

BENTON CITY COUNCIL

REGULAR SESSION

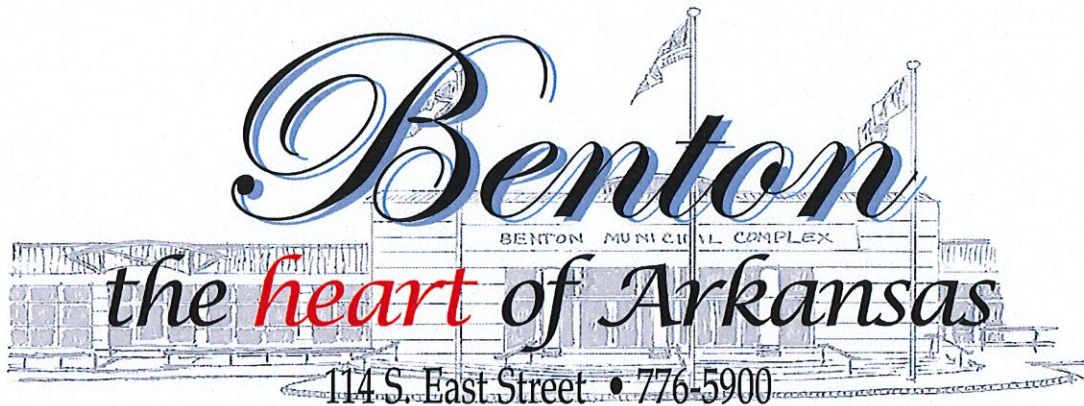
NOVEMBER 25, 2019

7:00 PM

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AGENDA MEETING

6:30 PM



BENTON MUNICIPAL COMPLEX
114 SOUTH EAST STREET
COUNCIL CHAMBERS

TOM FARMER, MAYOR

BENTON CITY COUNCIL
November 25, 2019
7:00 PM
AGENDA

- | | | |
|-------------|---|---|
| I. | Call to Order | Mayor Farmer |
| II. | Invocation | Nick Calloway |
| III. | Pledge of Allegiance | Council Member Baptist |
| IV. | Roll Call | City Clerk |
| V. | Approval of Minutes | October 28, 2019
<i>Regular Meeting</i> |
| VI. | Service Awards | Mayor Farmer |
| | <i>Kevin Jones – 10 years of service</i> | |
| | <i>Gary Middleton – 30 years of service</i> | |

VII. COMMITTEE REPORTS & MOTIONS

- | | | |
|-----------|--|----------------------------|
| 1. | Finance Committee | Council Member Cash |
| 2. | Community Services/Animal Control | Council Member Reed |

A.) ORDINANCE NO. 81 OF 2019

AN ORDINANCE RECALLING AND AMENDING ORDINANCE 66 OF 2013; AMENDING THE SUBDIVISION RULES AND REGULATIONS WITHIN THE CITY OF BENTON, ARKANSAS; AND FOR OTHER PURPOSES

B.) RESOLUTION NO. 79 OF 2019

A RESOLUTION ORDERING ENTERGY ARKANSAS, LLC TO FURNISH CERTAIN INFORMATION

C.) ORDINANCE NO. 82 OF 2019

AN ORDINANCE DETERMINING TO ACQUIRE CERTAIN PROPERTY OF ENTERGY ARKANSAS, LLC THAT IS LOCATED NORTH OF INTERSTATE 30 AND WITHIN THE CITY OF BENTON, ARKANSAS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO

D.) ORDINANCE NO. 83 OF 2019

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF BENTON, ARKANSAS, ON THE QUESTION OF ACQUIRING CERTAIN PROPERTY OF ENTERGY ARKANSAS, LLC THAT IS LOCATED NORTH OF INTERSTATE 30 AND WITHIN THE CITY OF BENTON, ARKANSAS, AND PRESCRIBING OTHER MATTERS PERTAINING THERETO

E.) ORDINANCE NO. 84 OF 2019

AN ORDINANCE AMENDING, REVISING AND RESTATING THE ANIMAL CONTROL ORDINANCE OF THE CITY OF BENTON; AND FOR OTHER PURPOSES

F.) ORDINANCE NO. 85 OF 2019

AN ORDINANCE ANNEXING CERTAIN TERRITORY INTO THE CITY OF BENTON, SALINE COUNTY, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

G.) ORDINANCE NO. 86 OF 2019

AN ORDINANCE ANNEXING CERTAIN TERRITORY INTO THE CITY OF BENTON, SALINE COUNTY, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

- 3. Street & Drainage Committee Council Member Hamm**

A.) RESOLUTION NO. 80 OF 2019

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF BENTON TO UTILIZE STATE AID STREET MONIES

- 4. Personnel/Health & Safety Committee Council Member Donnor**

- 5. Parks Committee Council Member Hart**

- 6. Public Utilities Commission Council Member Herzfeld**

A.) RESOLUTION NO. 81 OF 2019

A RESOLUTION RATIFYING AND CONFIRMING THE REAPPOINTMENT OF JIM MARTIN AS COMMISSIONER TO THE PUBLIC UTILITIES COMMISSION; AND FOR OTHER PURPOSES

- 7. A & P Commission Council Members Baptist & Lee**

VIII. Unfinished Business

IX. New Business Terry Benham, Benton FC

X. Old Business

XI. Public Comments

XII. Announcements

XIII. Adjourn

MINUTES OF THE BENTON CITY COUNCIL
Regular Session
October 28, 2019
Benton Municipal Complex

The Benton City Council was called to order at 7:00 pm.

Billy McLain, Northside Church of Christ gave the invocation.

Council Member Hamm led the pledge of allegiance.

Roll was called.

The following persons were in attendance:

**Council Member Frank Baptist
Council Member Jocelyn Cash
Council Member Bill Donnor
Council Member Judd Hart
Council Member Steve Lee
Brent Houston, City Attorney
Tom Farmer, Mayor**

**Council Member Steve Brown
Council Member Evelyn Reed
Council Member Jeff Morrow
Council Member James Herzfeld
Council Member Jeff Hamm
Cindy Stracener, City Clerk**

When roll was called ten (10) council members were present. A quorum was declared.

The Mayor requested approval for the September 23, 2019 city council meeting minutes. Council Member Hart made a motion to approve the minutes, seconded by Council Member Lee. The Mayor called for a voice vote on the approval of the minutes. All council members replied in the affirmative. The minutes for the September 23, 2019 council meeting were approved with 10 affirmative votes.

James Chitwood was recognized for 25 years of service with the city and Linda Kreuser for 15 years of service with the city.

A proclamation was read declaring October 20th through October 26th as “Friends of the Library Week” in the city of Benton. See attached.

Council Member Lee made a motion to amend the agenda and move item 6, the Public Utility Commission up to be considered now. Seconded by Council Member Hart. The Mayor called for a voice vote and all council members replied in the affirmative. Motion was approved. Council Member Herzfeld made a motion to suspend the rules to read Ordinance 80 of 2019 – An Ordinance Authorizing the Issuance and Sale of Public Utility Refunding Revenue Bonds to Refund Outstanding Bonds; Providing for the Payment of the Principal of and Interest on the Bonds; Prescribing Other Matters Relating Thereto; and Declaring an Emergency by title only. Seconded by Council Member Lee. The roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion was approved with 10 affirmative votes. Council Member Herzfeld asked for the first reading of Ordinance 80 of 2019 by title only. Seconded by Council Member Lee. The ordinance was read by title only. The Mayor asked for any comments. None. Council Member Herzfeld made a motion to

suspend the rules for the second reading of Ordinance 80 of 2019 by title only. Seconded by Council Member Donnor. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion to suspend was approved with 10 affirmative votes. Council Member Herzfeld made a motion to adopt Ordinance 80 of 2019 on its second reading by title only. Seconded by Council Member Lee. The ordinance was read by title only. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 80 of 2019 was adopted on its second reading with 10 affirmative votes. Council Member Herzfeld made a motion to suspend the rules for the third reading of Ordinance 80 of 2019 by title only. Seconded by Council Member Hart. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion to suspend was approved with 10 affirmative votes. Council Member Herzfeld made a motion to adopt Ordinance 80 of 2019 on its third reading by title only. Seconded by Council Member Morrow. The ordinance was read by title only. Council Member Hart stated that that this will save the taxpayers \$1.1 million by refinancing, it is a very good cost savings for the citizens. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 80 of 2019 was adopted on its third reading with 10 affirmative votes. Council Member Herzfeld made a motion to approve the emergency clause. Seconded by Council Member Lee. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. The emergency clause for Ordinance 80 of 2019 was adopted with 10 affirmative votes.

Council Member Cash was recognized for the Finance Committee report. Council Member Cash asked for the first reading of Ordinance 75 of 2019 – An Ordinance Amending the 2019 Budget for the General Fund as Adopted in Ordinance 1 of 2019; Accepting a Donation from the Downtown Merchants Association to Help Pay for Artistic Crosswalks in the Historic District; Declaring an Emergency; and For Other Purposes. Seconded by Council Member Baptist. The ordinance was read by the city clerk. The Mayor asked for any comments, none. Council Member Cash made a motion to suspend the rules for the second and third readings. Seconded by Council Member Reed. The Mayor asked that the roll be called. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion was approved with 10 affirmative votes. Council Member Cash made a motion to adopt Ordinance 75 of 2019 on its second and third readings by title only. Seconded by Council Member Reed. The ordinance was read by title only. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council

Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 75 of 2019 was adopted with 10 affirmative votes. Council Member Cash made a motion to adopt the emergency clause. Seconded by Council Member Donnor. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. The emergency clause was approved with 10 affirmative votes.

Council Member Cash asked for the first reading of Ordinance 76 of 2019 – An Ordinance Amending the 2019 Budget for the General Fund and Parks Fund as Adopted in Ordinance 1 of 2019; Accepting Sale Proceeds for Old Cell Phones and iPads; Declaring an Emergency; and For Other Purposes. Seconded by Council Member Baptist. The ordinance was read by the city clerk. The Mayor asked for any comments. Council Member Baptist asked how much money was received. It was \$2,125 and \$870. Council Member Cash made a motion to suspend the rules for the second and third readings. Seconded by Council Member Lee. The Mayor asked that the roll be called. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion was approved with 10 affirmative votes. Council Member Cash made a motion to adopt Ordinance 76 of 2019 on its second and third readings by title only. Seconded by Council Member Reed. The ordinance was read by title only. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes and Council Member Hamm yes. Ordinance 76 of 2019 was adopted with 10 affirmative votes. Council Member Cash made a motion to adopt the emergency clause. Seconded by Council Member Lee. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. The emergency clause was approved with 10 affirmative votes.

Council Member Reed was recognized for a report from the Community Service/Animal Control Committee. Council Member Reed asked for the first reading of Ordinance 77 of 2019 – An Ordinance Providing for a Conditional Use for a Hair Salon at 1313 Alcoa Road; Declaring an Emergency; and For Other Purposes. Seconded by Council Member Donnor. The ordinance was read by the city clerk. The Mayor asked for any comments. Pamela Tolson stated that the property has always been a salon but when she purchased the property realized that it was not zoned for a salon but residential. She asked that the council approved this conditional use. Council Member Reed made a motion to suspend the rules for the second and third readings. Seconded by Council Member Cash. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion to suspend the rules was approved with 10 affirmative votes. Council Member Reed made a motion to adopt Ordinance 77 of 2019 on its second and third readings by title only. Seconded by Council

Member Donnor. The ordinance was read by title only. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 77 of 2019 was adopted with 10 affirmative votes. Council Member Reed made a motion to adopt the emergency clause. Seconded by Council Member Cash. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. The emergency clause was approved with 10 affirmative votes.

Council Member Reed asked for the first reading of Ordinance 78 of 2019 – An Ordinance Providing for a Conditional Use for a Licensed In-Home Daycare at 2414 Red Bud; Declaring an Emergency; and For Other Purposes. Seconded by Council Member Cash. The ordinance was read by the city clerk. The Mayor asked for any comments. Shannon Nuckols stated that she owns the preschool and had five children. One of the student's mother adopted 2 children and wanted those children to enroll so I approached the city and contacted DHS who approved up to 10 children and informed the city that I was approved for up to 10 children. I was then told that I would need to get a conditional use to meet the requirements for Benton. I submitted the request for a conditional use went to the Planning and Zoning Commission meeting and it was denied. This has caused a lot of emotional distress on the children, them thinking they will have to go elsewhere. What I am asking is for some time, we are closing on some property December 6th and need time to get that place licensed, I need until the end of January. Council Member Donnor stated that he visited the residence and you could not tell that a daycare was there. Inside was very neat and clean. He stated that he supports this. Council Member Reed made a motion to suspend the rules for the second and third readings of Ordinance 78 of 2019. Seconded by Council Member Morrow. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion to suspend the rules was approved with 10 affirmative votes. Council Member Reed made a motion to adopt Ordinance 78 of 2019 on its second and third reading by title only. Seconded by Council Member Baptist. The ordinance was read by title only. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 78 of 2019 was adopted with 10 affirmative votes. Council Member Reed made a motion to approve the emergency clause. Seconded by Council Member Baptist. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. The emergency clause was approved with 10 affirmative votes.

Council Member Reed stated that the next committee meeting would be November 5th.

Council Member Hamm was recognized for a Streets and Drainage Committee report. Council Member Hamm made a motion to adopt Resolution 73 of 2019 – A Resolution

Authorizing the City to Enter into a Contract with Burkhalter Technologies, Inc. for Constructing Certain Drainage Improvements in the Area of Princeton and Montclair Streets; and For Other Purposes. Seconded by Council Member Reed. The resolution was read by the city clerk. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 73 of 2019 was adopted with 10 affirmative votes.

Council Member Hamm made a motion to adopt Resolution 74 of 2019 – A Resolution Authorizing the City to Enter into a Contract with McNeil Farms and Excavating, LLC for Rehabilitating the Bridgewater Culvert in the City; and For Other Purposes. Seconded by Council Member Morrow. The resolution was read by the city clerk. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 74 of 2019 was adopted with 10 affirmative votes.

Council Member Donnor was recognized for a report from the Personnel/Health & Safety Committee. Council Member Donnor asked for the first reading of Ordinance 79 of 2019 – An Ordinance Amending and Restating the Wage Scale for Employees in the City of Benton Fire Department; Amending Ordinances 10 of 2014 and 71 of 2011; Declaring an Emergency and For Other Purposes. Seconded by Council Member Baptist. The ordinance was read by the city clerk. The Mayor asked for any comments. Stuart Duke thanked the council for taking this into consideration. This scale just reflects what the department is now doing and makes it easier to move people around. We appreciate this. Council Member Donnor made a motion to suspend the rules for the second and third readings of Ordinance 79 of 2019. Seconded by Council Member Cash. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Motion to suspend was approved with 10 affirmative votes. Council Member Donnor made a motion to adopt Ordinance 79 of 2019 on its second and third readings by title only. Seconded by Council Member Reed. The ordinance was read by title only. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 79 of 2019 was adopted with 10 affirmative votes. Council Member Donnor made a motion to approve the emergency clause. Seconded by Council Member Morrow. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. The emergency clause was approved with 10 affirmative votes.

Council Member Donnor made a motion to adopt Resolution 75 of 2019 – A Resolution Authoring the Mayor to Enter into an Agreement with MetLife for Providing Long Term Disability Benefits and Life Insurance for Certain Current and Past City Employees. Seconded by Council Member Baptist. The resolution was read by the city clerk. The

Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 75 of 2019 was adopted with 10 affirmative votes.

Council Member Hart was recognized for a report from the Parks Committee. Council Member Hart made a motion to adopt Resolution 76 of 2019 – A Resolution Authorizing the City to Enter into a Contract with Fence World Inc. for Constructing Fencing at Bernard Holland Park; and For Other Purposes. Seconded by Council Member Herzfeld. The resolution was read by the city clerk. The Mayor asked for any comments. None. The Mayor asked that the roll be called. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 76 of 2019 was approved with 10 affirmative votes.

Council Member Hart made a motion to adopt Resolution 77 of 2019 – A Resolution Authorizing the City to Enter Into a Contract with American Building Systems for Constructing a Batting Cage at Tyndall Park; and For Other Purposes. Seconded by Council Member Herzfeld. The resolution was read by the city clerk. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 77 of 2019 was approved with 10 affirmative votes.

Council Member Hart made a motion to adopt Resolution 78 of 2019 – A Resolution Authorizing the City to Enter Into a Contract with Amputees Beyond Life's Expectations, Inc. for Providing Certain Services to the Citizens of Benton; and For Other Purposes. Seconded by Council Member Herzfeld. The resolution was read by the city clerk. The Mayor asked for any comments. Council Member Hart thanked the staff for doing this, it is a great idea. The Mayor stated that he agreed with that wholeheartedly. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Cash yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Herzfeld yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 78 of 2019 was approved with 10 affirmative votes.

Council Member Lee was recognized for a report from the Advertising and Promotion Commission. He stated that he was sworn in as a commissioner. Alison Burch will be recommended to the council to have another term as commissioner. The position was advertised but no one came forward. The commission is working to pay another early bond payment in February.

The Mayor asked for any unfinished business. Council Member Herzfeld stated that he distributed a report from the PUC meeting last Monday night. See attached. Council Member Herzfeld made a motion to hold a public hearing on November 25th at 5:45 pm to address the territorial issue the PUC has with Entergy. Seconded by Council Member Morrow. The Mayor called for a voice vote. All council members replied in the affirmative. Motion was approved.

The Mayor asked for any other new business. The Mayor asked if there were any comments from the public or council. None.

The meeting adjourned at 7:54 p.m.

Cindy Stracener, City Clerk

Tom Farmer, Mayor

City of Benton

PROCLAMATION

WHEREAS, In March of 2017, a group of local dedicated volunteers started the Friends of the Library Group for the Saline County Library; and

WHEREAS, since its inception, the Friends of the Library Group has opened a used book store, and implemented a program to deliver books to local organizations, such as jails, non-profit organizations, and schools; and

WHEREAS, Friends of Library groups across the state are dedicated to the support of libraries as institutions essential to democracy and life-long learning; and

WHEREAS, Friends groups advocate for funding that will provide libraries with the necessary print and electronic materials, expert assistance in research, technology equipment, and services for all ages from the very young to the senior citizen; and

WHEREAS, Friends groups promote the joys and benefits of literacy, learning and economic well-being for people of all ages by investing time and effort in raising supplementary funds to enhance library resources and programming; and

WHEREAS, the gifts of time and commitment by Friends of the Library of Saline County set a positive example of civic engagement that benefits both volunteers and their communities;

NOW, THEREFORE, I, TOM FARMER, acting under my authority as Mayor of the City of Benton, do hereby proclaim the week of October 20 – 26, 2019 as

"Friends of Libraries Week"

In the City of Benton, and encourage all citizens to join me in this worthy observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Benton, Arkansas, to be affixed at City Hall this 18th day of October in the year of our Lord, two thousand and nineteen.



A handwritten signature in cursive script, reading "Tom Farmer", is written over a horizontal line.

Tom Farmer, Mayor
City of Benton

CITY OF BENTON UTILITY COMMISSIONERS MEETING
MONDAY, OCTOBER 21, 2019, 6:00 P.M.,
ELECTRIC UTILITY BUILDING
1827 DALE AVENUE

The City of Benton Utility Commissioners met in regular session Monday, October 21, at the Electric Utility Building, 1827 Dale Avenue.

In Attendance:

Gary Ferrell, Chairman

Charlie Best, Member

Jim Martin, Member

Phil Miller, Member

David Vondran, General Manager

Chairman Ferrell called the meeting to order with all members in attendance except Member Stracener. Member Martin gave the invocation and Member Miller led the Pledge of Allegiance.

The first item of business was approval of the minutes from the regular meeting of October 7, 2019. Member Miller made a motion to approve the minutes as presented and to file for future reference. Member Martin seconded the motion. A vote was taken and approval given.

DEPARTMENTAL REPORTS

A. Finance-Karen Scott

1. September Financials

Mrs. Scott said on page 2 of their packet it shows that the September revenues over expenditures were \$773,157.00, year to date 4.8 million dollars. The next page is the report that she has developed to show you how we stand in 2019 versus 2018. We are a little under for example, year to date revenues over expenditures this year 4.8 million and in 2018, 6.5 million. She is actually in the middle of doing an analysis of that for the bond issue and she will report back on that next month. We are having Yoakum and Lovell doing the certified accounts reports for the financials through September 30th and then we are also going to have the rating by Moody's so some of those things she has got to identify for them. Next on page 7 is the bad debt analysis. We wrote off \$6,639.50 and we collected \$3,395.04 which is a deficit of \$3,200.00 but really still percentage wise, we don't really like to have any bad debts but system wide we are in really pretty good shape and we she feels like we do a good job of collecting, particularly water, when they go somewhere else to try to get

water, there are laws that allow us to collect and we are fortunate for that. On page 13, is the analysis of each of the different systems, Electric \$785,000 revenues over expenditures, Water revenues over expenditures of \$107,000 and Wastewater a loss of \$120,000 for the month of September. Again, she is looking forward to the discussion that they are having with Moody's and she doesn't anticipate that our rating is going to change. She spoke to Jack and Leann at Stephens about that and we are providing documents to Mr. Shep Russell at the Friday Firm and Jack and Leann in preparation for this ordinance to be on the council meeting next Monday night. The projected closing date is December 12th. Chairman Ferrell said now our meters are not turning as fast and now we go backward a couple of months. Mrs. Scott said yes, the hot air has stopped flowing. Member Best made a motion to accept the financial report as presented. Member Martin seconded the motion. A vote was taken and approval given.

- B. Human Resources-Mollie Wright -Postponed until next month
 - 1. Employee of the Month

Old Business

New Business

- A. Bid Approval-Jacob Gillip, P.E.

- 1. Utilities Bore Across Saline River

Mr. Byron Hicks stood in for Mr. Gillip. He said they took bids on the 9th on the bores to get water and sewer across the river. Chairman Ferrell asked if this was two different bores and Mr. Hicks said it was two different bores and two different sizes. There is a 12 inch sewer that we are replacing and then a 16 inch water that we want to get across the river. We took bids and had 3 bidders, Kajacs, J.R. Fox Company and Goodwin & Goodwin. You can see that the base bid was \$1,055,000.00 and you will that is about half of the next bidder and the other one is another third. He has talked to Mike Titsworth who is the project manager for Kajacs for this project. He has been in this business a long time. He used to work for Diamond Construction when we put the Thomas Pasture line in and he was the supervisor on that. Then he was a partner in On-Line Construction for several years and they did the project on Highway 5 and did a good job for us. Mr. Hicks has a lot of confidence in him. He asked him about this what made up the difference between his bid and the next bid. Mr. Titsworth told him that he was very comfortable with his number, he said the difference in price is because he had a bore contract that was only providing the price to Kajacs and it was about half of what

his other two prices were. He said between that and his ability to buy pipe straight from the manufacturer is what made up the difference between his bid and the next bid. We always require them to have a bid bond when they come in low like this and we always want to ask them and give them the opportunity to make sure they are comfortable with where they are and he has been doing this a long time and is absolutely fine with it. Chairman Ferrell asked how far below is the bore going to be. Mr. Hicks said Mr. Gillip told him that one line is about 10 foot into the bedrock and one is about 15. He read a text from Mr. Gillip stating both were below the shale into the river with the sewer being 15 foot into the shale and water is about 10 foot in the shale. Chairman Ferrell asked how far the shale was into the water and Mr. Hicks said that Mr. Gillip told him there was 5 to 8 foot of cobblestone on top of the shale. Chairman Ferrell said so the bore will be bored through shale. Mr. Hicks said yes. This is not going to be an encased bore it will be a directional bore. They will drill a pilot hole maybe a 6 inch or so then they will come back and do a 12 inch then drill it larger and drill it larger until they get it to the size of the pipe. He thinks it will need to be 16 inches or so, so they can get the bell through and 24 of so for the 16 inch pipe. There is another price if you follow where he highlighted and go straight down to the last number of 1.6 million. They wanted to see what the price would be if they replaced the ductile iron pipe with HDPE and it is actually an increase in price, at least for two bidders, the second bidder is a lower price and he didn't go into the details of that. Member Martin asked if this was for both bores and Mr. Hicks said it was. He said they have provided a notice to proceed and he brought another one if it's needed. If they want to move forward he would ask for them to approve awarding this contract to Kajacs and we would get the Notice of Award signed and get him started with his bonds and insurance. Chairman Ferrell asked if Kajacs had done work for us before and Mr. Hicks said they had several things. The last project probably was Alcoa Road and he thinks the quality was there but the project was a little bit problematic because it drug out and we exceeded the time frames we were supposed to be within. He doesn't think at that time they were committed to put the personnel on the project that they needed to, to make the schedule happen. Again, we have worked with the Mr. Titsworth many times here and he has done a good job for us. He thinks the project manager is what can make it or break it and I think he is a good project manager. Chairman Ferrell asked Mr. Hicks if he was comfortable with the low number and Mr. Hicks said yes. Member Martin asked what kind of work load that Kajacs has at this time and Mr. Hicks said he didn't know what all they had going on but he did know that it appears that they are ready to get started because they have already sent submittals to the office for McClelland to start approving. Member Martin made a motion to award the contract to Kajacs and Member Best seconded the motion. A vote was taken and approval given.

B. Entergy Arkansas Service-Territory Dispute Resolution

Mr. Vondran said just to give them a brief update. They have 4 different documents and they have a meeting with Entergy's personnel, Mr. John Bethel, their director of regulatory affairs and Mr. Matt Suffern who is a member of their counsel team this Thursday at 10 am. We are sort of at an impasse and we knew this was coming. We have a resolution for the Commission's consideration and what that will entail is your authorization to proceed to Council with a resolution and two ordinances. The first resolution that we will be requesting of the City Council is a resolution ordering Entergy Arkansas to furnish certain information and what our outside counsel, Mr. Carter has advised is, now is the time for us to make our intentions known to Entergy that we will be acquiring the areas that are within City limits in their service territory to serve. That not only includes the 114 Properties but it includes the area up at Hurricane Lake Estates which was annexed years ago as part of the Improvement District Number 8. There are little to no facilities to be acquired as far as existing meters that we have to pay revenue for. Most of it is raw land, but we will be expressing that interest to Entergy and the method of doing that is, we will be holding an election. The voters will decide and with any election comes time periods of when you have file notice and a public hearing and 30 day notice. There are milestones that have to be met in order to hold that election and we are coming up those filing periods. We will get this information to you for your review, you don't have to take action tonight. We can proceed with advertising in the paper and we can proceed with getting this information to you but it also includes getting the information to Council and getting Mayor Farmer and the council members on board so that all of us understand what it going on and why. Mr. Carter couldn't be here tonight but he felt like a good time to come back before you would be when we have this meeting on Thursday with Entergy anyway. He is well aware that he needs to come back before you and even make himself available to meet with council members and Mayor Farmer and staff if needed. Chairman Ferrell said he has a question, this refers to the 114 of Entergy's property. Is that intended to use that language? Mr. Vondran said it is, Entergy believes that the property is still within their service territory which invales them the right to serve it. We have visited with Entergy personnel in the past, Mr. McKinney and since I have been on board. Entergy has acknowledged that they have no right to or no intention of serving the territory. Only know that the CTE and the school district components have come into play they now say we want it back, you missed your chance. Mr. Carter is representing our behalf that this is not the case, we still have every right and intention to exert our right to serve the territory as we have planned all along. Member Martin asked why they are calling it property and Mr. Vondran said because the Arkansas

Statute makes a reference to infrastructure meaning if there is a meter on the property we have to pay for the lost revenue that this meter on that property would have brought to Entergy. Entergy is claiming that they have a right to not only existing meters but they have a right to future potential customers that may one day be upon that 500 acres. That is not specified in the state statute. It is sort of like a condemnation case on a right of way. You pay based on the existing use today not what a property owner may declare the intent of that property to be in the future. Chairman Ferrell says is that we want to buy the 114 Properties which is one meter, one bulb on a sign. Mr. Vondran said what the resolution and the ordinance expresses is our intent to serve it because of annexation and you provide us a list of how many meters are on this property so we will know what we have to pay you for. Chairman Ferrell said the language is to say we want to buy whatever property that you have. Mr. Vondran said that is correct and their response on the 114 Property is zero because there are no meters to be acquired from the 114 Property. On the other property throughout Hurricane Lake Estates there may be one meter on a 200 acre parcel which is still monetarily in our interest to pay for that one meter because that 200 acres will get developed into 400 to 600 lots. This is a resolution notifying Entergy to create this list, we are hereby requesting the list of assets that you are claiming we owe you for. Member Martin said it sounds like you are going to find out a lot at this meeting on Thursday. Mr. Vondran said yes, and we have to proceed with our timelines and our deadlines for this election process whether they give us feedback or not. If it is up to them and we wait on them we will miss our deadline. Member Martin said it is a delaying tactic. Chairman Ferrell said the documents that he has seen does not indicate that they are willing to sit down and talk about a true deal. Mr. Vondran said that is correct. Member Martin asked what they needed to do to get this in front of the City Council on a timely basis since November is right around the corner. Mr. Vondran said we will get this information to you tonight for your review and then he will get with Mr. Carter on Thursday after our meeting with Entergy then they will set up a time to come back before you and visit with you to get this on the Council's radar and on the Mayor and City Attorney's radar. Chairman Ferrell asked if they had counted backwards from where they would have to have an election and Mr. Vondran said the election would probably be in the spring of next year in coordination with the non-partisan judicial election. Once you start back dating your public notice and all of that. We do need a motion to ask the City Council to set a date for the public hearing, so if we get a resolution tonight to request the City Council a week from tonight, they can set a date for the public hearing to be the November meeting. Member Best said this resolution by our Commission do we have enough information to go ahead with that or should we? Mr. Vondran said yes sir. Member Best said he has seen it and asked if everyone else had. If we go ahead and do that it looks like that would be ammunition for the

upcoming meeting. Mr. Vondran said it is, it's a sign to Entergy that the delay tactic is not going to work. Chairman Ferrell asked Member Martin is he had received a copy of the resolution and Mr. Martin said he had not but he was currently reading it. Chairman Ferrell said if they do anything this evening it is going to be to? Mr. Vondran said it is to request that the City Council set a public hearing to pass this resolution. Member Miller asked if they were going to have to have a special session to do that and Mr. Vondran said he didn't believe so but he would confirm it with Mr. Carter this Thursday but he didn't believe so. Chairman Ferrell asked Member Miller a special session to do what and Member Miller said he guessed what he was thinking was the time the City Council meets and our next meeting will everything fall into place? Chairman Ferrell said if they pass the resolution tonight then everything will fall into place. Member Miller made a motion to approve the resolution to go to City Council concerning the Entergy dispute of the property at 114 and Member Best seconded the motion. A vote was taken and approval given.

Announcements

A. Next Commission meeting date: Monday, November 4, 2019

Member Martin asked if there was any response to the last offer of the Northern Oil Property and Mr. Vondran said he was told thank you for your offer of \$97,000 but we still think it is worth over \$200,000.

Member Martin asked what the status was of the Saline Water Authority, is there anything going on there? Mr. Vondran said they meet on the 4th Thursday of the month so they have a meeting coming up in the next week or so. It is only called as needed so it is not a scheduled meeting.

Member Martin asked if there was any progress on the Benton Comprehensive Plan with Metroplan. Mr. Vondran said he had not heard from Mr. Brad Jordan nor Mrs. Robin Freeman but I will reach out to them. They know that we want to be part of it and to keep us in the loop. Chairman Ferrell said that is still quite a ways out isn't it and Mr. Vondran said it is.

Executive Session

A. Personnel Matters

Member Best made a motion to adjourn into executive session at 6:35 PM and Member Miller seconded the motion. A vote was taken and approval given.

The meeting reconvened at 7:34 p.m. with no action taken.

Member Best made a motion to adjourn at 7:35 PM and Member Miller seconded the motion. A vote was taken and approval given.

Gary Ferrell, Chairman

Madeline Wilson, Recording Secretary

Ordinance No. 81 of 2019

AN ORDINANCE RECALLING AND AMENDING ORDINANCE 66 OF 2013;
AMENDING THE SUBDIVISION RULES AND REGULATIONS WITHIN THE
CITY OF BENTON, ARKANSAS; AND FOR OTHER PURPOSES

WHEREAS, the City Council of the City of Benton has determined that Ordinance 66 of 2013 should be recalled and amended with a new Section 5.3 – Exceptions as stated below; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Benton, Arkansas, that:

SECTION 1. Section 5.3 – the ordinance is amended to read as follows, to-wit:

5.3 Exceptions to Required Improvements

By request from the developer and with the consent of the Director of the Office of Community Development, the Planning Commission may permit special exceptions to be made to the improvements required by these rules and regulations when the following has occurred:

1. The Planning Commission makes a specific finding, that such exception(s) are in keeping with the intent of these rules and regulations; and
2. The Planning Commission makes a specific finding that the exception(s) will conform with the design of the neighborhoods which are in close proximity to the proposed subdivision; and
3. The Developer furnishes any special information requested by the Planning Commission to aid in its determination.

Should the Director of the Office of Community Development not agree with the developer's request(s), the developer may appeal the decision within thirty (30) days to either the Public Utility Commission for all utility related issues and to the Community Services Committee of the City Council for all other issues.

Special exceptions shall only be granted for areas within the subdivision and not the entire subdivision. It is anticipated that all of the improvement requirements contained within this ordinance shall be abided by and included within the whole of the subdivision. For example, a subdivision may be granted permission to not include curbs and gutters within a specified area of the subdivision where it is not conducive to include those in a specified area, but the exception shall not be granted to the entirety of the subdivision.

These special exceptions allowed herein shall be permitted only if the following additional conditions are met:

- (a) Each lot in the subdivision is larger than 20,000 square feet; and
- (b) Each lot in the subdivision is at least 90 feet wide at the beginning line; and
- (c) Existing platting within the neighborhoods which are in close proximity to proposed subdivision meet both of the requirements set forth in (a) and (b) above.

SECTION 2. Because of the necessity of modifying the subdivision rules and regulations for the City of Benton an emergency is hereby declared and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this _____ day of _____,
2019.

Tom Farmer, Mayor

Cindy Stracener, City Clerk

RESOLUTION NO. 79 OF 2019

A RESOLUTION ORDERING ENTERGY ARKANSAS, LLC TO
FURNISH CERTAIN INFORMATION

WHEREAS, Entergy Arkansas, LLC provides electric utility service within the municipal boundary of the City of Benton, Arkansas ("City") under the authority of Ordinance No. 3 of 1966, as amended; and

WHEREAS, the City of Benton, Arkansas ("City") is considering the acquisition of property that is owned by Entergy Arkansas, LLC that is located north of Interstate 30 and within the City's municipal boundary, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City's municipal boundary; and

WHEREAS, pursuant to A.C.A. § 14-200-110, the Benton City Council is empowered to order a utility to disclose certain information pertaining to utility services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benton, Arkansas, that:

SECTION 1: Under the authority of A.C.A. § 14-200-110, the City Council of the City of Benton, Arkansas hereby orders and requires Entergy Arkansas, LLC to promptly disclose the following information within thirty (30) days:

- a. All reports, rates, classifications, rules, or other practices currently in force on the part of Entergy Arkansas, LLC and applicable to electric utility services provided to locations north of Interstate 30 and within the municipal boundary of the City of Benton, Arkansas.
- b. All books, records, and other information as to any matter pertaining to the business of Entergy Arkansas, LLC conducted north of Interstate 30 and within the municipal boundary of the City of Benton, Arkansas.
- c. A verified, itemized and detailed inventory and valuation of all property owned by Entergy Arkansas, LLC that is located north of Interstate 30 and within the municipal boundary of the City of Benton, Arkansas.

SECTION 2: If Entergy Arkansas, LLC fails or refuses to comply with the order identified in Section 1 without reasonable excuse, the City Attorney is hereby authorized and directed to institute such legal proceedings as may be necessary to cause compliance, including but not limited to the recovery of such fines and/or penalties as may be appropriate and authorized by A.C.A. § 14-200-102(a) and A.C.A. § 5-4-201(c) and (e).

PASSED AND APPROVED this the ____ day of _____, 2019

Tom Farmer, Mayor

Cindy Stracener, City Clerk

Ordinance No. 82 of 2019

AN ORDINANCE DETERMINING TO ACQUIRE CERTAIN PROPERTY OF ENTERGY ARKANSAS, LLC THAT IS LOCATED NORTH OF INTERSTATE 30 AND WITHIN THE CITY OF BENTON, ARKANSAS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, Energy Arkansas, LLC provides electric service within the municipal boundary of the City of Benton, Arkansas (“City”) in accordance with Ordinance No. 3 of 1966 (“Franchise Ordinance”); and

WHEREAS, Act 324 of 1935 established a process by which a municipal council could determine to acquire the property of a public utility by a vote taken after a public hearing with at least thirty (30) days’ prior notice, and confirmed by a majority of the electors voting thereon; and

WHEREAS, the Franchise Ordinance specifically includes a provision authorizing the acquisition of Energy Arkansas, LLC’s property by election in compliance with Act 324 of 1935; and

WHEREAS, the Public Utility Commission of the City of Benton, Arkansas (“BPUC”) has requested the City to exercise its authority under the Franchise Ordinance and Act 324 of 1935 to determine to acquire certain property of Entergy Arkansas, LLC that is within the municipal boundary of the City and located north of Interstate 30, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside of the City, and to submit such determination to the qualified voters of the City for confirmation; and

WHEREAS, BPUC has attempted in good faith to negotiate for the acquisition of customers and property that would be better served by BPUC than Energy Arkansas, LLC, but has been unable to reach agreement; and

WHEREAS, the Benton City Council hereby finds that current and future citizens of Benton located north of Interstate 30 would be better served by receiving electric service from BPUC than by receiving electric service from Energy Arkansas, LLC, and

WHEREAS, a public hearing was advertised on October 25, 2019 to be conducted in conjunction with the consideration of this ordinance by the Benton City Council.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Benton, Arkansas, that:

SECTION 1. Under the authority of Ordinance No. 3 of 1966 and Act 324 of 1935, the City Council of the City of Benton, Arkansas hereby determines to acquire certain property of Entergy Arkansas, LLC that is located north of Interstate 30 and within the City of Benton, Arkansas, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City of Benton, Arkansas.

SECTION 2. This Ordinance shall not take effect until an election is held on the question

of the City of Benton, Arkansas acquiring certain property of Entergy Arkansas, LLC that is north of Interstate 30 and within the City of Benton, Arkansas, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City of Benton, Arkansas, at which a majority of the electors voting on the question shall have approved the acquisition.

SECTION 3. Upon approval by the voters, BPUC shall attempt to negotiate the value of the property described in Section 1 for a period of thirty (30) days and, failing such negotiations, shall notify the Arkansas Public Service Commission and request a hearing to determine value.

SECTION 4. All costs associated with or arising from the adoption of this ordinance that are attributed to and payable by the City shall be borne by BPUC.

PASSED AND APPROVED this _____ day of _____, 2019.

Tom Farmer, Mayor

Cindy Stracener, City Clerk

Ordinance No. 83 of 2019

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF BENTON, ARKANSAS, ON THE QUESTION OF ACQUIRING CERTAIN PROPERTY OF ENTERGY ARKANSAS, LLC THAT IS LOCATED NORTH OF INTERSTATE 30 AND WITHIN THE CITY OF BENTON, ARKANSAS, AND PRESCRIBING OTHER MATTERS PERTAINING THERETO

WHEREAS, on November 25, 2019, the City Council of the City of Benton, Arkansas (the "City"), adopted Ordinance No.82 of 2019 determining to acquire property of Entergy Arkansas, LLC that is located north of Interstate 30 and within the municipal boundary of the City, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City of Benton, Arkansas; and

WHEREAS, the purpose of this Ordinance is to call a special election on the question of the City of Benton, Arkansas acquiring certain property of Entergy Arkansas, LLC that is north of Interstate 30 and within the City of Benton, Arkansas, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City of Benton, Arkansas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Benton, Arkansas, that:

SECTION 1. There is hereby called, and shall be held, a special election on **March 3, 2020**, at which election there shall be submitted to the electors of the City the question of the City of Benton, Arkansas acquiring certain property of Entergy Arkansas, LLC that is north of Interstate 30 and within the City of Benton, Arkansas, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City of Benton, Arkansas.

SECTION 2. The question described in Section 1 shall be placed on the ballot for the election in substantially the following form:

Vote on measure by placing an "X" in the square opposite the measure either for or against:

FOR the City of Benton, Arkansas acquiring the property of Entergy Arkansas, LLC that is north of Interstate 30 and within the City of Benton, Arkansas, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City of Benton, Arkansas

AGAINST the City of Benton, Arkansas acquiring the property of Entergy Arkansas, LLC that is north of Interstate 30 and within the City of Benton, Arkansas, except such property that is required by Entergy Arkansas, LLC to serve customers located south of Interstate 30 or outside the City of Benton, Arkansas

SECTION 3. The election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for municipal elections and only qualified voters of the City shall have the right to vote at the election.

SECTION 4. The results of the election shall be proclaimed by the Mayor, and his Proclamation shall be published one time in a newspaper having a general circulation in the City, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of publication.

SECTION 5. A certified copy of this Ordinance shall be given to the Saline County Board of Election Commissioners so that the necessary election officials and supplies may be provided.

SECTION 6. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided.

SECTION 7. If the acquisition of property is approved by the electors, the Public Utility Commission of the City of Benton, Arkansas, for and on behalf of the City, is hereby authorized and directed to do any and all things as may be necessary or advisable to effectuate the acquisition of property as approved.

SECTION 8. All costs associated with or arising from the adoption of this ordinance that are attributed to and payable by the City shall be borne by BPUC.

SECTION 9. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND APPROVED this _____ day of _____, 2019.

Tom Farmer, Mayor

Cindy Stracener, City Clerk

ORDINANCE NO. 84 OF 2019

AN ORDINANCE AMENDING, REVISING AND RESTATING THE ANIMAL CONTROL ORDINANCE OF THE CITY OF BENTON; AND FOR OTHER PURPOSES

WHEREAS, the City Council in Ordinance 34 of 2013 created the city of Benton Animal Control Code (Code) for the city; and

WHEREAS, the Code has been amended several times since its enactment in 2013 including earlier this year; and

WHEREAS, it is the desire of the City Council to restate the Code in its entirety and to add additional modifications to same by modifying section 12(g) to state that all pens or enclosures where chickens, ducks, fowl or other fowl are kept shall be not less than fifty (50) feet from any residence or business establishment, which is a reduction from one hundred (100) feet.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Benton, Arkansas.

Section One. The City Council does hereby adopt the City of Benton Animal Control Code which is attached hereto as Exhibit "A" to this ordinance and is incorporated now as if stated word for word.

Section Two. The City Clerk of the city of Benton shall maintain three copies of this ordinance for the public to view and inspection.

Section Three. Ordinance 34 of 2013 as well as Ordinance 18 of 2014, Ordinance 40 of 2014, Ordinance 41 of 2014, Ordinance 61 of 2018, Ordinance 17 of 2019 and Ordinance 57 are hereby repealed to the extent of any conflict with the Code adopted herein, but not otherwise.

Section Four. All other ordinances which are in conflict herewith are repealed to the extent of such conflict but not otherwise.

Section Five. If any part of this ordinance shall be held void, such parts shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

PASSED AND APPROVED this the _____ day of _____, 2019.

Tom Farmer, Mayor

Attest:

Cindy Stracener, City Clerk

EXHIBIT "A"

CITY OF BENTON ANIMAL CONTROL CODE

Section 1. Creation. The Benton Animal Control Committee is hereby created in the City of Benton, Arkansas. The Animal Control Committee shall be composed of three (3) Aldermen, the Animal Control Department Manager, and the Mayor of the City of Benton.

Section 2. Appointment of Committee Members. The Alderman members of the animal control committee shall be appointed by the Council every January.

Section 3. Meeting of Committee. The Animal Control Committee shall hold its initial organizational meeting within the first thirty days after the beginning of each calendar year and thereafter as often as deemed necessary by said committee members.

Section 4. Duties and Powers. The office of the Mayor of the City of Benton shall have full and complete authority to manage, operate, and maintain the Benton Animal Control and Adoption Center, its related properties and utilities. The Animal Control Committee shall serve in an advisory capacity regarding the management and operation of the Benton Animal Control and Adoption Center. The Benton Animal Control Committee shall have full and complete charge of the issuance and collection of City Dog and Cat Licenses, and to promulgate such rules and regulations for their distribution and collection as may be appropriate in connection with the animal control ordinance after approval of the City Council.

In addition, the Animal Control Committee shall have full and complete authority to provide for the enforcement of the Animal Control Ordinance, and shall have the authority to adopt whatever rules and regulations it may deem appropriate for the proper implementation and enforcement thereof. Such rules and regulations must be presented to the City Council for approval prior to implementation.

Section 5. Use of Revenue. All revenue derived from the operation of the Animal Control and Adoption Center and from the sale of City Dog and Cat Licenses shall be used to defray expenses in the operation of the Animal Control and Adoption Center, and to pay the salaries of employees as authorized by the Committee. The Animal Control Fund shall be maintained by the Benton City Treasurer and all disbursements from said fund shall be made upon proper authorization from the Animal Control Department Manager.

Section 6. Purchase of Supplies and Equipment. All purchases made by the Animal Control Department shall be made through the appropriate purchasing procedures as established by the City of Benton, Arkansas.

Section 7. Annual Budget Requests. The Department manager shall prepare and submit the budget for the amount of funds necessary for the maintenance and operation of the Benton Animal Control and Adoption Center, its relative properties and facilities, for the coming year to the Benton City Council Finance Committee prior to the 15th day of September of each year.

Section 8. Signage. The city shall place signs at the entrance to the city on the state highways stating there is a dog leash law in effect within the city limits

Section 9. Definitions. The following words and phrases shall for the purpose of this ordinance have the following meaning:

Animal: Any description of vertebrate, excluding Homo sapiens.

Animal Control Authority: The officers and employees of the Benton Animal Control Department and the City of Benton Animal Control Committee.

Animal Establishment: Any pet shop, kennel, grooming shop, auction, performing animal exhibition, or other facility engaged in the handling of animals, excluding licensed veterinarians and veterinary clinics and hospitals.

Animal Shelter: Any facility designated by the city for the purpose of impounding and caring for animals held under the authority of this ordinance.

At Large: Any animal is at large when off the premises of the owner and not under the control of a responsible person.

Breeder: Any person or entity with a properly issued privilege license by the City, who engages in the commercial breeding of any type of animal.

City: The City of Benton, Saline County, Arkansas and all territory within the corporate boundaries or city limits of Benton, Arkansas.

Control: Any animal shall be considered under control if it is confined to the premises of its owner or is secured by a leash or lead of sufficient strength to prevent it from escaping, or is confined in an automobile when away from the premises of the owner.

Cruel Mistreatment: Any act that causes or permits the continuation of unjustifiable pain or suffering.

Domestic Animals: Dogs, cats, ferrets and birds of the type commonly kept as pets.

Euthanize: To humanely kill an animal accomplished by a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death, and administered by a licensed veterinarian or a euthanasia technician licensed by the federal Drug Enforcement Administration and certified by the Department of Health.

Humane Manner: Care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, and wholesome food and water, consistent with the normal requirements and breeding habits of the animal's size, species and breed.

Kennel: Any person who engages in the business of boarding, breeding, buying, grooming, letting for hire, training for a fee, or selling animals.

Knowingly: A person acts knowingly with respect to his or her conduct or the attendant circumstances when he or she is aware that his or her conduct is of that nature or that such circumstances exists. A person acts knowingly with respect to the result of his or her conduct when he or she is aware that it is practically certain that his or her conduct will cause such a result.

Licensing Authority: Any agency or department of the City, or any designated representative including licensed veterinarians, charged with administering the issuance and/or revocation of certificates and licenses under the provisions of this ordinance.

Livestock: Animals kept or raised for use or pleasure, especially farm animals.

Owner: Any person having a right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person over which that person has substantial control.

Pens and Enclosure(s): Pens and enclosures shall mean any area, regardless of size, confining or intended to confine or shelter livestock. Pens and enclosures shall include, but are not limited to, fenced pastures and fields, corrals, paddocks, yards, cages, pens, coops, hatches, stables, stalls, chicken houses, barns, sheds, and similar facilities or areas where livestock are kept.

Person: Any individual, corporation, partnership, association, organization or institution commonly recognized by law as a unit.

Private Kennel: Any person, excluding kennels, pet shops and veterinary clinics and hospitals, who keeps, harbors or knowingly permits to remain on or about his premises, more than four (4) dogs or four cats over three (3) months of age.

Restraint: An animal is under restraint if it is controlled by a leash or within a vehicle being driven or parked on a street, or confined on the property of its owner or keeper.

Sterilize: Surgical alteration of an animal through spaying or neutering so that it is incapable of reproduction.

Torture: The knowing commission of physical injury to a dog, cat, or horse by the infliction of inhumane treatment or gross physical abuse, causing the dog, cat, or horse intensive or prolonged pain, serious physical injury, or thereby causing death; and mutilating, maiming, burning, poisoning, drowning, or starving a dog, cat, or horse.

Veterinary Clinic or Hospital: A clinic or hospital operated by a licensed veterinarian.

Vicious Animal: A vicious animal is any animal which causes a wound to any person without provocation on public or private property, or which, while off the property of its owner, kills a domestic animal, or which, unprovoked chases or approaches persons upon the streets, sidewalks or any public or private property other than the owner's property in a menacing fashion or in an apparent attitude of attack. A animal is determined to be vicious by the findings and orders of the Saline County District Court, Benton Division.

Exceptions to Vicious Animal Definition:

1. No animal shall be deemed to be vicious if the threat, wound, injury or damage was caused by any person who, at the time, was assaulting the owner of the animal, committing a willful trespass, or was provoking, tormenting, abusing or assaulting the animal.
2. No animal which at the time of the attack, was responding to pain or injury, or was protecting itself, its offspring or its owner's property, shall be found vicious.
3. No animal shall be found vicious solely due to its physical characteristics.

Wild Animal: A wild animal shall mean lions, tigers, cougars, leopards, bears, wolves, and other non-domestic animals, including hybrids of wild and domestic animals, notwithstanding that their natural wildness may be intermittently dormant.

Section 10. Licensing and Vaccination

General provisions.

(A) No person shall own, keep, or harbor any dog or cat within the city unless such dog or cat is licensed and vaccinated as herein provided.

(B) The licensing authority shall maintain a record of all certificates and licenses issued, and make such records available to the Animal Control Authority.

Rabies Vaccination.

(A) All dogs and cats four (4) months of age within the city shall be vaccinated against rabies at a minimum of once every three (3) years with a triennial vaccine or a minimum of once each year with an annual vaccine. Regardless of the age of the animal at initial vaccination, a booster vaccination should be administered twelve (12) months from the date of initial vaccination. Following the booster, dogs and cats shall be placed on a vaccination schedule according to the labeled duration of the vaccine used. All rabies vaccinations shall be administered by a licensed veterinarian who will issue to the owner a durable metal tag and a certificate of vaccination approved by the Animal Control Authority. Tags must be attached to the collar or harness of the dog or cat and be worn at all times. Tags are not transferable from one dog or cat to another dog or cat.

(B) The Health Officer and the Animal Control Authority may adopt such other rabies control regulations as they deem necessary for the protection of the public health and safety.

Dog and Cat Licenses.

(A) It shall be unlawful for any person to own or possess a dog or cat within the city without first having paid to the city an annual license fee. All dogs and cats four (4) months of age shall be licensed as provided herein. Application for a dog or cat license shall be made to the licensing authority and shall state the name, address, and telephone number of the owner(s), the name, breed, color, age, and sex of the dog or cat. Applicants shall provide proof of current rabies vaccination and pay applicable license fees each year:

\$7.00 per sterilized dog or cat

\$20.00 per unsterilized dog or cat

\$1.00 per sterilized dog or cat owned by any disabled person or anyone 62 years of age or older

(B) Licensing fees shall be waived for registered service dogs and government-owned dogs used for law enforcement. All other licensing and vaccination provisions shall apply.

(C) Application for a license must be made within thirty (30) days after obtaining a dog or cat four (4) months of age or within thirty (30) days of establishing residence in the city. This requirement will not apply to a nonresident keeping a dog or cat within the city for no longer than sixty (60) days.

(D) The licensing authority shall include licensed veterinarians who are hereby empowered to collect the license fee and issue a dog or cat license and a durable metal tag. Dog and cat license receipts shall be collected from such veterinarians by the Animal Control Authority on at least a quarterly basis.

(E) The licensed veterinarian administering rabies vaccinations, issuing license tags and collecting annual license tag fees shall assist the dog or cat owner in the preparation of the dog or cat license application and shall advise such owner of his obligation to renew the license annually.

(F) Any licensed veterinarian may, in addition to the annual license fee, impose a handling charge of up to two dollars (\$2.00) for the collection of the annual license fee.

(G) Tags must be attached to the collar or harness of the dog or cat and be worn at all times. Tags are not transferable from one dog or cat to another dog or cat.

Section 11. Vicious animals.

(A) Where an animal has caused physical injury to any person or animal or a vicious animal has escaped from its confinement as described in this ordinance or causes a threat to any person or animal, the animal shall be immediately seized and impounded or killed if seizure or impoundment are not possible without risk of serious physical harm or death to any person.

(B) Any animal that kills a person or inflicts serious wounds to a person (including, but not limited to multiple bites, disfigurement, impairment of health or impairment of any bodily function); and continues to exhibit behavior that is consistent with being vicious, shall be impounded by the Animal Control Authority. However, any dog which is being utilized by a police agency operating within the City of Benton shall be exempt from impounding at the City's Animal Control facility because the dog is already under the control of a governmental unit.

(C) The Saline County District Court may authorize on an ex-parte basis that any animal be impounded prior to a trial at the request of the city until the case is concluded. If an animal is so impounded, the owner may request a hearing before the trial date to request that the animal be released. In addition, the city may schedule a hearing before the court to request a determination of whether or not the animal is a vicious animal as defined in this ordinance and/or the humane euthanasia of an animal. The city shall give at least ten (10) days notice to the owner of either request. If upon proof that the proper notice was given to the owner and the owner does not appear for the hearing, the court may proceed without the owner being present.

(D) Any animal determined to be a vicious animal by the Saline County District Court must be registered with the City of Benton as a vicious animal. To facilitate such registration, the owner of such vicious animal must present evidence to the Manager of the Animal Control Division, City of Benton that:

(1) All vicious animals shall be securely confined in an enclosed and locked pen or kennel, except when leashed and muzzled as provided in this ordinance. The pen or structure in which a vicious animal is confined must have secure sides and a secure top attached to the sides. If the pen or kennel has no floor secured to the sides, the ground beneath the gate shall be secured by embedded posts and the sides must be embedded into the ground no less than one foot, unless such pen has a concrete floor in which case the sides need only be embedded two inches deep into the concrete. All structures erected to confine vicious animals must comply with all zoning and building regulations of the city. All structures must be adequately lighted, ventilated and kept in a clean and sanitary condition. The fence shall be of a chain link fencing with a minimum of a ten (10) gauge wire and the minimum of five feet by ten feet. If any vicious animal is taken from its secure enclosure as described in this ordinance it shall be muzzled and restrained by a substantial chain or leash not exceeding six feet in length, and such animal shall be kept under the constant control of its owner or a responsible party.

(2) The owner has public liability insurance in a single incident amount of no less than \$500,000.00 for bodily injury to, or death of any person or persons, or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such vicious animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the City of Benton.

(3) All owners, keepers or persons who harbor vicious animals within the city

shall display in a prominent place on their premises an easily readable sign using the words "Beware of Vicious Animal" and a sign with a symbol warning children of the presence of a vicious dog. In addition, a similar sign is required to be posted on the kennel or pen of such animal. A registration fee of \$1,000.00 per year shall be paid annually by the owner of a vicious animal. Registration of such vicious animal shall be permitted only after proof of the requirements defined in this ordinance is provided to the satisfaction of the Animal Control Authority. Failure to register such vicious animal shall constitute a violation of this ordinance.

(4) The canine has been permanently identified by the animal control department by a microchip which shall be implanted by a veterinarian. The cost of the implant shall be paid by the owner of the canine.

(E) The animal is to remain impounded with Animal Control with daily fees accruing until proof of compliance is given. The dog shall be euthanized after 30 days of the district court's order if proof of compliance of all the requirements is not given to the Manager. The owner is responsible for all fees and fines for any vicious dog confinement regardless of length of time at Animal Control.

(F) No person who owns, possesses, keeps, or harbors a vicious dog shall knowingly allow another person to own, possess, keep, or harbor the same vicious dog without first disclosing that it has been deemed vicious, as well as the requirements associated with vicious dogs. A person who transfers ownership of a vicious dog to another person shall notify the animal control department no later than ten days after the transfer is made.

(G) Benton Animal Control will contact the animal control department located in another city or county to inform of name, address, and phone number of either a new owner of the animal or the new location when a dog the city has deemed vicious is moved from the city to another jurisdiction.

(H) If the animal is impounded awaiting a hearing to determine if it is vicious, visitation will be limited to the owner(s) of the animal and any expert witness used by the owner to determine if the animal is vicious or presents a danger to the public. Photos of the animal may be taken for purposes of evidence in court.

Section 12. Restraint

(A) Maintenance of Premises and Disturbing Noises. An owner of an animal shall maintain his premises in such a manner as not to not violate this Ordinance. Pens or enclosures in which animals are confined or maintained shall be cleaned regularly so that they are kept free from offensive odors which would disturb any person residing within a reasonable distance of said premises; and the animals themselves shall be restrained in such a fashion that noise emanating there from shall not be disturbing to such persons.

(B) Restraint in Transit. It shall be unlawful for any person to transport any animal in an open vehicle without said animal being restrained in such a manner as to prohibit such animal from leaving or being thrown out of the vehicle while in a public place or upon the public streets. If the animal is tethered, it shall be done in a manner as to prevent such animal from exiting the vehicle and from causing harm to said animal or persons. The intent of this section is to ensure that an animal in transit is humanely and adequately restrained within the confines of the transporting vehicle.

(C) Confinement of Dogs.

(1) An owner of a dog, whether vaccinated or unvaccinated, licensed or unlicensed, shall confine such dog within an adequate fence or enclosure or within a house, garage or other building.

(2) Confinement shall be in a manner that poses no harm to the dog including, without limitation:

- a. The use of a collar or harness that is properly fitting and constructed of leather or nylon;
- b. The use of a trolley system in an area that does not contain hazards to the dog or deprives the dog of food, water, or shelter.
- c. No person shall direct point chain or tether a dog to a stationary object. Dogs may be restrained by the use of a trolley system or a tether attached to a pulley on a cable run, only if the following conditions are met:
 - i. Only one (1) dog may be tethered to each cable run.
 - ii. The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two (2) fingers may fit. Choke collars and pinch collars are prohibited for the purpose of tethering a dog to a cable run.
 - iii. There must be a swivel on at least one (1) end of the tether to minimize tangling of the tether.
 - iv. The tether and cable run must be of adequate size and strength to effectively restrain the dog. The size and weight of the tether must not be excessive, as determined by the Animal Control Authority, considering the age, size and health of the dog.
 - v. The cable run must be at least ten (10) feet in length and mounted at least four (4) feet and no more than eight (8) feet above ground level and be mounted on a permanent fixture, post, pole or tree stable enough to maintain the trolley system.
 - vi. The length of the tether from the cable run to the dog's collar should allow access to the maximum available exercise area and should allow continuous access to water and shelter. The trolley system must be of appropriate configuration to confine the dog to the owner's property, to prevent the tether from extending over an object of an edge that could result in injury or strangulation of the dog, and to prevent the tether from becoming entangled with the other objects or animal.

Upon notification by written warning of a violation of this section, the owner of the dog shall be allowed 10 (ten) days to correct the violation. If the violation is not corrected within ten (10) days, the dog(s) may be removed and impounded by the Animal Control Authority.

(3) It shall further be the duty of any owner or keeper of any dog to keep such dog under such control so as to:

(a) Prevent such dog from becoming a danger to persons or property, or trespassing upon another person's property without that person's permission; and

(b) Prevent such dog from running at large upon the streets, sidewalks, alleys, parks or other public places of the city.

(4) Confinement to prevent legal access prohibited.

(a) Dogs shall not be confined in any manner for the purpose of preventing legal access

to public utility facilities or for the purpose of causing the dog to be provoked by visitors in areas accessible to and commonly used by visitors for legal access to the premises.

(D) Confinement of Cats.

(1) Any cat allowed outdoors must remain on the owner's property, be spayed or neutered, properly licensed, vaccinated and tagged with the owner(s) name, current address and telephone number. It shall be the responsibility of the owner to ensure their cat is not a nuisance to neighbors or neighbors' property.

(2) Cats who roam present a nuisance to the public and are at risk of fatal injury by vehicles, attacks by other animals, or abuse from strangers. Any Benton Police Officer or the Animal Control Authority may seize and cause to be impounded any cat found at large. An animal that is impounded is done so to protect the animal and the public.

(E) Confinement of animals in heat. Every female dog in heat shall be kept confined in a building or secure enclosure or in a veterinary clinic or hospital or in a kennel in such a manner that such female dog cannot come into contact with another dog, except for intentional breeding purposes.

(F) Entry into food stores. It shall be unlawful for any owner to allow his dog to enter any food store, unless the store is considered a pet store which allows the entry of dogs on a regular basis, or place where food is exhibited for sale. Provided, however, that the provisions of this subsection shall not apply to registered dogs serving the blind or deaf or government owned dogs used for law enforcement while such dogs are on duty.

(G) Control of Chickens and Ducks. It shall be unlawful for any person owning or having control of any chickens, ducks or other fowl within the city to permit them to run at large after notice from the Animal Control Authority that the chickens, ducks, or other fowl are running at large. All pens or enclosures where chickens, ducks, fowl or other fowl are kept shall be not less than fifty (50) feet from any residence or business establishment.

(H) Pets shall not be a Nuisance. It shall be unlawful for any owner to permit an animal to be a nuisance. An animal shall be considered a nuisance (1) if it damages, soils, defiles any property (other than the owner's); (2) if it defecates on private property (other than the owner's) or on the public walkways in the city public recreation areas (unless in designated areas for this purpose); (3) it causes unsanitary, dangerous or offensive conditions; (4) if it causes a disturbance by excessive barking or other noise making (5) if it molests, attacks, or interferes with persons in the public right-of-way; (6) if it chases vehicles; or (7) if it attacks a domestic animal.

Section 13. Maximum Number of Animals Allowed Per Household

It shall be unlawful for any person to own, keep or harbor at anyone household more than four (4) dogs, cats or any combination of dogs and cats, over the age of eight weeks. This provision shall not apply to proprietors of animal hospitals or veterinarians when such animals are kept upon the premises of such business. This provision shall not apply to owners of dogs or cats who are breeders of such or are kennel operators who hold a privilege license from the city for such a business. Keeping on the premises more than four dogs/cats over the age of eight weeks without a permit shall be prima facie evidence of a violation of this section.

Citizens of Benton shall have a period of 120 days from the effective date of this ordinance to come into compliance and reduce the number of dogs/cats present.

Section 14. Private Kennels

Residents may apply with the Animal Control Authority for a permit to operate a private kennel as herein defined for the purpose of housing hunting dogs, rescue groups fostering for animal shelters or humane societies. In order to obtain a permit,

the citizen must be in compliance with this Ordinance, including, but not limited to, rabies vaccinations, city tags, etc. A person desiring to operate a kennel shall pay a yearly permit fee of \$35.00 beginning January, 2014.

Section 15. Rabid Animals or Animals Suspected of Having Rabies.

(A) Every veterinarian shall report promptly to the health officer or Animal Control Authority all cases of rabies in animals treated by him giving the name and address of the owner; and owners and addresses of any animal(s) bitten by such rabid animal, so far as known.

(B) Any person having knowledge that an animal, domestic or wild, is rabid or suspects an animal of having rabies, or knowledge that an animal has been bitten by a rabid animal, shall promptly report such information, the extent known, to the health officer or the Animal Control Authority.

(C) It shall be the duty of the owner, the Health Department, or the person or agency gaining information that any domestic animal or person has been bitten or is probably infected with rabies, to incarcerate or impound the animal in the institution of some competent veterinarian within this city, or in the Animal Shelter where the animal shall be held for observation for a period of no less than ten (10) days to determine whether the animal is infected with rabies. It shall be at the owner's expense for the necessary cost of boarding such animal during the quarantine period.

Section 16. Cruelty

Prohibited Treatment; Removal of Mistreated Animals; Payment of expenses.

(A) It shall be unlawful for any person to:

- (1) Subject any animal to cruel mistreatment;
- (2) Kill or injure any animal owned by another person without legal privilege or consent of the owner;
- (3) Abandon an animal at a location without providing for the animal's continued care;
- (4) Fail to supply an animal in his or her custody with a sufficient quantity of wholesome food and water, or protection from the weather and veterinary care;
- (5) Fail to provide an animal in his or her custody with adequate shelter that is consistent with the breed, species, and type of animal;
- (6) Carry or cause to be carried in or upon any motorized vehicle or boat an animal in a cruel or inhumane manner; or
- (7) Intentionally poison any animal.

(B) For purposes of this section, each alleged act of the offense of cruelty to animals committed against more than one (1) animal may constitute a separate offense.

(C) The Animal Control Authority may remove any animal kept or confined under such conditions as defined in this section and may impound such animal pursuant to the provisions of this ordinance.

Exemptions.

(A) This subchapter does not prohibit any of the following activities:

- (1) Reasonably acting to protect a person or a person's property from damage;
- (2) Injuring or humanely killing an animal on the property of a person if the person is acting as a reasonable person would act under similar circumstances and if the animal is reasonably believed to constitute a threat of physical injury or damage to any animal under the care or control of the person;
- (3) Engaging in practices lawful under the Arkansas Veterinary Medical Practice Act, 917-101-101 et seq., or engaging in activities by or at the direction of any licensed veterinarian while following accepted standards of practice of the profession, including the euthanizing of an animal;
- (4) Rendering emergency care, treatment, or assistance, including humanely killing an animal, that is abandoned, ill, injured, or in distress related to an accident or disaster, or where there appears to be no reasonable probability that the life or usefulness of the animal can be saved, if the person rendering the emergency care, treatment, or assistance is:
 - (a) Acting in good faith;
 - (b) Not receiving compensation; and
 - (c) Acting as a reasonable person would act under similar circumstances;
- (5) Performing generally accepted animal husbandry practices;
- (6) Performing professional pest control activities in a lawful manner;
- (7) Performing generally accepted training for or participating in a rodeo, equine activity, or competitive activity;
- (8) Engaging in generally accepted practices of animal identification;
- (9) Engaging in the taking of game or fish through hunting, trapping, or fishing, or engaging in any other activity authorized by Arkansas Constitution, Amendment 35, by 9 15-41-101 et seq., or by any Arkansas State Game and Fish Commission regulation promulgated under either Arkansas Constitution, Amendment 35, or statute;
- (10) Conducting activities undertaken by research and education facilities or institutions that are:
 - (a) Regulated under the Animal Welfare Act, 7 U.S.C. 9 2131 et seq., as in effect on January 1, 2009;
 - (b) Regulated under the Health Research Extension Act of 1985, Pub. L. No. 99-158; or
 - (c) Subject to any federal law or regulation governing animal research that is in effect on January 1, 2009; and
- (11) Applying generally accepted methods used to train dogs engaged in hunting, field trials, service work, obedience training, or any similar activities authorized by the Arkansas State Game and Fish Commission.

(B) In addition to the exemptions in subsection (a) of this section, this subchapter does not prohibit a person from engaging in or performing conduct that is otherwise permitted under the laws of this state or of the United States, including without limitation agricultural activities, butchering, food processing, marketing, medical activities, zoological activities, or exhibitions.

Section 17. Wild Animals

(A) Prohibitions.

(1) No person may own, possess or have in custody any wild animal in the City of Benton, except that wild animals may be temporarily present within the City under proper supervision for purpose of entertainment or educational shows or displays.

(2) No person may sponsor, promote or train a wild: animal to participate in, contribute to the involvement of a wild animal in, or attend as a spectator in any activity or event in which any wild animal engages in unnatural behavior or is wrestled, fought, mentally or physically harassed, or displayed in such a way that the animal is abused or stressed mentally or physically. This prohibition applies to events and activities taking place in either public or private facilities or property, and applies regardless of the purpose of the event or activities, irrespective of whether or not a fee is charged to spectators and regardless of whether or not a permit to own, possess or have custody of a wild animal has been issued as provided herein.

(B) Jurisdiction.

(1) The Animal Control Authority shall enforce the provisions of this section.

(2) Owners of wild animals must identify ownership of wild animals with either a collar with a name plate or other type of proper identification.

(C) Impoundment and Disposal.

(1) The Animal Control Authority is empowered to impound any wild animal being kept, harbored or maintained in violation of this ordinance or of rules and regulations adopted by the Animal Control Committee, and upon conviction of the owner or any other person for violation hereof, the Animal Control Authority may humanely euthanize or otherwise dispose of such wild animal, including but not limited to, donating and transferring ownership of such wild animal to a zoo or other facility deemed appropriate by the Animal Control Authority.

Section 18. Impoundment

(A) Any animal at large or otherwise in violation of the provisions of this ordinance may be impounded in the Animal Shelter in a humane manner for a period of not less than six (6) days; and if within such time, an animal so impounded has not been reclaimed by its owner in accordance with the provisions of this ordinance, such animal shall become the absolute property of the Animal Control Authority which may convey ownership of such animal to any responsible person, on such conditions as the Animal Control Authority may prescribe, or the Animal Control Authority may humanely euthanize such animal.

(B) The Animal Control Authority shall make a reasonable effort to notify the owner of any animal impounded in the Animal Shelter that the animal has been impounded, of

the manner by which the animal may be reclaimed and that the animal may be euthanized or become the property of the Animal Control Authority as provided herein if action is not taken by the owner.

(C) Prior to euthanizing an animal at large which carries its owner's address and which is impounded in the Animal Shelter, the Animal Control Authority shall give the owner (5) days notice, of the proposed euthanasia by certified letter, return receipt requested.

(D) Notwithstanding any provision of this ordinance to the contrary, the Animal Control Authority may refuse to release any animal impounded in the Animal Shelter for rabies or contagious disease quarantine or for use as evidence in a criminal prosecution, for such time period as the Animal Control Authority may determine.

(E) Notwithstanding any provision of this ordinance to the contrary, the Animal Control Authority may humanely euthanize any animal impounded in the Animal Shelter upon the written opinion of a licensed veterinarian that euthanasia of the animal is necessary to prevent disease or injury to other animals or to humans due to overcrowding in the animal shelter, the presence or threatened presence of contagious disease, or any other condition.

(F) Notwithstanding any provision of this ordinance to the contrary, the Animal Control Authority may humanely euthanize any animal impounded in the animal shelter when the Animal Control Authority reasonably believes the animal has sustained an injury or disease which will likely result in maiming, prolonged and severe suffering, or death.

(G) A police officer may kill without notice to the owner any dog, cat, or any other animal, domestic or wild, if such animal is reasonably suspected of being rabid.

(H) A police officer may kill any animal without notice to the owner if it is reasonably suspected by the officer to be a vicious or dangerous animal and is putting persons or property in immediate and unreasonable danger.

Section 18.5. Reclaiming Impounded Animals.

(A) The owner of an animal impounded in the Animal Shelter may reclaim the animal upon presenting evidence satisfactory to the Animal Control Authority of compliance with all provisions of this ordinance, and upon payment of fees and charges as hereinafter provided, credited to the account of the Animal Control Authority, and shall not be in lieu of any fine or penalty otherwise provided by law.

Any animal which has been impounded for suspicion of rabies or which has been quarantined in any bite case shall have a rabies clearance performed by a licensed veterinarian upon completion of the ten (10) day quarantine. All fees associated with obtaining the rabies clearance shall be paid by the owner.

(B) Fees for reclaiming impounded animals are as follows:

(1) Licensed, sterilized, and vaccinated dogs and cats.

First offense \$25.00

Second offense \$50.00

Third offense \$100.00

Subsequent offense \$200.00

An additional fee of \$10.00 shall be added to the fee for reclaiming any dog or cat if the animal's tag(s) is not attached to its collar or harness at

the time of impoundment.

(2) Unlicensed, unsterilized, or unvaccinated dogs and cats.

First offense \$50.00

Second offense \$75.00

Third or subsequent \$125.00

Subsequent Offense \$300.00

An additional \$115.00 fine shall be levied for second, third and subsequent offences when the dog or cat is unsterilized at the time it is impounded. This additional amount shall be reduced to \$0.00 if proof of sterilization is presented to Animal Control within thirty (30) days of release of impoundment.

(3) Rabbits, poultry and birds, each offense \$40.00

(4) Other animals, each offense \$50.00

(5) Animals impounded for rabies quarantine or for use as evidence in a criminal prosecution, per day \$30.00

(6) In addition to the foregoing fees, the per day board for each day the animal is impounded in the animal shelter \$10.00

(C) The owner of an animal impounded in the animal shelter shall be liable for the foregoing fees and charges, notwithstanding the destruction or adoption of the animal.

(D) Vicious Animals. Any person claiming a vicious animal as defined by this ordinance shall pay expenses for private confinement plus:

1. A reclaim fee of \$1,000.00. If this is the first impounding, the owner shall pay the reclaim fee, which will constitute the registration for owning a vicious animal.

2. In the event that such animal is already registered as vicious, the owner shall pay the \$500 fee in addition to the required annual registration fee.

(E) Any person claiming unvaccinated and unlicensed dogs or cats shall, after payment of the fee assessed herein, and prior to the release of the dogs or cats, pay an additional fee of \$10.00 (or such amount as may then be the current charge of veterinarians for administering such rabies vaccinations to animals) to the animal control and adoption center which shall be evidenced by a receipt that may be taken to a local doctor of veterinary medicine and exchanged for the vaccination of said animal.

Section 19. Adoption of Impounded Animals.

The Animal Control Authority may convey ownership (permit adoption of) any animal which has become the property of the Animal Control Authority to a responsible person subject to such conditions as may be prescribed by the Animal Control Authority, including, without limitation, the following:

(A) Payment of Ten Dollars (\$10.00) adoption fee and any vaccination, licensing or veterinary costs, including the costs of sterilization. At the date of adoption of this Ordinance, the vaccination charge is \$11.00, and the sterilization charge is \$80.00 for females and \$80.00 for males. The vaccination and sterilization charges may be adjusted from time to time by the Animal Control Authority after consultation with the participating veterinarians who are performing the services. All pets are to be sterilized and vaccinated prior to being released to the person adopting the pet; and

(B) Evidence satisfactory to the Animal Control Authority that the animal has, or will be, examined by veterinarian and vaccinations against rabies and other diseases administered.

The Animal Control Authority shall not allow the adoption of any animal deemed vicious by this ordinance. The original owner shall be the only person able to reclaim the animal after the owner has met all provisions of this ordinance.

Section 20. Livestock

Horses and Cows.

(A) It shall be unlawful for any person to keep, maintain or permit to run at large within the corporate limits of the city, any cows and/or horses except as provided in this ordinance. The violation of this section is hereby declared to be a misdemeanor. It shall be the duty of the animal control authorities or Benton Police Department to enforce the provisions hereof.

(B) The keeping of horses or cows within the corporate limits of the City is permitted where they are maintained on an enclosed pasture containing one (1) acre for each animal. All pens or enclosures where cows or horses are kept shall be not less than 100 feet from any residence or business establishment; provided, however, that this restriction shall not apply to a residence or business of the livestock's owner.

(C) The keeping of any animal in enclosures as herein provided within the limits of the City shall be under the supervision and control of the proper authorities as mentioned in this Ordinance. Should any of the enclosures not meet the requirements of this Ordinance or become harbors for breeding flies, mosquitoes and rats, or should they become unsanitary, obnoxious, dangerous to public health and/or discomforting to any of the citizens of the City because of conditions created by keeping of said animals, the properties, upon investigating and finding any such conditions created by keeping of said animals, the Animal Control Authority, upon investigating and finding any such conditions to exist, shall serve written notice on the owners or keeper of the premises as to the conditions thereof by delivering a copy of the notice on the owners or keeper of the premises as to the conditions or keeper, or by posting same in a conspicuous place on the premises, and if within five (5) days after service of notice said owner or keeper has not corrected the conditions the Animal Control Authority is authorized to issue a misdemeanor citation for a per se violation of this section.

(D) Any livestock animal that has to be transported for impoundment, the owner is responsible for all expenses of hauling, boarding, veterinarian fees made payable to Animal Control or the appropriate parties involved. Release of said animal(s) will not be made until all expenses have been paid.

(E) Owners of livestock must register with Animal Control all horse and cows present in the city. Registration is to include the name, address, type, description of the animal along with a daytime, evening and cell phone number of the owner or person to contact in case the animal is outside of their pasture, pen or enclosure.

Hogs, goats and sheep.

(A) It shall be unlawful for any person to keep any swine unless otherwise allowed herein, goats, or sheep within the City or to permit any such animals to run at large within the

city; except when in transit, they may be kept for a period not to exceed twenty-four hours in an established stockyard.

Vietnamese Pot-Bellied Pigs

- a. The restrictions of Section A (above) of this ordinance to not apply to Vietnamese pot-bellied pigs. Vietnamese Pot-Bellied pigs may be kept within the city limits of Benton. They shall be treated as a dog or cat for the purposes of enforcement of this Ordinance, including, but not limited to, the maximum number of pets allowed per household.
- b. The owner of a Vietnamese Pot-bellied pig must do the following in order to have one within the City:
 1. Submit a letter to the City from a licensed veterinarian attesting to the fact the animal in question is a Vietnamese Pot Bellied Pig.
 2. The owner must obtain a city license for the animal each year no differently than what is required of a dog owner.
 3. The owner must also keep the animal up to date on any recommended vaccinations.
- c. Any violation of this Ordinance shall be subject to the penalties as set forth in this Ordinance.
- d. It is the intent of this Ordinance to allow Vietnamese Pot Bellied Pigs into the City of Benton under the conditions stated above. This Ordinance does not however supersede any Bill of Assurance or rental agreement wherein the animal is not allowed to be kept. Violations of same may be enforced by the appropriate person or entity, but not by the City of Benton.

Section 21. Sale of Animals.

It shall be unlawful for any person to sell, trade, barter, lease, auction, rent, give away, or otherwise convey ownership, or display for any purpose, any live animal on any parking lot, right-of-way, roadside, garage sale, flea market, swap meet, festival or other area generally accessed by the public within the city limits.

This section shall not apply to any governmentally-owned animal shelter, humane society, animal rescue/welfare group designated as a 501(c)(3) nonprofit organization by the Internal Revenue Service, established businesses whose sole purpose is related to the care and maintenance of pets or entities who hold a valid business license issued by the City of Benton, provided that prior to release of the animal it has been administered all necessary vaccinations and has been spayed or neutered as required by law.

Section 22. Enforcement.

(A) Enforcement. The provisions of this ordinance shall be enforced by the Animal Control Authority and by the City of Benton Police Department.

(B) Interference. No person shall interfere with, hinder or molest the Animal Control Authority in the performance of its duty or seek to release any animal in the custody of the animal control authority, except as herein provided.

(C) Citations. The Animal Control Authority and City of Benton Police Department are hereby authorized to issue a citation to any person for violation of any provision of this ordinance. The citation shall be in a form approved by the Benton District Court, shall designate the offense charged and shall require the person so charged to appear before

the Saline County District Court, Benton Division on a date certain to answer the charges therein contained.

(D) Capture. The Animal Control Authority is authorized to employ any equipment it deems necessary to enforce the provisions of this ordinance, including, without limitation, humane wire box traps; and the Animal Control Authority may, subject to conditions it may determine, lend such traps or other equipment to private persons for the purpose of preventing a per se violation of this Ordinance as a result of animals running at large.

(D) Penalties for Violations.

1. Any person who commits the offense of cruelty to animals shall be deemed guilty of an unclassified misdemeanor, and shall be subject to fines and penalties as prescribed in Arkansas Code Annotated Sec.5-62-103.
2. Any person who commits the offense of aggravated cruelty to a dog, cat, or horse shall be referred for investigation of Arkansas Code Annotated Sec. 5-62-104, which may be a felony offense.
3. Any person violating any other provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100.00 nor more than \$300.00 and if such violation be continued, each day's violation shall be considered a separate offense.
4. Any person violating any provision of this Ordinance as a second offense shall be punished by a fine of not less than \$200.00 nor more than \$500.00; for a third offense the fine shall be not less than \$300.00 nor more than \$600.00. A fourth offense the fine shall be \$800.00 and a ten (10) day jail sentence.
5. Any person violating any vicious animal provision of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 and if such violation be continued, each day's violation shall be considered a separate offense and/or the animal may be humanely euthanized.
6. The Saline County District Court, Benton Division may authorize that any animal be impounded for a certain period of time, further restrained or that the animal be euthanized for (1) a subsequent conviction for violating this ordinance involving the same animal or owner; or (2) the court has found the animal to be vicious as defined by this ordinance. The court may authorize on an ex-parte basis that any animal be impounded prior to a trial at the request of the city until the case is concluded. If an animal is so impounded, the owner may request a hearing before the trial date to request that the animal be released. In addition, the city may schedule a hearing before the court to request the humane euthanasia of an animal by giving at least ten (10) days notice to the owner. If upon proof that the proper notice was given to the owner and the owner does not appear for the hearing, the court may proceed without the owner being present.

ORDINANCE NO. 85 OF 2019

AN ORDINANCE
ANNEXING CERTAIN TERRITORY INTO THE
CITY OF BENTON, SALINE COUNTY, ARKANSAS; DECLARING AN
EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, Havens Development Company, LLC. filed a Petition with County Court of Saline County, Arkansas, to annex certain contiguous property hereinafter described, to the City of Benton, Saline County, Arkansas, and

WHEREAS, on October 21, 2019, in case number CASE # CC 2019-14, Jeff Arey, County Judge, determined that said petition should be granted and that the property hereinafter described should be released from Saline County and annexed to the corporate limits of the City of Benton, Saline County, Arkansas; and

WHEREAS, more than thirty (30 days) has expired since entry of said order and the City of Benton desires to accept said property into the City,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS:

SECTION 1: That the property hereinafter described be annexed and made part of the City of Benton, Saline County, Arkansas, and is to be included in Ward 5 and zoned R-2 Single Family District Detached Housing and is described as follows, to wit:

[Proposed Woods of Hurricane Lake Estates Subdivision, Parcel 001-04155-000]

PROPERTY DESCRIPTION AS SURVEYED

THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 17, TOWNSHIP 1 SOUTH, RANGE 14 WEST, SALINE COUNTY, ARKANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 02°44'08" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER 1328.69 FEET TO THE SOUTHEAST CORNER OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE NORTH 87°54'59" WEST ALONG THE SOUTH LINE THEREOF 663.14 FEET TO THE SOUTHWEST CORNER OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE NORTH 02°44'29" EAST ALONG THE WEST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER FOR 1325.92 FEET TO THE NORTHWEST CORNER OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 87°54'59" EAST ALONG THE NORTH LINE THEREOF 663.04 FEET TO THE POINT OF BEGINNING. CONTAINING 20.20 ACRES, MORE OR LESS.

SUBJECT TO THE RIGHT OF WAY OF NORTSHORE DRIVE.

SECTION 2: It is hereby found and determined that an immediate passage of this Ordinance is necessary for residential development, which will benefit the growth of the city and local economy; THEREFORE, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this _____ day of _____, 2019.

Mayor

Attest: _____
City Clerk

CITY OF BENTON
COMMUNITY DEVELOPMENT DEPARTMENT

Jessica Teague
Planner
Phone: (501) 776-5938
Email: jessica@bentonar.org



114 South East Street
Benton, Arkansas 72015
Fax: (501) 776-5922
Web: www.bentonar.org

MEMORANDUM

TO: Robin Freeman/ Brian Black
Planning Commission

FROM: Jessica Teague
Department of Community Development

DATE: November 7, 2019

RE: Annexation of 20.2 acres for Havens Development

Staff and other Departments have reviewed the proposed annexation request and recommends approval. All requirements have been met for this annexation and the required documentation is attached. All departments have reviewed this request and their comments are included in the packet.

Please contact the Community Development Office if we may be of further assistance.

To Approve

X
~~||||~~

✓

Jessica

From: Jessica
Sent: Wednesday, November 6, 2019 4:16 PM
To: eric@richardson-engrs.com
Subject: DRC Comments for Annexation of 20.2 acres for Havens Development

Good afternoon Eric,

Below are comments I have received regarding Annexation for 20.2 acres for Havens Development. Please address all comments and corrections and resubmit revised plans to the Community Development Office. Also, please let me know if you have any questions or concerns.

Community Development:

- OK

Electric Department:

- The Electric Department approves this annexation.

Fire Marshal:

- Fire approves

Street Department:

- The Street Dept approves

Wastewater Conveyance Department:

- Wastewater Conveyance Department approves the annexation of 20.2 acres for Havens Development.

Water Department:

- Water department approves this annexation.

Thank you.

Sincerely,

Jessica Teague

Planner
Community Development
114 South East Street
Benton, AR 72015
Office: 501-776-5938, ext. 116
Cell: 501-249-8218
Fax: 501-776-5922

October 21, 2019

City of Benton
Community Development Department
Attention: Mr. Brad Jordan
114 South East Street, Benton, AR 72015

Re: Letter of Request for annexation by one hundred percent (100%) petition.

Dear Mr. Jordan,

Please accept this letter as request for annexation of the property described in Exhibit "A" to the City of Benton by 100% petition. We ask that the property be zoned R2 Single Family District Detached Housing at the time of annexation. Attached, you will find the Decree of Annexation, releasing the property from the County, a property survey, and proof of 100% ownership by the Havens Development LLC.

I am authorizing my engineer, Eric Richardson, to be the point of contact for all communications regarding this matter.

Sincerely,



Havens Development LLC

IN THE COUNTY COURT OF SALINE COUNTY, ARKANSAS
NO. CC 2019-14

FILED
SALINE COUNTY
CLERK & COUNTY CLERK
2019 OCT 21 PM 3:45

IN THE MATTER OF ANNEXATION OF CERTAIN
TERRITORY CONTIGUOUS TO THE CITY OF BENTON, ARKANSAS BY AC

ORDER

Comes for hearing the Petition of Havens Development Company, LLC, who is the one hundred percent (100%) property owner of portions of Section 17, Township 1 South, Range 14 West, asking that the following territory be annexed to the City of Benton, Saline County, Arkansas, to-wit:

LEGAL DESCRIPTION, SEE ATTACHED EXHIBIT "A"

After reviewing the documents and evidence, the Court finds:

1. That the Petition for Annexation and records have been reviewed for completeness and accuracy;
2. That no enclaves will be created by the annexation;
3. That said Petition contains a schedule of services of the annexing city that will be extended to the area within three (3) years after the date the annexation becomes final; and
4. That the annexing city shall annex any dedicated public roads and rights of way abutting or traversing the property to be annexed.
5. That the property that is being annexed into the City of Benton includes property that is owned by Saline County, Arkansas and that Saline County, Arkansas consents to the annexation of land owned by Saline County, Arkansas into the City of Benton, Arkansas.

THEREFORE the Court hereby ORDERS, JUDGES, and DECREES that this Order and the Petition for Annexation be forwarded to the annexing city so that the annexing city may grant the Petition and accept the property for annexation.



Jeff Arey, Saline County Judge

10/21/19

Date

HAVENS DEVELOPMENT LLC

SEVERN LANDING RD
RURAL, AR

[Basic](#) [Land](#) [Sales](#) [Valuation](#) [Taxes](#) [Receipts](#) [View Map](#)

Basic Info

Parcel Number:	001-04155-000
County Name:	Saline County
Property Address:	HAVENS DEVELOPMENT LLC SEVERN LANDING RD RURAL, AR
Mailing Address:	HAVENS DEVELOPMENT LLC 22095 I-30 #500 BRYANT AR 72022
Collector's Mailing Address:	HAVENS DEVELOPMENT LLC 22095 I-30 #500 BRYANT, AR 72022
Total Acres:	20.20
Timber Acres:	20.20
Sec-Twp-Rng:	17-01S-14W
Lot/Block:	/
Subdivision:	
Legal Description:	W/2 NE SW 2018-019175
School District:	250 BRYANT
Improvement Districts:	SPRINGHILL FIRE
Homestead Parcel?:	No
Tax Status:	Taxable
Over 65?:	No

TOCA INVESTMENTS LLC
 SEVERN LANDING RD
 RURAL, AR

[Basic](#) [Land](#) [Sales](#) [Valuation](#) [Taxes](#) [Receipts](#) [View Map](#) 

Sales History

Filed	Sold	Price	Grantor	Grantee	Book	Page	Deed Type
9/20/2019	9/20/2019	0	HAVENS	TOCA INVESTMENTS LLC	2019	018267	WD(Warranty Deed)
9/20/2019	9/20/2019	0	HAVENS DEV LLC	HAVENS	2019	018266	WD(Warranty Deed)
10/5/2018	10/5/2018	0	CHAPMAN-HAVENS DEV	HAVENS DEV	2018	019175	QCD(Quit Claim Deed)
10/4/2018	10/4/2018	0	CHAPMAN-HAVENS DEV LLC	HAVENS DEV	2018	019085	QCD(Quit Claim Deed)
9/11/2017	9/11/2017	0	TERRA BELLA PARTNERS	CHAPMAN-HAVENS	2017	016827	CORQCD(CORRECTION QCD)
9/5/2017	9/5/2017	0	TERRA BELLA PARTNERS	CHAPMAN-HAVENS	2017	016411	QCD(Quit Claim Deed)
9/5/2017	9/5/2017	761,000	TERRA BELLA PARTNERS	CHAPMAN-HAVENS DEV	2017	016416	WD(Warranty Deed)
9/17/2008	9/17/2008	0	TINER ETAL	TERRA BELLA PARTNERS	2008	81703	WD(Warranty Deed)
4/24/2008	4/24/2008	0	JESTICE	TINER & HORIHAN & GRIMMETT	2008	43717	PRD(Personal Rep Deed)
12/1/1992	12/1/1992	30,000	GOFORTH	JESTICE	388	145	

ORDINANCE NO. 86 OF 2019

AN ORDINANCE
ANNEXING CERTAIN TERRITORY INTO THE
CITY OF BENTON, SALINE COUNTY, ARKANSAS; DECLARING AN
EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, Havens Development Company, LLC. filed a Petition with County Court of Saline County, Arkansas, to annex certain contiguous property hereinafter described, to the City of Benton, Saline County, Arkansas, and

WHEREAS, on October 21, 2019, in case number CASE # CC 2019-13, Jeff Arey, County Judge, determined that said petition should be granted and that the property hereinafter described should be released from Saline County and annexed to the corporate limits of the City of Benton, Saline County, Arkansas; and

WHEREAS, more than thirty (30 days) has expired since entry of said order and the City of Benton desires to accept said property into the City,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS:

SECTION 1: That the property hereinafter described be annexed and made part of the City of Benton, Saline County, Arkansas, and is to be included in Ward 5 and zoned R-2 Single Family District Detached Housing and is described as follows, to wit:

[Edward Jestice Annexation, Parcel 001-04155-000]

PROPERTY DESCRIPTION AS SURVEYED

THAT PORTION OF THE WEST $\frac{3}{4}$ OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE SOUTHWEST QUARTER, SECTION 17, TOWNSHIP 1-SOUTH, RANGE 14-WEST, SALINE COUNTY, ARKANSAS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID W3/4 N1/2 NW1/4 SE1/4 SW1/4, THENCE NORTH 89°25'40" WEST, A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°28'05" WEST, A DISTANCE OF 341.44 FEET; THENCE NORTH 89°24'25" WEST, A DISTANCE OF 258.90 FEET; THENCE NORTH 02°13'41" EAST, AS DISTANCE OF 330.01 FEET TO THE NORTHWEST CORNER OF SAID SE1/4 OF SW1/4; THENCE SOUTH 89°25'40" EAST, A DISTANCE OF 337.13 FEET TO THE POINT OF BEGINNING, CONTAINING 2.26 ACRES, MORE OR LESS.

SECTION 2: It is hereby found and determined that an immediate passage of this Ordinance is necessary for residential development, which will benefit the growth of the city and local economy; THEREFORE, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this _____ day of _____, 2019.

Mayor

Attest: _____
City Clerk

CITY OF BENTON
COMMUNITY DEVELOPMENT DEPARTMENT

Jessica Teague
Planner
Phone: (501) 776-5938
Email: jessica@bentonar.org



114 South East Street
Benton, Arkansas 72015
Fax: (501) 776-5922
Web: www.bentonar.org

MEMORANDUM

TO: Robin Freeman/ Brian Black
Planning Commission

FROM: Jessica Teague
Department of Community Development

DATE: November 7, 2019

RE: Annexation of 6600 Severn Landing Road for Edward Jestice

Staff and other Departments have reviewed the proposed annexation request and recommends approval. All requirements have been met for this annexation and the required documentation is attached. All departments have reviewed this request and their comments are included in the packet.

Please contact the Community Development Office if we may be of further assistance.

To Approve

✓
THI

~

Jessica

From: Jessica
Sent: Wednesday, November 6, 2019 4:19 PM
To: eric@richardson-engrs.com
Subject: DRC Comments for Annexation of 6600 Sever Landing Road for Edward Jestice

Good afternoon Eric,

Below are comments I have received regarding Annexation of 6600 Severn Landing Road for Edward Jestice. Please address all comments and corrections and resubmit revised plans to the Community Development Office. Also, please let me know if you have any questions or concerns.

Community Development:

- OK

Electric Department:

- The Electric Department approves this annexation.

Fire Marshal:

- Fire approves

Street Department:

- The Street Dept approves

Wastewater Conveyance Department:

- Wastewater Conveyance Department approves the Annexation of 6600 Severn landing for Edward Jestice; I will be discussing with David tomorrow if he is going to be required to connect to City sewer. By City Ordinance he will still receive a sewer bill due to he is within 300 feet of city sewer even if he does not connect to City sewer.

Water Department:

- Water department approves this annexation.

Thank you.

Sincerely,

Jessica Teague

Planner
Community Development
114 South East Street
Benton, AR 72015
Office: 501-776-5938, ext. 116
Cell: 501-249-8218
Fax: 501-776-5922

October 21, 2019

City of Benton
Community Development Department
Attention: Mr. Brad Jordan
114 South East Street, Benton, AR 72015

Re: Letter of Request for annexation by one hundred percent (100%) petition.

Dear Mr. Jordan,

Please accept this letter as request for annexation of the property described in Exhibit "A" to the City of Benton by 100% petition. We ask that the property be zoned R2 Single Family District Detached Housing at the time of annexation. Attached, you will find the Decree of Annexation, releasing the property from the County, a property survey, and proof of 100% ownership by the Edward Jestice.

I am authorizing my engineer, Eric Richardson, to be the point of contact for all communications regarding this matter.

Sincerely,


Edward Jestice

IN THE COUNTY COURT OF SALINE COUNTY, ARKANSAS
NO. CC 2019-13

FILED
SALINE COUNTY
CLERK OF COURT & COUNTY CLERK
2019 OCT 21 PM 3:45

IN THE MATTER OF ANNEXATION OF CERTAIN
TERRITORY CONTIGUOUS TO THE CITY OF BENTON, ARKANSAS

AE

ORDER


Comes for hearing the Petition of Edward Justice who is the one hundred percent (100%) property owner of portions of Section 17, Township 1 South, Range 14 West, asking that the following territory be annexed to the City of Benton, Saline County, Arkansas, to-wit:

LEGAL DESCRIPTION, SEE ATTACHED EXHIBIT "A"

After reviewing the documents and evidence, the Court finds:

1. That the Petition for Annexation and records have been reviewed for completeness and accuracy;
2. That no enclaves will be created by the annexation;
3. That said Petition contains a schedule of services of the annexing city that will be extended to the area within three (3) years after the date the annexation becomes final; and
4. That the annexing city shall annex any dedicated public roads and rights of way abutting or traversing the property to be annexed.
5. That the property that is being annexed into the City of Benton includes property that is owned by Saline County, Arkansas and that Saline County, Arkansas consents to the annexation of land owned by Saline County, Arkansas into the City of Benton, Arkansas.

THEREFORE the Court hereby ORDERS, JUDGES, and DECREES that this Order and the Petition for Annexation be forwarded to the annexing city so that the annexing city may grant the Petition and accept the property for annexation.



Jeff Arey, Saline County Judge
10/21/19

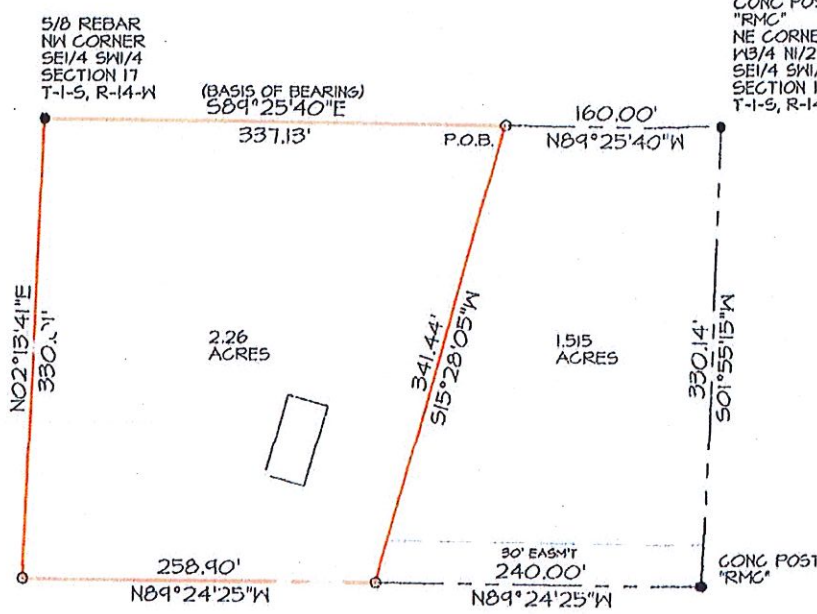
Date

EXHIBIT "A"

PROPERTY DESCRIPTION AS SURVEYED

THAT PORTION OF THE WEST $\frac{3}{4}$ OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE SOUTHWEST QUARTER, SECTION 17, TOWNSHIP 1-SOUTH, RANGE 14-WEST, SALINE COUNTY, ARKANSAS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID W $\frac{3}{4}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, THENCE NORTH 89°25'40" WEST, A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°28'05" WEST, A DISTANCE OF 341.44 FEET; THENCE NORTH 89°24'25" WEST, A DISTANCE OF 258.90 FEET; THENCE NORTH 02°13'41" EAST, AS DISTANCE OF 330.01 FEET TO THE NORTHWEST CORNER OF SAID SE $\frac{1}{4}$ OF SW $\frac{1}{4}$; THENCE SOUTH 89°25'40" EAST, A DISTANCE OF 337.13 FEET TO THE POINT OF BEGINNING, CONTAINING 2.26 ACRES, MORE OR LESS.



DESCRIPTION.
 THAT PORTION OF THE WEST 3/4 OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE
 SOUTHWEST 1/4 OF THE SOUTHWEST QUARTER SECTION 17, T-1-S, R-14-W SALINE
 COUNTY, ARKANSAS, DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID
 1/8 1/4 NW 1/4 SE 1/4 SW 1/4, THENCE NORTH 89°25'40" WEST, A DISTANCE OF
 160.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°15'05" WEST, A
 DISTANCE OF 341.44 FEET; THENCE NORTH 09°24'25" WEST, A DISTANCE OF 258.90
 FEET; THENCE NORTH 02°13'41" EAST, A DISTANCE OF 330.21 FEET TO THE NORTHWEST
 CORNER OF SAID SE 1/4 OF SW 1/4, THENCE SOUTH 89°25'40" EAST, A DISTANCE OF
 331.13 FEET TO THE POINT OF BEGINNING, CONTAINING 2.26 ACRES, MORE OR LESS.

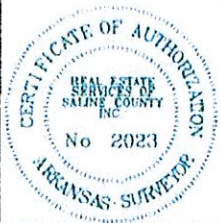
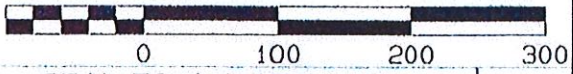
UNLESS SPECIFICALLY STATED OR SHOWN THIS BOUNDARY SURVEY IS MADE SUBJECT TO AND DOES NOT DELINEATE
 BUILDING SETBACK LINES, ZONING REGULATIONS, RESTRICTIONS, OR OTHER ITEMS WHICH MAY AFFECT DEVELOPMENT.
 NO STATEMENT IS MADE CONCERNING SUBSURFACE CONDITIONS, OR THE EXISTENCE OF UTILITY LINES OR OVERHEAD
 CONTAINERS OR FACILITIES, UNLESS SPECIFICALLY SHOWN WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THE
 TRACT. TRACT MAY BE SUBJECT TO EASEMENTS, RESTRICTIVE COVENANTS, SUBDIVISION RECORDS, AND PLANNING
 AND ZONING REGULATIONS OF RECORD, IF ANY, AND IS SUBJECT TO SUCH FACTS WHICH A CAREFUL TITLE SEARCH
 MAY DISCLOSE. I HEREBY CERTIFY THAT THE ABOVE PLAT REPRESENTS A BOUNDARY SURVEY PERFORMED BY ME OR
 UNDER MY SUPERVISION ON THIS DAY.

2015 102 15863

THIS DRAWING SHALL NOT BE ALTERED UNLESS AUTHORIZED BY REAL ESTATE SERVICES OF SALINE CO., INC.

- LEGEND
- SET #5 BAR/CAP
 - EXISTING MON.
 - △ CALC. POINT
 - X FENCE

DATE: 9-10-15
 GRAPHIC SCALE 1" = 100'



DRAWING NO. 081-15	REAL ESTATE SERVICES OF SALINE COUNTY, INC. 501-315-8866	
REVISIONS BY	FOR USE AND BENEFIT OF:	
DATE	EDWARD JESTICE	
	1200 FERGUSON DR., SUITE 5 BENTON, AR., 72015 501-315-1411-0-7-322-62-1141	

JESTICE EDWARD & SHIRLEY

6600 SEVERN LANDING RD

RURAL, AR



[Basic](#) [Land](#) [Sales](#) [Valuation](#) [Taxes](#) [Receipts](#) [Improvements](#) [View Map 9](#)

Basic Info

Parcel Number:	001-04166-000
County Name:	Saline County
Property Address:	JESTICE EDWARD & SHIRLEY 6600 SEVERN LANDING RD RURAL, AR Map This Address
Mailing Address:	JESTICE EDWARD E OR SHIRLEY 6600 SEVERN LANDING ROAD ALEXANDER AR 72002-9617
Collector's Mailing Address	JESTICE EDWARD E OR SHIRLEY 6600 SEVERN LANDING ROAD ALEXANDER, AR 72002-9617
Total Acres:	2.31
Timber Acres:	0.00
Sec-Twp-Rng:	17-01S-14W
Lot/Block:	/
Subdivision:	
Legal Description:	PT W 3/4 OF N/2 NW SE SW 215-348 & 2017-016831
School District:	250 BRYANT
Improvement Districts:	SPRINGHILL FIRE
Homestead Parcel?:	Yes
Tax Status:	Taxable
Over 65?:	Yes

JESTICE EDWARD & SHIRLEY

6600 SEVERN LANDING RD

RURAL, AR

9

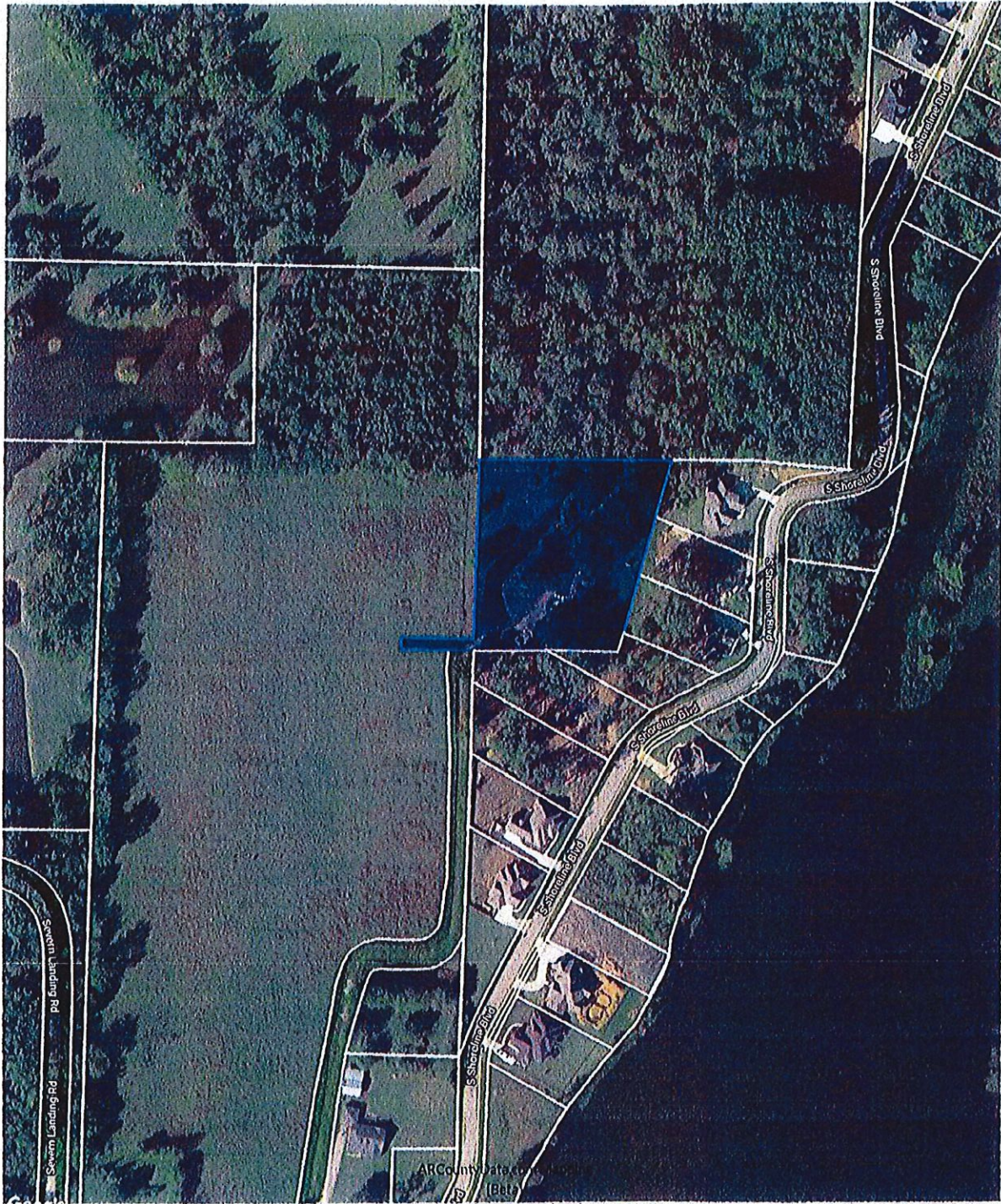
[Basic](#) [Land](#) [Sales](#) [Valuation](#) [Taxes](#) [Receipts](#) [Improvements](#) [View Map 9](#)

Sales History

Filed	Sold	Price	Grantor	Grantee	Book	Page	Deed Type
9/11/2017	9/11/2017	0	CHAPMAN-HAVENS	JESTICE	2017	01683 1	WD(Warranty Deed)
		0			215	348	

▲ Please Note: This map is for reference purposes only. It is not intended for use as a legal survey or document. No guarantee of accuracy is granted, nor is any responsibility

[]



Map data © 2019, This page is provided by ArcGIS Online, Pulaski Area GIS, State of Arkansas, LR&C Ecological Survey, USDA Farm Services Agency

STATE AID CITY STREET PROGRAM PROJECT RESOLUTION

RESOLUTION NO. 80

A RESOLUTION EXPRESSING THE WILLINGNESS OF
THE CITY OF BENTON
TO UTILIZE STATE AID STREET MONIES
FOR THE FOLLOWING CITY PROJECT:

Benton Overlay

WHEREAS, the City of BENTON understands that State Aid Street Program funds are available for certain city projects at the following participating ratios:

	<u>Work Phase</u>	<u>State Aid %</u>	<u>City %</u>
Reconstruction/Resurfacing Construction of City Projects	Preliminary Engineering	100%	-0-
	Right-of-Way	-0-	100%
	Utilities	-0-	100%
	Construction	90%	10%
	Construction Engineering	100%	-0-
City projects programmed but not let to contract	All Phases	-0-	100%

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS, THAT:

SECTION I: The City will participate in accordance with its designated responsibilities in this project.

SECTION II: The Mayor, or his designee, is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this city project.

SECTION III: The City agrees upon completion of the project to assume the maintenance of the right-of-way by City Forces and/or others including utilities and individuals in accordance with the prevailing Arkansas Department of Transportation regulations.

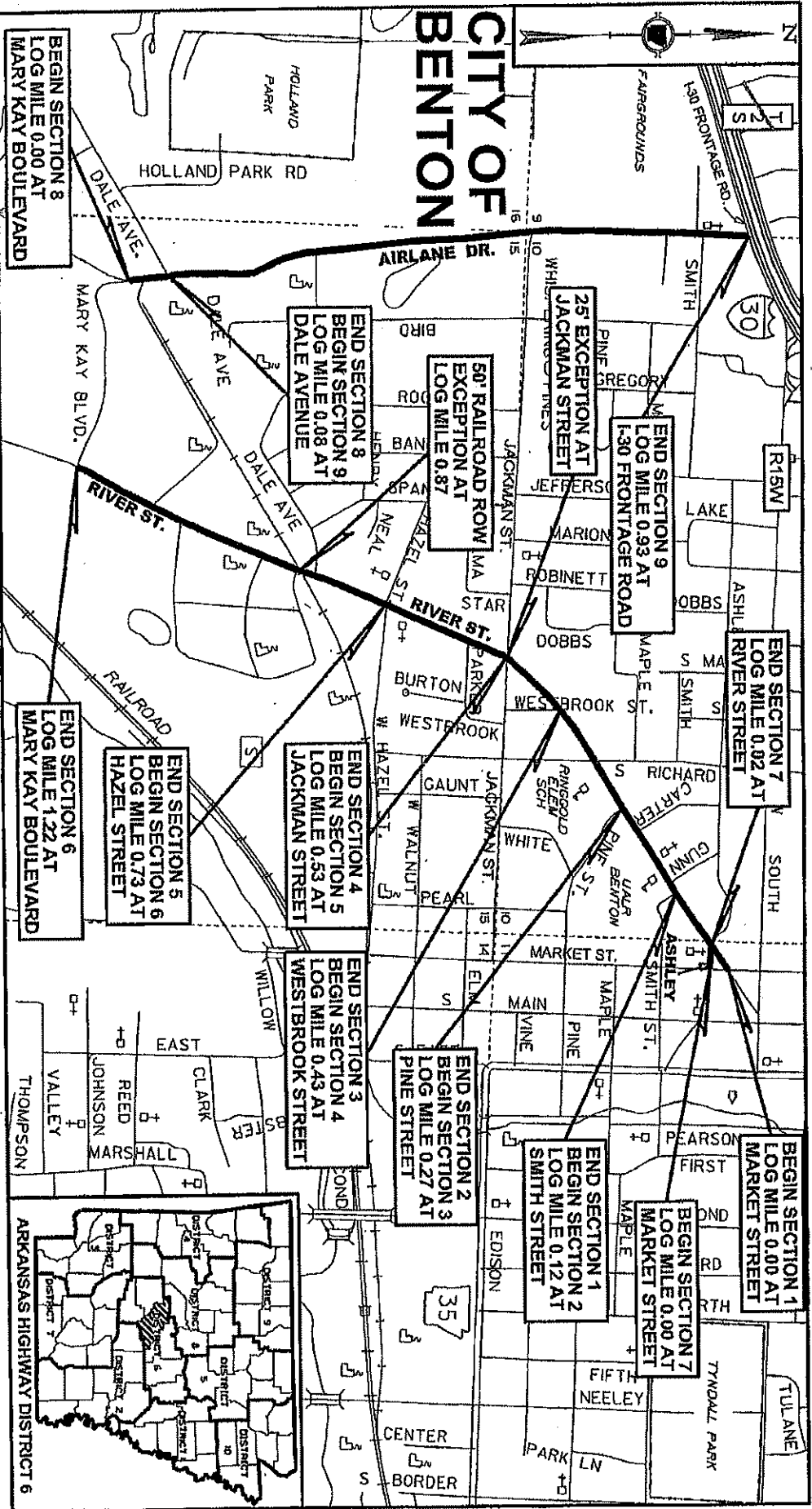
SECTION IV: The City agrees to improve the existing sidewalks by City Forces and/or others to comply with the Americans with Disabilities Act as required by Federal Regulations when improving streets.

SECTION V: The City pledges its full support and hereby authorizes the Arkansas Department of Transportation to initiate action to implement this project.

THIS RESOLUTION adopted this _____ day of _____, 2019.

Mayor Tom Farmer

ATTEST: _____
(SEAL)



CITY OF BENTON

JOB C62008 BENTON OVERLAY (S) VARIOUS CITY STREETS SALINE COUNTY

APPROXIMATE CENTER OF PROJECT
 LATITUDE: N 34° 33' 14"
 LONGITUDE: W 92° 36' 06"





ARKANSAS DEPARTMENT OF TRANSPORTATION

ArDOT.gov | IDriveArkansas.com | Scott E. Bennett, P.E., Director

STATE AID DIVISION

10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261 | Phone: 501.569.2346 | Fax: 501.569.2348

October 17, 2019

The Honorable Tom Farmer
Mayor of Benton
P.O. Box 607
Benton, Arkansas 72015

Job C62008
Benton Overlay (S)
Various City Streets
Saline County

Dear Mayor Farmer:

We are enclosing one set of plans on the above referenced job.

These plans have been prepared generally in accordance with the items discussed and agreements reached. After review of these plans, please advise as soon as possible if you have any comments or suggestions. Your approval is requested.

In accordance with the State Aid City Street Program law, cities with a population greater than 25,000 are required to pay 10% of the cost of the Street Program project.

Enclosed is a sample resolution for the referenced job reflecting the required 10% matching City funding. In order to proceed, the resolution is required to be on file with the State Aid Division. Please return this resolution as soon as possible.

When the estimated cost of the project has been determined, we will forward a request for the City's portion of the cost.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Freeling', is written over a light blue background.

Bryan Freeling
State Aid Engineer

BEF:PA:caa
Enclosures

RESOLUTION NO. 81 OF 2019

**A RESOLUTION RATIFYING AND CONFIRMING THE REAPPOINTMENT OF
JIM MARTIN AS COMMISSIONER TO THE PUBLIC UTILITIES COMMISSION;
AND FOR OTHER PURPOSES.**

WHEREAS, the City of Benton created the Public Utilities Commission by Ordinance 46 of 2004; and

WHEREAS, the City Council desires to appoint Jim Martin to the position of Commissioner of the Public Utilities Commission, with a term of office ending December 31, 2028;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS;

SECTION 1: Jim Martin is hereby confirmed as a member of the Public Utilities Commission.

PASSED AND APPROVED this the ___th day of November, 2019.

X

Tom Farmer, Mayor

X

Cindy Stracener, City Clerk