

**City of Benton City
Regular Council Meeting Minutes
March 18th, 2014**

CALL TO ORDER – Mayor Carnahan called the March 18th, 2014 Regular Council meeting to order at 7:00 p.m. (62/1/659 - Audio recording begins)

PRESENTATION OF THE COLORS – Councilwoman Meredith led the Council and audience in the Pledge of Allegiance. (66/4/140)

ROLL CALL – (84/3/525) Council Members Present –
Mary Lettau
Connie Meredith
Linda Lehman
Lisa Stade
Michelle McLeod (Council Appointee)

City Staff Present –
Stephanie Haug, City Clerk/Treasurer
Kyle Kurth, City Maintenance Foreman
Paula Kauer, General Clerk/Purchasing

Other Professionals Present –
Lee Kerr, City Attorney, Kerr Law Group
Captain Clay Vannoy, Benton County Sheriff Office

Other Professionals Absent –
Alan Rainey, City Engineer, Spink Engineering, LLC

READING AND APPROVAL OF MINUTES (94/1/380)
- **REGULAR MEETING MARCH 4TH, 2014**

Councilwoman Meredith: Mr. Mayor, I make a motion to approve the Minutes from the Regular City Council Meeting Minutes of March 4th, 2014.

Councilwoman Lettau: I second.

MOTION #1- C. C. Meredith moved and C. M. Lettau seconded to approve the Minutes of the March 4th, 2014 Regular Council Meeting as typed.

VOICE VOTE #1- C. C. Meredith, C. L. Lehman, C. L. Stade, C. M. Lettau
ALL YEAS. Motion carried.

OPENING REMARKS, “HOUSEKEEPING” ITEMS, EXECUTIVE SESSION REQUESTS, ETC. –
(104/2/731)

1. City Council Appointment – Michelle McLeod
2. Liquor License Renewals

Mr. Kerr – Procedure for City Council Appointment

Councilwoman Stade: Mr. Mayor, I'd like to make a motion to appoint Michelle McLeod to the vacancy on the City City Council of Benton City, Position #5.

Councilwoman Meredith: Second.

MOTION #2- C. L. Stade moved and C. C. Meredith seconded to appoint Michelle McLeod to fill the vacant City of Benton City Council Position No. 5.

VOICE VOTE #2- C. C. Meredith, C. L. Lehman, C. L. Stade, C. M. Lettau
ALL YEAS. Motion carried.

Mr. Kerr – Administered Oath of Office for Council Appointee Michelle McLeod

APPROVAL OF AGENDA (183/3/213)

Councilwoman Meredith: Mr. Mayor, I make a motion to approve the Agenda as presented.

Councilwoman Lettau: I second.

MOTION #3- C. C. Meredith moved and C. M. Lettau seconded to approve the Agenda as presented.

VOICE VOTE #3- C. C. Meredith, C. L. Lehman, C. L. Stade, C. M. Lettau, C. M. McLeod
ALL YEAS. Motion carried.

1. VISITOR COMMENTS – None (190/2/931)

REGULAR REPORTS

1. SHERIFF REPORT – (195/4/319)

Captain Clay Vannoy, Benton County Sheriff's Office
February 2014 Report

330 Calls for Service vs. 293 in 2013
40 Case Offenses vs. 29 in 2013
25 Infraction Offenses Issued
26 Arrests Resulting

2. STAFF REPORTS – (249/3/224)

Stephanie Haug, City Clerk/Treasurer

In Packets - Code Report
- Treasurer Report

3. ENGINEER REPORT – None (253/1/604)

4. COUNCIL COMMITTEE REPORTS (255/2/212)

Councilwoman Lehman – Pass

Councilwoman Lettau – Pass

Councilwoman McLeod – Pass

Councilwoman Meredith – Benton City E.D.C. – Good information

Councilwoman Stade – Washington D.C. trip – Legislature meeting with Benton Franklin Transit – Budget for replacement long-term – Considered “large city” per transit – Coupon book for passes – Free advertisements for businesses by April 1st, 2014 – Fire Command – Making headway on building – Request for City to consider certain standard for road patches for irrigation – Fire Chief – Every road bump equals six second delay – Addresses on homes – Code Enforcement issue

Mayor Carnahan – Boy Scouts project to help cities post?

Councilwoman Stade – Interviews for General Manager for Benton Franklin Transit

Councilwoman Lehman – Hours for buses? Rode, but couldn't get hours to match

Councilwoman Stade – Added a taxi feeder route – Supplementary

Councilwoman Lehman – 4-10's – Hours of bus don't match for Benton City route

Councilwoman Stade – Really respond to customer responses – Four different methods to offer opinions - Weekday hours

Councilwoman McLeod – Taxis? From transfer station to Benton City? Within Benton City?

Councilwoman Stade – Not sure – 5:30 – 7:00 – Bus route from Tri Cities to Benton City

Mayor Carnahan – Attended couple of meetings - Elected officials - Luncheons

ITEMS FOR APPROVAL:

1. RESOLUTION #2014-04 – AUTHORIZING MAYOR TO SIGN INTERLOCAL AGREEMENT – SOLID WASTE MANAGEMENT - (503/1/127)

Mayor Carnahan – Overview of Ordinance Amendments

Councilwoman Lehman: Mr. Mayor, I move to approve Resolution No. 2014-04, a resolution authorizing the Mayor to sign the Solid Waste Management Interlocal Agreement with Benton City, Benton County, Richland, Kennewick, West Richland and Prosser.

Councilwoman Meredith: Second.

MOTION #4- C. L. Lehman moved and C. C. Meredith seconded to approve Resolution No. 2014-04, a resolution of the City of Benton City, Washington, authorizing the Mayor of Benton City to sign the Solid Waste Management Interlocal Agreement with Benton County, Richland, Kennewick, West Richland, and Prosser.

VOICE VOTE #4- C. L. Lehman, C. C. Meredith, C. M. McLeod, C. L. Stade, C. M. Lettau
ALL YEAS. Motion carried.

2. TRANSFER AGREEMENT FOR STREET LIGHTS – BENTON P.U.D. – (567/2/865)

Ms. Haug – Overview of Transfer Agreement

Councilwoman Meredith: Mr. Mayor, I make a motion to approve the Transfer Agreement pursuant to R.C.W. 39.33 Benton PUD Contract #14-45-05.

Councilwoman Lettau: I second.

MOTION #5- C. C. Meredith moved and C. M. Lettau seconded to authorize the Mayor of the City of Benton City, Washington to sign the Transfer Agreement for Street Lights with Benton P.U.D.

VOICE VOTE #5- C. L. Lehman, C. C. Meredith, C. M. McLeod, C. L. Stade, C. M. Lettau
ALL YEAS. Motion carried.

3. VOUCHERS (680/1/633)

Councilwoman Lettau: Mr. Mayor, I move to approve payment of Claim check numbers 26016 through 26038 with EFTs as listed in the amount of \$30,800.84 and Payroll Check numbers 25963, 25964 and 25994 through 26002 with EFTs as listed in the amount of \$54,998.91 this 18th day of March, 2014.

Councilwoman Lehman: I'll second.

MOTION #6– C. M. Lettau moved and C. L. Lehman seconded for the City Council of the City of Benton City, Washington, to hereby authorize payment of Claim Check Numbers 26016 through 226038 with EFTs as listed in the amount of \$30,800.84 and Payroll Check numbers 25963, 25964, and 25994 thru 26002 with EFTs as listed in the amount of \$54,998.91 this 18th of March, 2014.

**ROLL CALL VOTE #6–C. C. Meredith, C. L. Lehman, C. M. Lettau, C. L. Stade, C. M. McLeod
ALL YEAS. Motion carried.**

ITEMS FOR DISCUSSION

1. FENCING REQUIREMENTS (710/2/610)

Mr. Kerr: Yes. Council's previously received a number of packets from us over the last couple of, over the last several months, with the intent to come to an overall fencing ordinance that can address (inaudible) the concerns raised. Originally one of the concerns was, raised, was the issue regards to fences on corners where, where there needs to be free, free visibility for upcoming cars, that type of thing and as we discussed it, the, the interest in regards to fencing became a little bit broader, and so eventually what we did was, we had two packets that came to you. One was a packet of other jurisdictions on how they've dealt with similar issues; ordinances from the City of Kennewick, the City of Pasco, I think it's West Richland? Seems to me, there was one more that came in that packet, and as we discussed it, with kind of a table discussion and I took everybody's input and put that into the form of an ordinance, and so it's one of those ordinances that's got everything in it, and so the intent from that point on is to enter comments; which are comments are only preparatory because the process we have to go through on a contextual amendment within the zoning code is that, the Council can initiate, or any party can initiate, a request for text amendment and it goes to the Planning Commission. The Planning Commission then holds Public Hearings, to make a determination how, you know, what the public interest is; what based upon their considerations, is the best elements to include in the fencing ordinance, and then when they're completed with their process, it comes to you. Essentially, what you are doing is you are delegating your fact finding to the Planning Commission. So you're saying, "Listen, go out, listen to what the people have to say. Please exercise your own experience and your own judgment and give us what you think is the best idea for the City of Benton City; and then when they complete that package, they can bring it back to you. You have final legislative authority. When it comes back to you, you can take what the Planning Commission has provided, you can make modifications to it, you can make deletions, you can make additions, those types of things. You also have the right to secure your own Public Hearing should you feel it is necessary; you feel there's more interest that should be expressed or if you have some significant changes that you feel still should require some public comment. But eventually, the intent is that you will have an ordinance that the majority of you can agree on and that would be adapted, adopting an ordinance for the two reading that then become a part of your code. If you can't reach a consensus or you don't think there's, that the changes that you've made then the ordinance will fail, and like I said, we'll continue business just as it is right now in its present form. So our opportunity at this stage is to express the concerns that have been raised. I think Councilman Lehman has, has made some suggestions and we would take this

packet, give it to the Planning Commission and ask the Planning Commission to do their magic, to have a Public Hearing and come up with a recommendation for the City Council.

Mayor Carnahan: So more or less, at this time, I kind of need just a consensus to move it on forward to the Planning Commission so they can get their act going.

Councilwoman Stade: I have a question: Would it need to go to the Planning Commission if we wanted to set it as a standard but not require like a survey?

Mr. Kerr: Well, and that's kind of one of those things, it, it has to go, if we're going to put it in the Code, it has to go to the Planning Commission. They have to go, they have to have the hearings in regards to the textual amendments and one of the things that's going to come up in that is there's probably about three major bases; one is the configuration of the fence, the sight obscuring issue, the fees and then the other is, what, you know, what's going to be necessary for the location of the fence. We talked about site plan; we talked about the verifications of it and I'm assuming what they'll do is, is they will, you know, get, you know, get input from the public, find out what they feel would be a reasonable regulations for the fences and then, like I say, make that recommendation to you.

Councilwoman Stade: Once they make the recommendations, how much are, do we, is it just a matter of protocol to comply and say "Yes, I agree." or is it still a matter for us to....

Mr. Kerr: No, you have the independent legislative judgment; you're the ones that make the final decision, so what they're coming to you with is, is that they're doing their, they're fact finding, they're bringing their fact finding and their best recommendation to you. You, then, make a determination whether you agree, disagree, should modify, and then like I say, once you come up with what you feel is your final and it has majority approval, it becomes, we have the two readings and it goes into our code.

(Inaudible)

Councilwoman Lehman: I guess, I, I thought that we would be trying to determine if we wanted to do this by permit and that was our judgment call before it went to Planning Commission, whether or not we want to institute a permitting process or we want to leave the, leave it as ordinance the way it is now with maybe expanding some of that and clarifying some of it; so, that's when I pulled together this packet. I don't know, should I go through this packet with everyone, or has everybody seen that, or...?

Mayor Carnahan: Let's, let's let Mr. Kerr answer your question, (inaudible)...

Mr. Kerr: Let me address that question. That, that's a good question, the very first section of the chapter of, of the fence ordinance is the zoning is the permit, and so it is part of the textual amendment so that's going to go, that's part of the package that would have to be considered by the Planning Commission as well.

Councilwoman Lehman: Right. So they would decide whether it's a permit or not?

Mr. Kerr: Whether it should be a permit or not. They recommend it to you and you finally decide if it should be a permit or not.

Mayor Carnahan: We can change that when it comes back to us.

Councilwoman Meredith: So I understand, yeah, it'll come back to us so we'll have the final say. We're going to make suggestions...

Mayor Carnahan: Right, right, right, so, let's, let's go ahead and move this thing forward...

Councilwoman Stade – Yeah, but I don't know if I want them, I don't know that they need to go into full depth evaluation if we're, if we're as of a similar mind, that we're retracting all the specialties of it, you know, all the minutia, because it seems like, if they, if we as a Council have a common understanding that we want less regulation, why have them go evaluate everything, an extensive packet and we've already gone through it lots of time, and you've been very patient with us, and then come back to us and then have us say, "Thank you, but thinking it over, we want this."

Mr. Kerr – (Yes) Well, one is, this is, that's the process that we go through because in our infinite wisdom, we decided any textual amendments have to go through Planning Commission, so we do have to go through the process. To make it meaningful though, it's important that they get all of your input, and so that's why we want to make sure that the entire packet that you have and the information ;that you have goes to them, so they will have the best of your, your discussion, the best of your knowledge at this stage, so it gives them some type of a, you know, a direction, or an indication of where Council's coming from, because it's, you know, it's possible they would just take the ball and run with it and come up with a totally different product...

Councilwoman Stade: Right...

Mr. Kerr: Which may come back to you and say, you know "No, that's not what we had in mind. Thank you but no thank you." and then you're (inaudible) but to make this meaningful, it's important they get as much of your reasoning, as much of the information as they can.

Councilwoman Stade: I spoke to a Walla Walla mayor and they have it less regulatory, they have it to be where the neighbor to neighbor kind of work out their own boundary lines therefor the City's not taking on that liability and I liked the idea that it wasn't requiring the citizen to pay for the survey. I spoke to some people that do surveys and realized the range of costs is extensive, you know, it can be minimal to extensive, so knowing that, I changed, I kind of sat back a little bit and went, "Okay, I want it to be more neighbor to neighbor and less regulatory as far as boundary lines, you know, they'll work, they'll work that out." I do agree with what you recommended as far as fencing material, the non-sight obscuring, not having the slats, etc. and I did notice the discrepancies in the different heights that you mentioned, I noted those, from three and a half to four feet, and we're leaning more towards a commonality of four feet, you know, so that we get small dogs, at least they would stay in as well, and not just a grandfather clause for the, the citizen. Also, I was looking at my neighborhood and realized front yard and back yard may need to be defined because I noticed that one of my front yards is on the corner, so really the side of the backyard is the part that's facing the street, which then I would be concerned about if it's obscuring and I realized that the front yard may need to have a caveat in there that if it's adjacent to a street, then we don't want it to be sight-obscuring because if I'm turning that corner and I can't see because it's a six foot high fence, there again, it's the same dilemma that we have with the front yard. So I didn't know from, based on the Planning Commission's recommendations, if it should be a slight permit so that we know that the people come in and read the standards, like a nominal one, but, but take out the, the condition of the, of the yard, of the, you know, the boundary line because of the cost.

Mr. Kerr: Well, having some knowledge of Walla Walla, and frankly I like the approach they have and that is verification, you know, the person that's going to put up the fence, either, they verify that that's accurate, so it takes the liability away from the City, and so it depends on the level which you want for that verification. Frankly, an affidavit is probably going to be good enough to give us the protection that we want, but that's really, you know, the aim of the Planning Commission because they will have special meeting and they will take the time to discuss this; they will take all the input you have given them and then come back with their recommendation. And they'll also have Public Hearings so they can, you know, they can get as much information from the public as well, so I would, like I say, I would

gather the information and your suggestions and make sure they're available to the Planning Commission so they can take them into consideration and also to see the direction you wish to go.

Councilwoman Lehman: Well, I guess that's my concern. What I, what I pulled together was a number of options; two options, basically and I thought we would have a chance to discuss them and decide which way we wanted to go and give that then to the Planning Commission. That was my understanding of how we were going to proceed. Rather than having the Planning Commission decide whether we need a permit or not. And it sounds like a number of us on the Council do not want to go through the permitting process, so why would we turn in a permitting option to them? Either that or what, we have to make it clear what our, what our intent is and not give them just the whole package without a thorough explanation.

Mr. Kerr: Okay, well, because the ordinance, in its present state says that it has to, that it, that a portion has to be permitted pursuant to a (inaudible) maintained and improved by a building inspector, what you're doing is you're going to either enhance that and leave it as it is in regards to what type of a permit you require, so basic, what, you need to, if they're going to make a textual amendment, that's where the amendment's going to be; either to require or not require a permit, so that's why that portion of it has to go to Planning Commission. Like I say, the ultimate decision lies with you.

Councilwoman Lettau: They're not going to insist that we have a permit and charge them for a permit? Even if it comes back and they suggest that we do, we can still deny that (inaudible)...

Mr. Kerr: Exactly.

Councilwoman Lehman: Yeah, but again, it's like the chicken and the egg. Why don't we give them what we want and let them look at it.

Mayor Carnahan: Well, that's why Mr. Kerr's office, this is why we hire an attorney, to keep us straight on what we're going to be doing. We have to go to the Planning Commission, and then it comes back. Then we can take and hassle it out again, (inaudible) should recommend to us now what we need.

Councilwoman Lehman: I understand. So what are we going to, what are we going to do? What are we taking to the Planning Commission?

Mayor Carnahan: Lee has a packet, I believe, (inaudible)

Mr. Kerr: Well, what I'd want to make sure is that we've really got everybody's, everybody's input and make sure that that goes to the Planning Commission. You know, I guess part of my concern is is that I'm not sure we want to limit what the planning Commission is going to consider so they can give you a wealth of reasoned consideration, but again, the, the, I don't want them, you know, running off chasing shadows as well, so that's why I think, like I say, it's important now that Steph and I get together and make sure that we've taken minutes from the meetings and the materials that have been provided, both from, from, you know, what we've provided the, the, you know, the all-inclusive ordinance, what we've got now, and, you know, the suggestions that were made and make sure that goes to the Planning Commission so they'll know who, you know, literally, who the source (inaudible) is so I think that, like I said, I, I want to give them as much flexibility as possible but with the understanding that you're going to make the final determination as you see it.

Mayor Carnahan: Yes?

Councilwoman McLeod: I was thinking that we're a fairly old community and a lot of the homes have already been built and the fences, shrubs and trees, and if we're going to have permits and ordinances, what about the homes that have been bought by younger homeowners like, perhaps, myself, where I

have, just like Councilwoman Stade said, I have a side front yard by the road that has a tall fence and the front side yard does not but it's shrubbed in; now, are they going to go back on the permits for the new homeowners because of not having permits if they don't like where your fence is? I mean, there's a lot of things to consider here as far as fences go.

Mr. Kerr: There are, but this ordinance that you'll take, that you'll adopt should you adopt it, will take effect from that day on. It will not affect anything that's happened before that. Those are (inaudible) grandfathered...

Mayor Carnahan: It's called a grandfather, yeah...

Councilwoman McLeod: Grandfathered, yeah....

Mr. Kerr: They are a lawful non-conforming use, so they will be permitted.

Mayor Carnahan: Alright, is there any further...I think we just need a consensus to move forward.

Councilwoman Stade: Can I, I didn't know if, I didn't know if Councilman Lettau had had a chance to say what your thoughts are because I, we didn't get to discuss it last week because you weren't here, which we've never done that before when we're (inaudible) for something, so I appreciate your written documentation so that we could know, you know, your Option One and Option Two and the specifics of the editing that you recommended so that it wouldn't be just a huge document with things that were conflicting, because we noticed that Richland, Kennewick and Pasco all have different versions of the same idea. You shared, I don't know if you've had a chance to say what your thoughts are?

Councilwoman Lettau: You know, I have in the past, so if they go through the Minutes, my thoughts are going to be in there.

Councilwoman Stade: Okay.

Mr. Kerr: Okay. I think...Stephanie, do you have any problem being able to help put that together? Okay I just wanted to be sure I didn't put a task on you that was impossible to do. Thank you.

Ms. Haug: (No) I have all that, I have all that information.

Councilwoman Stade: Thank you.

Mayor Carnahan: Alright, I have consensus in moving that forward? Very good.

2. SPECIAL PRESENTATION – REAL ESTATE – (1154/3/936)

Mr. Claude Oliver, President, Tri-cities Realty Group

Mr. Bob Clark, Realtor, Tri-cities Realty Group

Mr. Oliver - I-82 Project – Interested – Kiona Irrigation – Redesign plan – FEMA – Replace system – Proposing to enter into agreement for I-82 for 6.15 acres at Interchange – Details provided during Executive Session

Mayor Carnahan – Type of construction?

Mr. Oliver – Preliminary – Informal discussions – Confident they are serious about ideas – Straight answers after discussion with

Mayor Carnahan – Exclusive Sales Agreement

Mr. Kerr – Presented to City a Listing Agreement – Authorizes them on behalf of City to sell property – Action at this time for Council to decide whether or not to enter into Listing Agreement – Short term and well identified - Focused on specific development

Mr. Oliver – Six months – 18 months interest extension

Mr. Clark – Yoke's on Bombing Range – Paradise Road – Development – Several subdivisions – Circle farms – New construction – Residential/Commercial – Need agreement to work towards

Mr. Kerr – Council has copy of agreement - Only change is sales price to \$5.00

Mayor Carnahan – Whatever they decide – Will have to bring to Council first to go forward

Councilwoman Stade – When proposal came to Council

Mr. Clark – Developer will draw up proposal – Bring back to Council

Mr. Oliver – E.D.C. has done a lot as part of this project – Commercial needs will be kept in mind – A lot of great things – Initial interest

Mayor Carnahan – Are there any other questions tonight? Think we should move forward with agreement – I'd like a motion to enter into an agreement with them

Councilwoman Meredith – Commission is six percent?

Mr. Oliver – Correct

Councilwoman Meredith – And Council will see any plans before hand?

Councilwoman Stade: Mr. Mayor, I make a motion to enter into an agreement with Tri-City Realty Group in giving them the contract for exclusive sale and listing agreement.

Councilwoman Meredith: I second.

MOTION #7- C. L. Stade moved and C. C. Meredith seconded to enter into an exclusive sale and listing agreement with Tri-cities Realty Group.

**VOICE VOTE #7- C. L. Lehman, C. C. Meredith, C. M. McLeod, C. L. Stade, C. M. Lettau
ALL YEAS. Motion carried.**

Mr. Kerr – Will need to make sure we have final agreement that Council is happy with – Broker and Mayor to sign

3. EXECUTIVE SESSION – REAL ESTATE - None

GENERAL COUNCIL COMMENTS – 1597/4/386

Councilwoman Meredith – Please excuse me from April 1st, 2014 Council Meeting – Will be out of town

Councilwoman Stade – Likely gone

***** April 1st, 2014 Regular Council Meeting cancelled due to quorum not available *****

***** Pro Tem/Assignments on April 18th, 2014 *****

ADJOURNMENT – Mayor Carnahan (1706/2/955)

Councilwoman Lettau: I make a motion we adjourn.

Councilwoman Meredith: Second.

MOTION #6– C. M. Lettau moved and C. C. Meredith seconded to adjourn the March 18th, 2014 Regular Council Meeting at 7:55 p.m.

VOICE VOTE #6– C. C. Meredith, C. L. Stade, C. M. McLeod, C. L. Lehman, C. M. Lettau
ALL YEAS. Motion carried.

Meeting adjourned at 7:55 p.m. (1710/4/200)



Lloyd Carnahan
Mayor, City of Benton City



Stephanie Haug, CMC
City Clerk-Treasurer

Date: 4-16-14