson, C. L. Stade, C. L. Deckert, C. B. Bruce
ALL YEAS. Motion carried.

3. PLEDGE OF ALLEGIANCE TO THE FLAG/U.S. – Councilwoman Deckert led in the Pledge of Allegiance.

4. DISCUSSION – CITY DIRT PURCHASE

Councilwoman Deckert: Mr. Mayor, I move to approve the getting dirt from the Webber Canyon Project however much they can provide it at \$5.00 per yard.

Councilman Bruce: I second.

MOTION #2 – C. L. Deckert moved and C. H. Johnson seconded to approve the purchase of dirt from the contractor in charge of the Webber Canyon Project at \$5.00 per yard as available.

ROLL CALL VOTE #2 – C. L. Deckert, C. H. Johnson, C. B. Bruce, C. L. Stade
ALL YEAS. Motion carried.

5. ADJOURNMENT

Councilwoman Deckert: Mr. Mayor, I would move that we adjourn.

Councilman Bruce: I second.

MOTION #3 – C. L. Deckert moved and C. B. Bruce seconded to adjourn March 30th, 2009 Special Council Meeting to discuss city dirt purchase.

**VOICE VOTE #3 – C. H. Johnson, C. L. Stade, C. L. Deckert, C. B. Bruce
ALL YEAS. Motion carried.**

Meeting adjourned at 5:37 p.m.

Lloyd Carnahan
Mayor, City of Benton City

Stephanie Hoegh
City Clerk-Treasurer

Date: _____

RESOLUTION NO. 2009-06

A RESOLUTION RECOGNIZING THE SILVER STAR FAMILIES OF AMERICA; AND DESIGNATING MAY 1, 2009, AS "SILVER STAR BANNER" DAY

WHEREAS, the Silver Star Families of America is an organization dedicated to supporting and assisting those suffering wounds or illness incurred during combat and remembering their efforts by honoring them with a Silver Star Banner; and

WHEREAS, the City of Benton City, likewise, recognizes the sacrifice of men and women in the Armed Forces to maintain our freedom and the way of life; and

WHEREAS, the Silver Star Families of America touches the lives of those wounded, ill, and their families nationwide of all branches of the Armed Services by advocating their plight and by providing Silver Star Flags or Banners as symbols of this remembrance and to honor their sacrifice; and

WHEREAS, to date the Silver Star Families of America have freely given thousands of Silver Star Banners to the wounded and their families across the nation; and

WHEREAS, the members of the Silver Star Families of America have worked tirelessly to provide the wounded and ill of our City and Country with Silver Star Banners and Flags, care packages and other assistance as an expression of our appreciation; and

WHEREAS, the Silver Star Families of America's sole mission is that every time someone sees a Silver Star Banner in a window or a Silver Star Flag flying, the sacrifice of the wounded warriors that live in our City, State, and Nation are remembered and appreciated; and

WHEREAS, on behalf of the citizens of the City of Benton City, a day is set aside so the sacrifice of so many Armed Forces will never be forgotten; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

Lloyd R. Carnahan, Mayor of the City of Benton City, Washington, does hereby proclaim the appreciation of the citizens of the City of Benton City for the efforts of the Silver Star Families of America in honor of their commitment to our wounded Armed Forces Members; and by joining over 200 other cities and towns, declare May 1, 2009, as "Silver Star Banner Day" honoring the soldiers of our City, State and Country who were wounded or became ill during combat while defending this great nation.

ADOPTED this ____ day of _____, 2009, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this ____ day of _____, 2009.

Resolution 2009-06 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this ____ day of _____, 2009.

Lloyd R. Carnahan
Mayor

Attest:

Approved as to Form:

Stephanie Hoegh
City Clerk/Treasurer

Leland B. Kerr
City Attorney

RESOLUTION NO. 2009-07

**A RESOLUTION OF THE CITY OF BENTON CITY,
WASHINGTON, AMENDING RESOLUTION 2006-23
REGARDING PUBLIC RECORDS REQUESTS**

WHEREAS, the City of Benton previously adopted the Washington State Attorney General's advisory rules; and

WHEREAS, the Washington State Supreme Court has recently issued a ruling in the case of *Rental Housing Association vs. City of Des Moines*, which requires cities to maintain a privilege log or withholding index; and

WHEREAS, the City finds it necessary to update its disclosure procedures to facilitate the efficient use of staff time and more effectively accommodate the accessibility of its public records, as well as expedite any disputes in regards to their disclosure; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTON CITY,
WASHINGTON, AS FOLLOWS:**

Section 1. AGENCY DESCRIPTION - CONTACT INFORMATION - PUBLIC RECORDS OFFICER.

A) The City of Benton City is a Washington Municipal Corporation providing municipal services. The City's central office is located at City Hall, 708 9th Street, Benton City, Washington.

B) Any person wishing to request access to public records of the City, or seeking assistance in making such a request should contact the public records officer at:

Office of the City Clerk
City of Benton City
708 9th Street
PO Box 70
Benton City WA 99320
(509) 588-3322
(509) 588-3323 - facsimile
e-mail address cclerk@owt.com

C) Many records are also available on the City's website at www.ci.benton-city.wa.us. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

D) The public records officer will oversee compliance with the act but another City staff member may process a request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the City will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the City.

Section 2. AVAILABILITY OF PUBLIC RECORDS.

A) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the City, Monday through Friday, 7:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the office of the City Clerk at City Hall.

B) Records Index. The City finds that maintaining an index is unduly burdensome and would interfere with City operations. Due to the limited financial resources and staff, the City is without sufficient resources to construct an index and maintain it; nor does the City have many of its records retrievable in an electronic format; nor are resources readily available to place these records in an electronic format.

C) Organization of records. The City will maintain its records in a reasonably organized manner. The City will take reasonable actions to protect records from damage and disorganization. A requestor shall not take City records from City offices, or that location designated for the inspection of public records, without the permission of the public records officer or designee. A variety of records are available on the City's web site at www.ci.benton-city.wa.us. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

D) Making a request for public records.

1) Any person wishing to inspect or copy public records of the City should make the request in writing on the City's request form, or by letter, fax, or e-mail addressed to the public records officer and including the following information:

- a) Name of requestor;
- b) Address of requestor;
- c) Other contact information, including telephone number and/or e-mail address;
- d) Identification of the public records adequate for the public records officer or designee to locate the records; and

e) The date, and if presented at City Hall, the time of day of the request.

2) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Standard photocopies will be provided at 15 cents (15¢) per page.

3) A form is available for use by requestor at the office of the public records officer and online at www.ci.benton-city.wa.us.

4) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

5) In the event the records requested in any department are readily available, of a routine nature, and do not involve the interest of any other person, the public records officer or the department head may authorize the immediate inspection and/or copying of such record without the necessity of filing the request as provided in subsection 1) above.

Section 3. PROCESSING OF PUBLIC RECORDS REQUEST - GENERAL.

A) Providing "fullest assistance." The City is charged by statute with adopting rules which provide how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the City," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

B) Acknowledging receipt of request. Within five (5) business days of receipt of the request, the public records officer will do one or more of the following:

1) Make the records available for inspection or copying;

2) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

3) Provide a reasonable estimate of when records will be available;

4) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requester. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

5) Deny the request.

C) Consequences of failure to respond. If the City does not respond in writing within five (5) business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

D) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

E) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the City believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

F) Privilege Log. If the City determines that a record is exempt and should be withheld, the City will maintain a privilege log of those withheld records. The privilege log will identify:

- 1) Type of record withheld.
- 2) Date of record.
- 3) Number of pages.
- 4) Author or recipient.
- 5) The exemption invoked.

A copy of the privilege log will be produced to the records requestor .

G) Inspection of records.

1) Consistent with other demands, the City shall promptly provide a location to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any documents. The

requestor shall indicate which documents, if any, he or she wishes the City to copy.

2) The requestor must claim or review the assembled records within thirty (30) days of the City's notification to him or her that the records are available for inspection or copying. The City will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the City to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the City may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

H) Providing copies of records. After inspection is complete, the public records officer or designee shall make any requested copies or arrange for copying.

I) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

J) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the City has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

K) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the City has closed the request.

L) Later discovered documents. If, after the City has informed the requestor that it has provided all available records, the City becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Section 4. EXEMPTIONS.

A) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of other exemptions, outside the Public Records Act, that restrict the availability

of some documents held by the City for inspection and copying. A list of such laws is available at the office of the City Clerk and may be available at the City's website.

B) The City is prohibited by statute from disclosing lists of individuals for commercial purposes.

Section 5. COSTS OF PROVIDING COPIES OF PUBLIC RECORDS.

A) Costs for paper copies. There is no fee for inspecting public records. A requestor may obtain standard black and white copies for 15 cents (15¢) per page.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated cost of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying cost before providing all the records, or the payment of the cost of copying an installment before providing that installment. The City will not charge sales tax when it makes copies of public records.

B) Costs for electronic records. The costs of electronic copies of records shall be One Dollar (\$1.00) for information on a floppy disk and One Dollar (\$1.00) for information on a CD-ROM.

C) Costs for specialized services. In the event the City is required due to the size of the request, or there is a need for specialized copying equipment (i.e., photographs, blueprints, taped or video recordings) to use the services of an outside source designated by the City, the requestor shall be required to pay the actual costs of such service, including delivery and return of public records for the purpose of copying.

D) Costs of mailing. The City may also charge actual costs of mailing (including the costs of the shipping container) and the actual costs of long distance facsimile transmission.

E) Payment. Payment may be made by cash, check or money order to the City.

Section 6. REVIEW OF DENIALS OF PUBLIC RECORDS.

A) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of, or reasonably identify, the written statement by the public records officer or designee denying the request.

B) Consideration of petition for review. The public records officer shall promptly provide the petition any other relevant information to the City Attorney. The City Attorney will immediately consider the petition and either affirm or reverse the

denial within two business days following the City's receipt of the petition, or within such other time as City and the requester shall mutually agree. The comments incorporated in Chapter WAC 44-14 may be relied upon as authority for determinations made by the City in applying or interpreting this Resolution.

C) Alternative Dispute Resolution. In the event of a dispute regarding the inspection or copying of public records, the parties shall first meet in a good-faith attempt to resolve the dispute by agreement of the parties or by mediation. In the event the dispute remains, the dispute shall be resolved by arbitration pursuant to RCW 7.04A, the Mandatory Rules of Arbitration, and venue being placed in Benton County, Washington.

D) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.17.340/42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

Section 7. The Mayor is hereby authorized and directed to institute such administrative policies and practices as necessary and appropriate to fully affect this policy.

PASSED by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this ___ day of _____, 2009.

Lloyd R. Carnahan
Mayor

Resolution 2009-07 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this ___ day of _____, 2009.

Attest

Approved as to Form:

Stephanie Hoegh
City Clerk-Treasurer

Leland B. Kerr
City Attorney

RESOLUTION NO. 2009-08

**A RESOLUTION OF THE CITY OF BENTON CITY,
WASHINGTON, AMENDING RESOLUTION 2008-24
ESTABLISHING THE JOHN C. BEQUETTE VOLUNTEER
SERVICE AWARD**

WHEREAS, the City has by Resolution No. 2007-01 established the John C. Bequette volunteer service award; and

WHEREAS, the City has by Resolution No. 2008-24 established a plaque listing previous winners to recognize citizens for their volunteered time; and

WHEREAS, it is necessary to establish a Citizens Committee to select annually the award winner for the John C. Bequette Volunteer Service Award; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

Section 1. The City Council for the City of Benton City does hereby amend Resolution No. 2008-24 establishing the John C. Bequette Volunteer Service Award as follows:

There is hereby created the "John C. Bequette Volunteer Service Award" to be given on an annual basis recognizing an individual who has been nominated by the citizens of the City of Benton City.

Section 2. The City Council for the City of Benton City will appoint a Citizens Committee to select the annual winner of the John C. Bequette Volunteer Service Award. Such recognition shall be made at a volunteer service award banquet and memorialized by a certificate publicizing the City's recognition of this individual's outstanding service,

Section 3. The award recipient's name shall be added to the plaque listing previous winners of the John C. Bequette award and permanently displayed in City Hall.

ADOPTED this ____ day of _____, 2009, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this ____ day of _____, 2009.

Resolution 2009-08 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this _____ day of _____, 2009.

Lloyd R. Carnahan
Mayor

Attest:

Approved as to Form:

Stephanie Hoegh
City Clerk/Treasurer

Leland B. Kerr
City Attorney

RESOLUTION NO. 2009-09

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE AGREEMENT WITH BIAS SOFTWARE

WHEREAS, the City of Benton City has recently purchased software to provide accounting functions for the City including its utility accounts; and

WHEREAS, to provide as an additional function for that software permitting online payment by utility customers, the Gateway and Administrative Service Agreement is necessary between the City, Xpress Bill Pay LLC and BIAS Accounting; and

WHEREAS, the City Council has determined it to be in the best interest of the citizens and its utility customers to enter into this Agreement; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

That the Mayor of the City of Benton City, Washington, is hereby authorized and directed to sign the original Gateway and Administrative Service Agreement between Xpress Bill Pay LLC, BIAS Accounting, and the City of Benton City, a copy of which is attached hereto and incorporate herein by this reference as Exhibit A; and to take all necessary steps required for the implementation of this Agreement.

ADOPTED this ____ day of _____, 2009, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this ____ day of _____, 2009.

Resolution 2009-09 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this ____ day of _____, 2009.

Lloyd R. Carnahan
Mayor

Attest:

Approved as to Form:

Stephanie Hoegh
City Clerk/Treasurer

Leland B. Kerr
City Attorney

First Reading: 3/17/09

Second Reading: _____

ORDINANCE NO. 855

**AN ORDINANCE OF THE CITY OF BENTON CITY,
WASHINGTON, AMENDING SECTION 13A.08.030
“VIOLATION - - PENALTY”**

WHEREAS, currently the Benton City Municipal Code declares any person that tampers with or damages any structure, appurtenance, or equipment that is connected to the public water, sewer and sewage disposal system, can be found guilty of a misdemeanor; and

WHEREAS, recently violations of this Chapter demonstrate that a more effective means of enforcement may be punishment of violations as a civil fine; and

WHEREAS, it is necessary to amend Section 13A.08.030 to allow for punishment to include a civil fine; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. That Section 13A.08.030 entitled “Violation - - Penalty” of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

13A.08.030 **Violation--Penalty.** The City at its election may seek any one of the following penalties to enforce this title:

- A. Criminal Penalty. Any person found guilty of violating any provision of this title shall be deemed guilty of a gross misdemeanor.
- B. Civil Penalty. Any person found in violation of this title may be subject to a civil fine of not more than Five Hundred Dollars (\$500.00).
- C. Civil Suit Authorized. In addition to whatever other penalties may be available to enforce this title, civil suit may be commenced in the name of the City to collect any penalty, cost or expenses due to the City. (Ord. 667, 1988; Ord. 405 S1 (part), 1981.)

Section 2. This Ordinance shall take full force and effect five (5) days after its approval, passage and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this ____ day of _____, 2009.

Lloyd R. Carnahan
Mayor

Attest:

Approved as to Form:

Stephanie Hoegh
City Clerk-Treasurer

Leland B. Kerr
City Attorney

First Reading: _____

Second Reading: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BENTON CITY, WASHINGTON, AMENDING TITLE 12 OF THE BENTON CITY MUNICIPAL CODE ADOPTING A NEW CHAPTER 12.05 "SIDEWALK CONSTRUCTION" ESTABLISHING THE REQUIREMENTS AND STANDARDS FOR THE CONSTRUCTION OF SIDEWALKS WITHIN THE CITY

WHEREAS, State law requires the consideration of the sidewalk construction incident to both commercial and residential development within the City which must be applied in a consistent manner to provide for pedestrian safety, especially school children; and

WHEREAS, the Benton City Comprehensive Plan is established as a goal for the establishment of sidewalks to encourage pedestrian traffic, both in the City's residential neighborhoods and commercial zones; and

WHEREAS, the City Council has found that continuous sidewalks in the City are necessary to provide for safe public travel, enhancement of the value, and attractiveness of properties within the City; **NOW, THEREFORE**,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. That a new Chapter 12.05 entitled "Sidewalk Construction" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

Chapter 12.05

SIDEWALK CONSTRUCTION

Sections:

- 12.05.010 Purpose.
- 12.05.020 Definitions.
- 12.05.030 Responsibility of Abutting Property.
- 12.05.040 Permit Required.
- 12.05.050 Permit Fee.
- 12.05.060 Sidewalk Standards.
- 12.05.070 New Construction - - Sidewalks and Curbs Required.
- 12.05.080 Optional Standards for the Residential Suburban (AS) Zoning District.
- 12.05.090 Security in Lieu of Completion of Sidewalk and Curb.
- 12.05.100 Maintenance of Sidewalks.

- 12.05.110 Failure to Maintain Sidewalks.
- 12.05.120 Sidewalk Requirements Accumulative.

12.05.010 **Purpose.** The purpose of this Chapter is to establish provisions for the uniform development and construction of sidewalks, together with curbs and gutters, within the City.

12.05.020 **Definitions.**

- A. "Abutting property" means all property having a frontage on a public street right-of-way.
- B. "Public right-of-way" means any publicly owned land set aside and dedicated for surface transportation purposes, including vehicular, bicycle and pedestrian transportation, whether improved or unimproved.
- C. "Sidewalk" means a walkway improved with concrete or other approved material located in the public right-of-way generally parallel to abutting property for pedestrian use.

12.05.030 **Responsibility of Abutting Property.** All abutting property owners are responsible for constructing sidewalks, handicapped ramps, crosswalks, curbs, and gutters along the entire frontage of the abutting property in conformity with this Chapter, and the City's current adopted standard specifications.

12.05.040 **Permit Required.** Before any person or entity commences to improve or modify any public right-of-way within the City by the construction of sidewalks, handicapped ramps, crosswalks, curbs or gutters, or to do any work in or upon the public right-of-way whatsoever, the applicant must first obtain a right-of-way permit from the City.

12.05.050 **Permit Fee.** The permit fee for a right-of-way permit shall be the minimum fee listed for a building permit under the Current City Fee Resolution.

12.05.060 **Sidewalk Standards.**

- A. Residential sidewalks shall be five (5) feet in width inclusive of the curb and no less than four (4) inches in thickness of concrete aggregate material or such other material as approved by the Mayor or his designee.
- B. Commercial sidewalks shall be seven (7) feet in width inclusive of the curb with not less than four (4) inches of thickness of concrete aggregate materials or such other material as approved by the Mayor or his designee. The Mayor or his designee is authorized to permit the construction of commercial sidewalks at variance with the seven (7) foot

standard, but in no case less than five (5) feet in width, under the following circumstances:

1. Where existing conditions make compliance impractical.
2. Where there is insufficient right-of-way available for full width construction.
3. Where surrounding land uses may require an alternate standard.
4. Where unique design standards such as planting strips, vegetation, public signs or structures are incorporated.

12.05.070 **New Construction - - Sidewalks and Curbs Required.** Except as provided in Section 12.05.080, whenever a permit is granted for new construction within the City, the person seeking to build such new construction shall at the same time a building permit is applied for, also obtain a permit for the construction of sidewalks, curbs and gutters as may be required under this Chapter for all sides of such property that may adjoin a public street.

12.05.080 **Optional Standards for the Residential Suburban (AS) Zoning District.** Within the Agricultural Suburban Residential Zoning District , the installation of curbs and gutters may be waived upon the finding that there is:

- A. Adequate right-of-way width to permit pedestrian traffic.
- B. No demonstrated need for safe walking distance for students walking to and from school.
- C. Sidewalks are not consistent with the general development and character of the neighborhood.

12.05.090 **Security in Lieu of Completion of Sidewalk and Curb.** Whenever it is determined by the Mayor, or his designee, that it is not practical for the construction of the sidewalk and curb to be completed prior to the occupancy of the structure, the City may accept sufficient security in the form of cash or bond deposited with the City to cover the estimated cost of completing construction of the curb and sidewalk. This security shall be forfeited to the City in the event the curb and sidewalk are not completed within ninety (90) days of the deposit being accepted. Thirty-day time extensions may be granted if the applicant demonstrates that there were reasons beyond their control for failure to complete construction within the time allowed. Completed construction must pass all City inspections and meet all City standards. The deposit shall be used by the City to pay the

costs of completing the construction of the curb and sidewalk to meet City standards and to pass City inspection. The City does not warrant that the amount accepted as security necessarily will be sufficient to pay the full costs of construction by accepting the deposit. The City does not waive any other remedies it may have to collect the costs of completing the construction by accepting the deposit. Costs to the City in excess of the deposit shall become a lien against the property. The applicant for the building permit shall execute an agreement to the City on the terms as provided by this Section.

12.05.100 **Maintenance of Sidewalks.** Whenever any street, lane, square, place or alley in the City shall have been improved by the construction of a sidewalk along either side thereof, the duty, burden and expense of the maintenance, cleaning (including the cleaning of litter, debris, ice and snow), repair and renewal of such sidewalks in conformity with the City adopted standards and specifications, shall be upon the owner of the private property directing abutting the sidewalk.

12.05.110 **Failure to Maintain Sidewalks.** It shall be unlawful for any person after receiving notice from the City to fail to maintain, clean, repair, or renew such sidewalks pursuant to the obligations created in Section 12.05.100 above. A violation of this Section shall constitute a civil infraction carrying a maximum penalty as imposed in Section 1.16.010 of this Code.

12.05.120 **Sidewalk Requirements Accumulative.** The obligations imposed by this Chapter, are accumulative to those authorities conferred by Chapter 35.68 RCW for the City to authorize the construction, reconstruction, repair of sidewalks, curbs and gutters, and to assess the payment therefore to abutting property owners.

Section 2. This Ordinance shall take full force and effect five (5) days after its approval, passage and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this ____ day of _____, 2009.

Lloyd R. Carnahan
Mayor

Attest:

Approved as to Form:

Stephanie Hoegh
City Clerk-Treasurer

Leland B. Kerr
City Attorney