

**City of Benton City
Regular Council Meeting Minutes
May 5th, 2015**

CALL TO ORDER – Mayor Carnahan called the May 5th, 2015 Regular Council meeting to order at 7:00 p.m. (01:07:28*Audio recording begins)

PRESENTATION OF THE COLORS – Councilwoman Stade led the Council and audience in the Pledge of Allegiance. (01:07:21*)

ROLL CALL (01:06:57*)

Council Members Present –

**Mary McLeod
Connie Meredith
Linda Lehman
Mary Lettau
Lisa Stade**

City Staff Present –

Stephanie Haug, City Clerk/Treasurer

Other Professionals Present –

**Eric Ferguson, Associate, 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.**

READING AND APPROVAL OF MINUTES (01:06:40*)

- REGULAR MEETING APRIL 21st, 2015

Councilwoman Stade: Mr. Mayor, I move to approve the Agenda Minutes as written, typed.

Councilwoman Meredith: I'll second.

MOTION #1- C. L. Stade moved and C. C. Meredith seconded to approve the Minutes of the April 21st, 2015 Regular Council Meeting as presented.

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

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

(01:05:42*) None

APPROVAL OF AGENDA (01:05:16*)

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

Councilwoman Lehman: I second.

MOTION #2- C. C. Meredith moved and C. L. Lehman seconded to approve the Agenda of the May 5th, 2015 Regular Council Meeting as presented.

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

VISITOR COMMENTS (01:04:59*)

Jack Davis, 506 Carol Avenue – Two things to mention - Four months ago – Submitted letter – Code Enforcement – Please call – Don't understand codes

Mayor Carnahan – Will call when he returns to work

Maxine Martin, 506 Carol Avenue – Question not complaint – Items for Approval – Never read – Public doesn't know what's in it – Can these be read to public? Marijuana Moratorium – Explain

Ms. Haug - Entire packet available to public Friday afternoon before meeting

Heather Duncan, Benton City Chamber of Commerce – Election Season – Filing week next week
Lot of positions open – Benton City Chamber of Commerce – City-wide Yard Sale – June 13th – Rolled
back prices - \$10 at home or business location – Spaces available for \$15 at City Park - Chamber/City
Hall – Link on Facebook

REGULAR REPORTS

1. EDC REPORT - (01:00:26*)

Larry Howell, President, Benton City E.D.C. / Randy Rutledge, Consultant, Benton City E.D.C.
*** Written report provided ***

2. STAFF REPORTS – (00:53:55*)

Stephanie Haug, City Clerk/Treasurer

3. ENGINEER REPORT - (00:53:50*)

Alan Rainey, City Engineer, Spink Engineering, LLC

- Library Pergola – Bids were three times engineer's estimate – One bid out of seven contractors –
Larger contractor bid – No smaller ones bid – No time for job - Look to rebid in the fall/winter - Slower
- Jonah & Fay Project – Variation in design – Start on Thursday – Twenty working day – 1st of June
- Legion Park Basketball Court – Start Wednesday, May 13th – Tree removal Thursday, this week

4. COUNCIL COMMITTEE REPORTS (00:52:00*)

** Finance Committee – Schedule meeting to review 2014 Annual Report (Meredith & Lettau) **

Councilwoman Lettau – None

Councilwoman McLeod – None

Councilwoman Lehman – None

Councilwoman Meredith – None

Councilwoman Stade – Planning and Marketing - Benton Franklin Transit – New bus shelter by US
Bank – Same location – Maps for the schools

Mayor Carnahan – Legislature – Back in session – Transportation in limbo still \$3 billion off in budget –
15th of July deadline – Meeting on Thursday – With Transit STP funds – Want everyone to have
shovel-ready jobs – Ready for funding – Can't accumulate money anymore – Tough on small cities –
T.I.B. still working with small cities – Been good to us – Got couple of projects done last few years –
Need to figure out way to raise our own money for streets – Isn't any money coming from County – Will
approach this topic again – No money – Need to do something – Streets will continue to decline –
Already hard for City to maintain what we have

ITEMS FOR APPROVAL: (00:45:03*)

Ms. Haug – Finance Committee – Councilwomen Meredith and Lettau – Need to schedule meeting to
review Annual Reports – Next week? Schedule after meeting?

1. RESOLUTION #2015-06 – MARIJUANA ESTABLISHMENT MORATORIUM (00:45:29*)

Councilwoman Meredith: Mr. Mayor, I move to approve Resolution #2015-06, a resolution of the City
of Benton City, Washington, declaring a renewal of the moratorium established by Resolution #2013-
20, extended by Resolution #2013-26, and renewed by Resolution #2014-18 adopting Findings of Fact
and approving an amended work plan.

Councilwoman Lettau: I second.

MOTION #3- C. C. Meredith moved and C. M. Lettau seconded to approve Resolution #2015-06, a
resolution of the City of Benton City, Washington, declaring a renewal of the moratorium
established by Resolution #2013-20, extended by Resolution #2013-26, and renewed by
Resolution #2014-18 adopting Findings of Fact and approving an amended work plan.

Mr. Ferguson – Legislative update – AWC synopsis – SB5052 – Seventy-three pages long - Summary is five pages – Changes name of Liquor Control Board to Liquor Cannabis Board – Marijuana – Takes Medical Marijuana framework – Placed with I-502 framework – Liquor Control Board regulate medical facet – Collective gardens are no more – Retail – Recommend endorsement for medical – Would prevent retail medical purchasing – Created cooperatives – Medical marijuana database voluntary – Allowed to do more things if register for database - Governor veto – Struck provision that linked bills – HB2136 still out there – No longer contains public vote requirement – Financial aspect – Possible revenue sharing – Council is voting on moratorium – Six months – Findings based on Council comments – Would go away if regulations or ban were passed

Councilwoman McLeod – Liquor Board – Liquor in grocery stores – Marijuana in grocery stores too?

Mr. Ferguson – Legal retail medical endorsement

Councilwoman McLeod – Olympia passes – Require voting – Profit margin – Prosser \$38k – Idea how much

Mr. Ferguson – Currently SB2136 drafted – \$6 million first year distributed among cities and counties without ban – 30% after state takes first \$25 million – Clearly in flux

Councilwoman McLeod – If passed – Way Moratorium is worded – Could just go away?

Mr. Ferguson – Not currently as drafted – Could change in heartbeat - Dropped from bill

Councilwoman McLeod – Leaves us open to Fife situation - If we wait until July – Avoid lawsuit

Mr. Ferguson – Legal opinion – Painful process – Legislature considering options to not allow us bans - Could still be sued – But can't tell fortunes

ROLL CALL VOTE #3- C. C. Meredith, C. L. Stade, C. M. Lettau - YEAS; C. L. Lehman, C. M. McLeod - NAYS. Motion carried.

2. RESOLUTION #2015-07 – OLDER AMERICANS MONTH PROCLAMATION (00:33:02*)

Councilwoman Stade: Mr. Mayor, I make a motion for us to consider approval of a resolution of the City of Benton City, Washington, proclaiming May 2015 to be Older Americans Month.

Councilwoman Meredith: Second.

Councilwoman Lehman – What is purpose of this?

Ms. Haug – Purpose is to acknowledge resources available to older Americans – People supporting services for older Americans – Proclamation shows you acknowledge their efforts – Celebrating the month

MOTION #4- C. L. Stade moved and C. C. Meredith seconded to approve Resolution #2015-07, a resolution of the City of Benton City, Washington, proclaiming May 2015 to be Older Americans Month.

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

3. RESOLUTION #2015-08 – B.C.E.D.C. WEBSITE CONTRACT - (00:31:02*)

Councilwoman Lettau – Questions – Phase I vs. Phase II – Same items – Need more information

Councilwoman Lehman – Initially started a business directory with excel file from City – All businesses licensed in City - Now wants to help businesses by expanding – Pictures of businesses - Links to websites - Categories to type – Quite a bit of work for Heather

Councilwoman McLeod – Taking a dry site and making it more liquid – People can see what businesses are – What they can provide with second phase

Councilwoman Lehman – Yes – What we're hoping to do – City and E.D.C. sites were put up as examples at short course for planning meeting we attended

Councilwoman Meredith – How many more phases?

Councilwoman Lehman – Should be it – Maintenance following that

Councilwoman Meredith – Lot of money

Councilwoman Lehman – Not compared to what websites cost – Total 180 hours

Councilwoman Meredith – Line items budget to see – Costs - Deliverables – Expand and update website listing programs and grant information - What Grants have we gone after – Have we received any? Deliverables on your worksheet

Councilwoman Lehman – May have to ask Heather – Links to grants for small business – Small Business Development Program – Resources – Where they can go for information

Councilwoman McLeod – Is this the Ending Balance for the year – More billing down the road

Councilwoman Lehman – Our estimate - E.D.C. putting in \$1,000 – Hoping for \$500 from Benton REA – If we get extra \$500 from REA – Won't bill you for that amount

Councilwoman Lettau – Above and beyond yearly contract?

Councilwoman Lehman – Yes - Not budgeted in that amount – Same amount for years – This is an additional thing – Went out trying to raise money to do this – Feel it's important to put us on the map

Councilwoman Stade – Talk to businesses – Shop locally whenever able - Businesses ask how people know about them – There's a need to know – Shows support - Be more interactive – Apply for job - Get an application for car show

Councilwoman McLeod – Google incident – Middle of road stopping traffic - Looking for generator and business in our town – Good example why we should be in favor of this in our town – Without internet – Without information – Without automation – Could not have helped save the day down there - This will link us all together

Councilwoman Stade – Also how younger generation thinks – Asked RJ how he got permission slips for skate competition participants – Through webpage was answer – Another way of communicating – If want people to attend - Want to be able to attract all generations - Pass communication on

Councilwoman Lehman – One other thing to add - Joint project between E.D.C., Chamber and City – Coordinated to avoid overlapping – One of more important things we do is Email Blast every week – Chamber has realized additional members due to that – Free to Chamber members – Get to advertise on the Email Blast every week – Can scroll through – See who's got specials – If not Chamber member – Then have to pay \$25 for that ad – People realize can get two ads if join – Have it every week – Don't have to keep paying

Heather Duncan – Over 600 names on contact list

Councilwoman Stade: Mr. Mayor, I make a motion for us to approve Resolution #2015-08, a resolution authorizing the Mayor of the City of Benton City, to sign a Joint Agreement for Website Services between the City of Benton City and the Benton City Economic Development Council.

Councilwoman McLeod: I second that.

MOTION #5- C. L. Stade moved and C. M. McLeod seconded to approve Resolution #2015-08, a resolution authorizing the Mayor of the City of Benton City, Washington, to sign a Joint Agreement for Website Services between the City of Benton City and the Benton City Economic Development Council.

ROLL CALL VOTE #5- C. L. Stade, C. M. Lettau, C. C. Meredith, C. M. McLeod - YEAS; C. L. Lehman – ABSTAINED. Motion carried.

4. VOUCHERS (00:21:20*)

Councilwoman Lettau: Mr. Mayor, I move to approve payment of claim check numbers 26855 through 26876 with EFTs as listed in the amount of \$63,552.65, this 5th day of May, 2015.

Councilwoman McLeod: I second it.

MOTION #6– 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 26855 through 26876 and EFTs in the amount of \$63,552.65. These checks are approved for payment this 5th day of May, 2015.

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

ITEMS FOR DISCUSSION (00:20:31*)

1. SKATE PARK BOUNDARY LINE ADJUSTMENT

Alan Rainey, City Engineer, Spink Engineering, LLC – Sarah Hammond meeting – Couple things they'd like to see if they go for land swap – Solid fence running down alongside of Skate Park – Essentially a block wall - Thinking of those found along highways – Six feet tall - Sound barrier – Hoping for – Looking to switch - Map shows existing – Grass east if Skate Park is on their property – Proposal - Look at large fold out sheet – City would be gaining about 4,800 square feet – Land owner would be receiving about 2,800 square feet – Would make the property straight from Horne Drive down to Bike Path area

Councilwoman McLeod – Part that goes towards field – Love cement wall – Cost – There's no shared cost on that with neighbor – All city expenses

Ms. Haug – What's happening now – City is encroaching upon their property – They would be giving up their property – They would only be getting almost 2,800 square feet for giving 4,573 square feet – In exchange for that – Asking for those improvements – Living next to Skate Park has some negative impact on their quality of life – Asking for sound barrier in exchange for doing land swap

Councilwoman Meredith – Am I correct in understanding – Legally they could take it away from us anyway?

Mr. Ferguson – Yes – They could – Would it be easy? Probably not – How long has it been – Can't adversely possess as we are City – They could eventually do Quiet Title Action and force us off of it

Mayor Carnahan – Would like to negotiate to buy land – Bring back – Purchase whole lot – Executive Session – Tax information – Serious negotiations

Councilwoman Stade – Can we also look at hours of the park – Talk to kids about enforcing

Mayor Carnahan – Let's see what we can do about the land – Let's table this for two weeks - More research – Will need to get land appraised

GENERAL COUNCIL COMMENTS – (00:07:06*)

Ms. Haug – Public Record Memo

Mr. Ferguson – Regarding Public Records – Don't have accounts for City Council – Go with hard copies and phone calls – Supreme Court case with Pierce County Prosecutor using his personal smart phone to do texting for county – Court ruled once he rendered his personal device no longer personal – No longer purely personal – He subjected his call logs records and text message to review – Not broad review - Required to turn those into his employer to have his employer look at his text messages and call logs – If some debate over that regarding case - Then judge would look at that in Chambers – County Prosecutor quickly appealed directly to Supreme Court for clarification – Means

when you render any personal device no longer personal – Give up First Amendment Right to freely communicate with your constituents – As well as First Amendment Rights of those constituents – Two points – One – No clear rule right now – Rule prior – Don't use any device for anything related to the conduct of Government as you may lose it – Now saying you should be using your personal emails to contact your constituents because of First Amendment Right to freely associate – Conduct of government should then be used with City Account – We don't have city accounts – You shouldn't be using your personal email for that anyway – This is notice - If you have done that – Please let us know – We do not to try to obtain those records – Not a clear situation

Councilwoman McLeod – Why we need City laptops – Maybe we need to put that back into consideration – Avenue to do so

Mr. Ferguson – Conventional wisdom last few years - You have no right to let that communication out – I have right to freely associate - Now going the other way – Contact with constituents is clearly protected political activity – At same time – When sending email and then responding – Could be creating public records for the Conduct of Government that would be disclosable – Mess

Councilwoman Lettau – Just to clarify – When we email – If we're doing research into topics – checking into laws – Percentages – Checking R.C.W.s – doing own research for what we're going to be discussing next week

Mr. Ferguson – No – That's not a public record because it's for your benefit – Covered under exemption if discovered it was sent to someone – Kind of draft or recommendation – Those types of things are covered for your ability to do that – Information you collect on own – As long as not violating any other public meetings laws – Haven't given up First Amendment right just because you're a Council Member – Problem is defining what is conducting government business and when being politician

ADJOURNMENT – Mayor Carnahan (00:00:13*)

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

Councilwoman Lettau: I second.

MOTION #7– C. C. Meredith moved and C. M. Lettau seconded to adjourn the May 5th, 2015 Regular Council Meeting at 8:07 p.m.

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

Meeting adjourned at 8:07 p.m. (00:00:01*Audio recording ends)



Lloyd Carnahan
Mayor, City of Benton City



Stephanie Haug, CMG
City Clerk-Treasurer

Date: 5/20/15