

**City of Benton City
Regular Council Meeting Minutes
April 7th, 2015**

CALL TO ORDER – Mayor Carnahan called the April 7th, 2015 Regular Council meeting to order at 7:00 p.m. (392/2/158*Audio recording begins)

PRESENTATION OF THE COLORS – Councilwoman Stade led the Council and audience in the Pledge of Allegiance. (413/1/280*)

ROLL CALL (428/1/303*) Council Members Present –

**Michelle McLeod
Linda Lehman
Mary Lettau
Lisa Stade**

City Staff Absent –
Connie Meredith (Excused)

City Staff Present –
**Stephanie Haug, City Clerk/Treasurer
Paula Kauer, General Clerk/Purchasing**

Other Professionals Present –
**Eric Ferguson, City Attorney, Kerr Law Group
Alan Rainey, City Engineer, Spink Engineering LLC
Larry Howell, President, Benton City E.D.C.
Randy Rutledge, Consultant, Benton City E.D.C.**

Councilwoman Stade: I move to approve that we excuse Councilwoman Meredith.

Councilwoman Lettau: I second.

MOTION #1- C. L. Stade moved and C. M. Lettau seconded to excuse Councilwoman C. Meredith from the April 7th, 2015 Regular Council Meeting.

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

READING AND APPROVAL OF MINUTES (455/4/123*) - REGULAR MEETING MARCH 17th, 2015

Councilwoman Stade: Mr. Mayor, I move to approve the Minutes from March 17th meeting as written.

Councilwoman McLeod: I second it.

MOTION #2- C. L. Stade moved and C. M. McLeod seconded to approve the Minutes of the March 17th, 2015 Regular Council Meeting as presented.

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

OPENING REMARKS, “HOUSEKEEPING” ITEMS, EXECUTIVE SESSION REQUESTS, ETC.
(468/3/285*)

1. Short Course on Local Planning – Council Training Opportunity – West Richland

APPROVAL OF AGENDA (514/3/215*)

Councilwoman Lehman: Mr. Mayor, I move to approve the Agenda as presented.

Councilwoman Lettau: I second.

MOTION #3- C. L. Lehman moved and C. M. Lettau seconded to approve the Agenda for the April 7th, 2015 Regular Council Meeting as presented.

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

VISITOR COMMENTS (522/1/538*)

Heather Duncan – John Bequette Memorial Award – Chamber/E.D.C. behalf – Willing with committee to organize an event for volunteer appreciation – Recommendations for community to celebrate our heroes and volunteers – Ask that City Council – Lorna Deckert chaired on behalf of City – Need a current City Council member to chair and participate

Councilwoman Stade – Willing to help decorate or do a piece of it – Good tradition - Present and past – Means to nominate

Ms. Duncan – Council helps to make the selection

Councilwoman McLeod – Any details on how determined who will be the candidates?

Councilwoman Stade – Attended an appreciation dinner in the past

Councilwoman McLeod – Would like to help

Ms. Duncan – Have done couple different formats - Have done a dinner at Desert Rose Terraces – Filled the bus – Others included casual afternoon events at Community Center – Not as well attended

Councilwoman McLeod – Bequettes heavily involved in Food Bank

Ms. Duncan – One of the incentives to the award – Keys to the Food Bank found

Mayor Carnahan – Committee of two – Councilwoman Stade and Councilwoman McLeod

Councilwoman Lettau – Others can help

Mayor Carnahan – Richland High School students in attendance – Observe

REGULAR REPORTS

1. E.D.C. REPORT (752/3/328*)

Larry Howell, President, Benton City E.D.C.

Randy Rutledge, Consultant, Benton City E.D.C.

Report in packets

2. STAFF REPORTS – None (1012/1/597*)

Stephanie Haug, City Clerk/Treasurer

4. ENGINEER REPORT (1013/2/428*)

Alan Rainey, City Engineer, Spink Engineering LLC – Jonah – Opened bids for – Basketball courts – Next meeting – Bids – Well #5 – Benton PUD – Electrical issues – Month to month and a half – Roundabout utilities relocation – Talking to D.O.T. – Looking for funding to relocate utilities this summer? Sewer relining project – Working with Mayor and Maintenance to identify areas

Councilwoman Stade – Not tried that method before?

Mayor Carnahan – Talked about it – Seen it done

Councilwoman Stade – Skate Park land – Boundaries?

Mr. Rainey – Met with property owner – Gave her property line proposal

Ms. Haug – Supposed to report back before the next meeting

Councilwoman Stade – Nice to know before April 25th – Contributions - Ideas

5. COUNCIL COMMITTEE REPORTS (1125/1/686*)

Councilwoman Stade – Benton Franklin Transit – Team up with events – Shuttle to Yakima River – Bigger events – Combing advertising – Reading program youth pass

Councilwoman Meredith – Absent

Mayor Carnahan – Port of Kennewick – Time capsule – Next week – Hoping to present the roundabout brochure – White booklet of Benton City history – 50 years from now

Councilwoman Lehman– None

Councilwoman Lettau – None

Councilwoman McLeod – Mosquito Control Board – Happy with new vehicles – Talked about ecology – More than mosquitos – Effects on animals and bees – Studies show not risking animals – New Orleans to learn more – People with perfect yards killing things bees need – Without bees – No food – April 18th – Tire collection – Get rid of old tires – Collect water and attract mosquitos – Danger to all

ITEMS FOR APPROVAL:

1. RESOLUTION #2015-04 – SOLID WASTE MANAGEMENT INTERLOCAL AGREEMENT

(1341/2/602*)

Councilwoman Lehman: Mr. Mayor, I move to approve Resolution #200165, I guess that 1604, a resolution authorizing the Mayor to sign the Solid Waste Management Interlocal Agreement with Benton County, Richland, Kennewick, West Richland and Prosser.

Councilwoman McLeod: I second that, second it.

Councilwoman Stade: And the only difference is its 2015-04.

MOTION #4- C. L. Lehman moved and C. M. McLeod seconded to approve Resolution #2015-04, a resolution authorizing the Mayor to sign the Solid Waste Management Interlocal Agreement with Benton County, Richland, Kennewick, West Richland and Prosser.

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

2. RESOLUTION #2015-05 – LAND DONATION (1384/1/230*)

Councilwoman Lettau: Mr. Mayor, I move to approve Resolution #2015-05, a resolution of the City of Benton City, Washington, accepting the donation of real property for municipal purposes.

Councilwoman Stade: I second.

MOTION #5- C. M. Lettau moved and C. L. Stade seconded to approve Resolution #2015-05, a resolution of the City of Benton City, Washington, accepting the donation of real property for municipal purposes.

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

3. JONAH PLACE & FAYE AVENUE BID TABULATION (1442/1/842*)

Mr. Rainey – Explanation of project and bid recommendation

Councilwoman Stade: I make a motion to move to award Granite Construction with the Jonah Place Reconstruction and Fay Avenue Drainage Improvements (base on bid plus Alternative 1) for \$111,400.00.

Councilwoman Lehman: I'll second.

MOTION #6- C. L. Stade moved and C. L. Lehman seconded to award Granite Construction with the Jonah Place Reconstruction and Fay Avenue Drainage Improvements (base bid plus Alternative 1) for \$111,400.00.

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

Mr. Rainey – Will put our Notice of Award - Pre-Con meeting within next two weeks

4. **VOUCHERS** (1543/3/659*)

Councilwoman Lettau: Mr. Mayor, I move to approve payment of Claim check numbers 26786 through 26821 with EFTs as listed in the amount of \$50,578.54 this 7th day of April, 2015.

Councilwoman McLeod: Second it.

MOTION #7– C. M. Lettau moved and C. M. McLeod seconded for the City Council of the City of Benton City, Washington, to hereby authorize payment of Claim Check Numbers 26786 through 26821 with EFTs as listed in the amount of \$50,578.54 this 7th day of April, 2015.

**ROLL CALL VOTE #7–C. L. Lehman, C. M. Lettau, C. L. Stade, C. M. McLeod
ALL YEAS. Motion carries.**

ITEMS FOR DISCUSSION (1571/3/693*)

1. MARIJUANA ESTABLISHMENT REGULATIONS

Mr. Ferguson – Discussion – Four options on the Table – Currently under Moratorium – Complete Ban – Regulations – Or do nothing – Work Plan – Planning Commission – Two meetings where Public Hearing held - Low turnout at Public Hearing – Work on regulations – Not that you should regulate – Saying if you decide to regulate – Our suggestion how it should be done – State Legislature – Update – Twenty-Four Bills – Narrowed – Inside Olympia – Online – Two bills that might pass – Significant hurdles still to come – Still has to pass both houses in final form before going to Governor for approval - Help local government figure out quagmire – Medical vs. Recreational Marijuana – Not commenting regarding local government regulation – Going to do something – Don't know yet – Unregulated in Seattle – Third part is Courts – Bill passed – Doesn't rule out courts – Proponents of 502 may still seek Supreme Court ruling on this - June deadline with outcome in December – Moratorium ends by next meeting – Just a suggestion by Planning Commission - Regulations very restrictive – Industrial grows must be indoors – More than 1,000 ft. buffer 502 requires – R-Zones – Pretty much only place for retail store, grow operation or production facility - Across highway – Conditional Use element – Extra say in permit process – Liquor Control not issuing licenses – Risk option

Councilwoman Lettau – If continue Moratorium – How long would that be for? Would we need to address again? On hold again?

Mr. Ferguson – Moratorium – Made for this situation – Constantly changing - As long as we're making progress – Best legal position – What is the law? Statute under very clear – Allowed to extend in six months period – As long as we hold Public Hearing and Findings – Not constitutionally protected activity – Seattle strip clubs bans – Moratorium probably neck and neck with ban – Local authorities retain power to regulate unless explicitly taken away – Argument has been won five times by local cities

Councilwoman McLeod – Paperwork before us – Base to continue Moratorium? Make regulations that undermine State regulations – We're small community – Fife lost \$100,000 fighting it – Pro-marijuana people supporting bills have money – Maybe more Tri-Cities combined – We're fighting drug war that's over because voters spoke – Just trying to keep it off Main Street at this point

Mr. Ferguson – Ordinance just checking the box on our work plan so we can continue the moratorium or good regulations? Spend hours making sure this regulation fit our code – Specific to Benton City – If planning to regulate – Feel good about work Planning Commission did

Councilwoman McLeod – Not intending to undermine – Not a fan – But not Main Street – Voters said they want to smoke – Elected position – Not here to address my own thoughts and feeling on subject – Represent the voters and greater good of all voters and their decisions – Have to go beyond how I feel

Mr. Ferguson – Reminder - Ordinance addresses Retail, Manufacturing and Processing – Use not allowed in Public – Criminal - Not under 502 – Ordinance makes sure not allowed near Main Street through zones

Councilwoman Lettau – Differ – Voters on this side said differently – Just because legalized – Doesn't mean we have to sell or process in our town - Like the Regulations – Well-covered – Personally want to see City go with a Moratorium again

Mr. Ferguson – Don't know regarding the Justice Department – Moratorium helps with this – Need to have an education element – Feds could say no more

Councilwoman Lehman: Well, as usual, I have a lot of opinions about this. I'd like to take a few minutes and address the Council. May I have five minutes maybe? I'm not asking any questions, I'm going to make some statements. First, I wanted, as long as I've been on this Council, this Council has been very giving and wanting to help the youth, and the main problem that we've had all along is that we can't finance some of these big projects that we would like to finance. For example, the state, the skate park, but I also want the Council to realize there's other sectors of this community that need our attention as well, and a lot of that, I'm going to speak specifically about the downtown businesses. Our town is dying and the businesses are barely able to stay open, many of them are shutting down all the time. What businesses need is visitors that come into town so that they can stop by the sandwich shop; they can stop by palm and have a beer; they can visit Branches & Vines or Quail Crossings. So, what if I told you that I know of a way that you could finance that skate park with our own money within the next two years and also, have some added benefits of improving the economy, on two scales; one having the businesses having a little extra business, and second, that it would provide jobs. Would you be willing to listen and think about that? So you're asking me how that can be done. Well, let's just use the numbers from Prosser. Prosser, as you know, has had a marijuana store for about a year, not quite a year, and they've sold over a million dollars of marijuana in that time period. So what does Prosser get out of that? They get, up top, their sales tax, eight point three percent. That's \$83,000 that they get from the sales tax. They also will get a kickback from the State on that volume of sales. Right now, the law has been giving them one percent but there are bills in the House that would increase that, possibly as much as eight percent, so even if we stay at the one percent, that's \$90,000 we would have in a year. In two years, you'd have enough money to build your skate park. You'd have, after that, you'd have money that you could put into the businesses, improve the parks, that sort of thing, so I am, I am hoping that tonight when you consider this ordinance that you will look at these maps, and on the first map, which is by law, the State law now, there are two areas, well, I can't tell if that's an area down there or not, two areas in town here, which is sort of on the outskirts of town and there is the Kiona across the street plus the highway, which is undeveloped land. If you look at the proposal from the Council, from the Commission, there's nothing in town, there's nothing on this side of the river, so if, say we go ahead with this, then we could maybe locate a store on the other side, first of all, you have to build it, they're trying to build a hotel over there. The second thing is if you buy it over there, nobody's going to come into town to help our businesses, so I'm asking you to think about the bigger picture and not rule this out because you're afraid our kids are going to have more access. The kids have access. The intent of this law was to get the money out of the hands of the Mexican Cartel and put it into communities and like I said, this goes against my grain, because all the advice we're getting, we're getting advice that says this is the safest way that we can avoid a lawsuit and still subvert the law. We're not going to go by the law. I don't like that. I want us to think in a different way about it. I want us to think positively and I want us to think how can we use that law to better our community, so I urge the Council not to move forward with this moratorium again and adopt these regulations as they are. I think the State, what they've put out is sufficient to protect the downtown and give us, our businesses a head start.

Councilwoman Stade – Spoke to people actually growing – Ask specifically – Do you think growing will replace cartel? Prosser getting sued by other retailers – Pasco – Said no – Waiting on courts – Could come back and say we're taking back that option - Spent time – People want – Not a great match for Branches & Vines – Work with youth – See and know of people that have less ambition – Already fighting against – Jobs, grades and occupations - Working against distractions – Don't see tax money helping Skate Park – Currently working at sweat equity – Donations – Help – Have youth make it happen - Rather work on getting money from Public Safety – Oregon lottery started to boost education – One of poorest for education in nation – Youth wanting to work to make things happen - Wait on all accounts – Said yes – Got lawsuits - Said no - Got lawsuits

Councilwoman McLeod – Agree with you and with Linda - Agree with all other councils – Pot is already being grown – Already being manufactured – Already being sold – Brought over state line in semis - No one is getting money for this – Naïve to think this industry isn't here we're not getting a cent for – Kids can get marijuana easily – Adults who can't get it ones passed law - Just like alcohol – Have some control with regulations – Receiving some of the tax money - Right now – Only drug dealers are getting this money – Legal drug growers – Don't want to believe it's happening – Know it is – Even more naïve to think if we don't tax it – It's okay because we're not acknowledging it's there – Prosser making bundle off it and making sure it's not where it's not supposed to be

Councilwoman Lettau – Choose to go with Moratorium – Still have regulations – Just waiting it out – Can't say I want the marijuana money in town – Would rather do sweat equity and work for it – Don't want marijuana money in town fixing my town – Not worth it to me

Councilwoman McLeod – What about being sued? Fife lost \$100,000 fighting it

Mayor Carnahan – Best bet to move forward with Moratorium - Wenatchee still in legal action

Mr. Ferguson – Their Moratorium was upheld – Concerns about not getting back to education element they wanted to be met – In conflict with Controlled Substance Act 1971 – Three major requirements – Education one – Why there's big push to address

Mayor Carnahan – Hate to think Benton City needs to rely on marijuana money to support the City – Been through lawsuits with City for other issues – It costs money – Could end up losing money from marijuana on lawsuits - Lived in Benton City since 1947 – Support the Moratorium – Let the larger politicians hash it out – If up to me personally - Won't sign a bill – Against it

Mr. Ferguson – Lawsuit aspect – Any action against City – Use other to “stay” waiting for other cases already gone thru process – This issue is being legislated through other places – Irony of Kennewick case – Hopefully any court would say this is further down the line

Mayor Carnahan – Medical Marijuana – Doctor's card required – Can have 15 plants with cards – Three adults means 45 plants allowed – Not had anyone tell me how much you get out of one plant after processed – Already legal

Mr. Ferguson – Fifteen plants equals 60 day supply

Mayor Carnahan – Nobody has been able to tell me how much marijuana is supplied by one plant – Can't believe that it all stays in the house

Councilwoman Lehman – Back to Regulations – If I were to adopt this regulation – Would like to see some changes – Like Conditional Use – Don't like all restrictions – Would like to see those restrictions over and above State Law be removed

Mayor Carnahan – Process for Public Hearing? Planning Commission meeting count

Mr. Ferguson – No – Planning Commission needed Public Hearing before they could send recommendation to Council - Decide tonight what you would like Counsel to do – Not providing all options – Time and money – Moratorium or regulations – Set Public Hearing – Notice requirement - Get direction as to where to spend time getting ready for next step

Councilwoman McLeod – Eight foot plant – Googled it – Quality of the grow – Quality of marijuana – Once to limit - Take extra to a place like Prosser – Tacoma – Medical Marijuana Farmers' Market

Mayor Carnahan – What is Council consensus tonight?

Councilwoman Lehman – You won't get consensus from me

Councilwoman Stade – We get consensus – Item for Discussion – Then when we give Public Notice – Public Hearing

Mr. Ferguson – One of two ways public would speak - Public Hearing if pursuing Moratorium – Or Item for Approval – Open for comment – Public Hearing with formal constraint

Unidentified Male – How will you let us know about it?

Mayor Carnahan – Just like other City functions – Marquee – Ask for consensus – Looking into Moratorium and Public Hearing

Councilwoman Stade – I like moratorium

Councilwoman Lettau – Yes

Mayor Carnahan – I have a consensus of majority

Councilwoman Lehman – No - You don't have a consensus

Councilwoman McLeod – No - You don't – I don't agree with you, Mr. Mayor – Did Mrs. Meredith...?

Mayor Carnahan – I can vote on this – There's no money involved – We have a consensus

Councilwoman McLeod – Did Mrs. Meredith leave a vote?

Councilwoman Stade – She has to be present

Mayor Carnahan – On non-money matters – If there's a tie – I can vote – Okay – I have a consensus

Councilwoman Lehman – That doesn't make it a consensus – That makes it a majority

Mayor Carnahan – This is consensus - Majority is consensus

Mr. Ferguson – To make it clear – What's happening tonight is nothing binding in terms of what you can or can't do – Only thing being decided tonight by consensus – Don't mean everybody comes to agreement – I mean coming to agreement tonight – Consensus tonight would be you want to potentially pursue the moratorium meaning we would need to set a Public Hearing for that – You're not bound to pass a moratorium just because you set a Public Hearing

Mayor Carnahan - Giving people another chance to get their feelings on record

Mr. Ferguson – Nothing you're doing tonight will prohibit City from continuing with regulations or a ban

Councilwoman Stade – Think something we can all agree on – Want to hear from the community – Whether we agree for moratorium or not – Agreement that we do want to set Public Hearing to hear from community

Councilwoman Lettau – Do at next meeting?

Mayor Carnahan – Should be on a separate date – Won't hear comments within one hour – Then bring it back to regular meeting

Mr. Ferguson – In order to do it that way – Would have to do Special Meeting – Same notice requirements – one of the problems running into is expiration of current moratorium

Ms. Haug – Due to expire in April – About time of next meeting

Mayor Carnahan – We could have workshop before regular meeting

Councilwoman Stade – We can do it at 6 o'clock and then have our meeting at 7

Ms. Haug – We need to have time to do the Public Notice for the Public Hearing

Unidentified Male – Going to take longer than an hour

Mayor Carnahan – Is it set in stone? What would happen if we went two weeks over?

Mr. Ferguson – Create a gap in moratorium – If someone waiting to apply for business license – Wouldn't be covered during that gap

Councilwoman McLeod – Is there a reason we can't set a date?

Mayor Carnahan – No – Won't be able to get ideas and comments in an hour's time – Touchy subject – Would rather set date we could have this workshop prior to next Council meeting

Mr. Ferguson – Normally way it would be done – Unfortunately we don't have time – Time requirement – Have to have fourteen day notice requirement for the Public Hearing

Councilwoman Stade – So the 21st would be the earliest we could do it or the 22nd?

Ms. Haug – The 22nd – It would be two weeks from today - 22nd would be the first day we could have it – Next Council Meeting is 21st - 22nd would be first day we could have it – Need two weeks' notice

Mr. Ferguson – Are we not two weeks from the next Council meeting?

Ms. Haug – It would be two weeks from today – Won't be published – It won't be fourteen days before the Council meeting...

Mr. Ferguson – The date counts - We could do it on that date – That's my understanding

Mayor Carnahan – We can do it on the Council Meeting night

Councilwoman Lettau – Can we do it like Lisa said - Have workshop at six and our meeting at seven

Councilwoman Stade – I don't think an hour is enough

Mayor Carnahan – Mrs. Lehman – What is earliest you can meet on Tuesday – Two weeks from now?

Councilwoman Lehman – I can be here at six

Mayor Carnahan – Let's make a motion to have our council meeting start at six o'clock on 21st - The Public Hearing has to come first – In Agenda – Marijuana will probably be first thing on 21st at 7 o'clock – Just like regular council meeting

Unidentified Female – How are you going to notify people of this?

Ms. Haug – Any Special Meeting of the City Council is published in the Tri- Cities Herald – It's also put on City's website – Can see all meetings – Agendas published for Tuesday meeting the Friday before – You'll find that Agenda on website – For Special Meetings it's three days the Agenda will be published – The notification will be on the website

Mayor Carnahan – Need motion that Council meeting on 21st will begin at 6 o'clock

Councilwoman Lettau: Mr. Mayor, I make a motion that the Council meeting on April 21st would start at 6 o'clock.

Councilwoman McLeod: I second it.

MOTION #8- C. M. Lettau moved and C. M. McLeod seconded to approve the April 21st, 2015 Regular Council Meeting will begin at 6 p.m.

**VOICE VOTE #8- C. L. Lehman, C. L. Stade, C. M. Lettau, C. M. McLeod
ALL YEAS. Motion carried.**

Mr. Ferguson – Need to do a motion for a Public Hearing – Need a separate motion setting the Public Hearing so we can basically do same thing

Councilwoman Lettau: Mr. Mayor, I make a motion that we have a Public Hearing at 6:01 on April 21st...

Mayor Carnahan: Let's make it 6:15, 6:15, that way we can get through opening ceremonies

Councilwoman Lettau: Get through everything else? Okay, 6:15 on April 21st.

Councilwoman Stade: I second it.

Councilwoman Lettau: To discuss the marijuana issue.

MOTION #9- C. M. Lettau moved and C. L. Stade seconded to set a Public Hearing for April 21st, 2015 at 6:15 p.m. to discuss the marijuana issue.

**VOICE VOTE #9- C. L. Lehman, C. L. Stade, C. M. Lettau, C. M. McLeod
ALL YEAS. Motion carried.**

GENERAL COUNCIL COMMENTS (3108/4/701*) None

ADJOURNMENT – Mayor Carnahan (3111/3/283*)

Councilwoman Stade: Mr. Mayor, I make a motion that we adjourn.

Councilwoman Lettau: I second.

MOTION #10– C. L. Stade moved and C. M. Lettau seconded to adjourn the April 7th, 2015 Regular Council Meeting at 8:30 p.m. (3118/1/945*)

**VOICE VOTE #10–C. L. Lehman, C. L. Stade, C. M. Lettau, C. M. McLeod
ALL YEAS. Motion carried.**

Meeting adjourned at 8:30 p.m. (3119/4/557*Audio recording ends)


Stephanie Haug, CMC
City Clerk-Treasurer


Lloyd Carnahan
Mayor, City of Benton City

Date: 4-29-15