

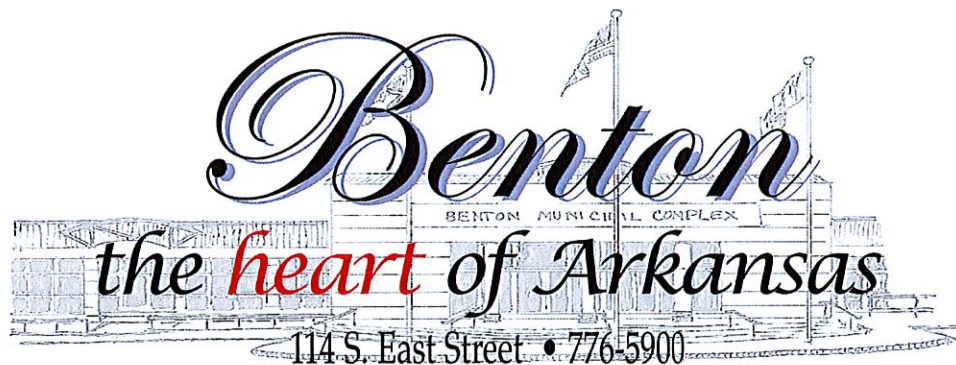
# BENTON CITY COUNCIL MEETING

FEBRUARY 27, 2017

7:00 PM



AGENDA MEETING 6:30 PM



BENTON MUNICIPAL COMPLEX  
114 SOUTH EAST STREET  
COUNCIL CHAMBERS

**DAVID MATTINGLY, MAYOR**

**REGULAR SESSION**  
**February 27, 2017**  
**7:00 PM**  
**AGENDA**

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|--------------|---|--|
| <b>I.</b>    | <b>Call to Order</b>  | <b>Mayor Mattingly</b>                             |
| <b>II.</b>   | <b>Invocation</b>   |  |
| <b>III.</b>  | <b>Pledge of Allegiance</b>   | <b>Alderwoman Reed</b>                             |
| <b>IV.</b>   | <b>Roll Call</b>  | <b>City Clerk</b>                                  |
| <b>V.</b>    | <b>Approval of Minutes</b>  | <b>February 13, 2017</b><br><i>Regular Meeting</i> |
| <b>VI.</b>   | <b>Proclamation</b><br><i>"Wall of Fame Week" February 19-25, 2017</i>  | <b>Mayor Mattingly</b>                             |
| <b>VII.</b>  | <b>Employee of the Month</b><br><i>Michael Collier, January 2017</i>  |  |
| <b>VIII.</b> | <b>COMMITTEE REPORTS &amp; MOTIONS</b>  |  |
|              | <b>1. Finance Committee</b>   | <b>Alderman Ponder</b>                             |
|              | <b>A.) ORDINANCE NO. 6 OF 2017</b><br><i>AN ORDINANCE WAIVING CONSTRUCTION RELATED FEES FOR THE CONSTRUCTION OF THE EVERETT INFINITY DEALERSHIP; DECLARING AND EMERGENCY; AND FOR OTHER PURPOSES</i>  |  |
|              | <b>2. Community Services/Animal Control</b>   | <b>Alderwoman Reed</b>                             |
|              | <b>3. Streets &amp; Drainage Committee</b>  | <b>Alderman Baptist</b>                            |
|              | <b>A.) ORDINANCE NO. 7 OF 2017</b><br><i>AN ORDINANCE DECLARING A STREET NAME CHANGE FOR A PUBLIC STREET DEDICATED AND NAMED ON THE PLEASANT FOREST SUBDIVISION PLAT (PHASE 4), IN BENTON, ARKANSAS; AND DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES</i> |  |
|              | <b>4. Personnel/Health &amp; Safety Committee</b>   | <b>Alderman Donnor</b>                             |
|              | <b>5. Parks Committee</b>   | <b>Alderman Cunningham</b>                         |
|              | <b>6. Public Utilities Commission</b>   | <b>Alderman Herzfeld</b>                           |
|              | <b>A.) RESOLUTION NO. 26 OF 2017</b><br><i>A RESOLUTION AUTHORIZING THE MANAGER OF THE SEWER DEPARTMENT TO MAKE CERTAIN SEWER CONNECTIONS OUTSIDE THE CORPORATE LIMITS OF THE CITY OF BENTON, ARKANSAS; AND FOR OTHER PURPOSES</i>                          |  |
|              | <b>7. A &amp; P Commission</b>  | <b>Alderman Donnor/Ponder</b>                      |
| <b>IX.</b>   | <b>Unfinished Business</b>  |  |
| <b>X.</b>    | <b>New Business</b>   |  |
| <b>XI.</b>   | <b>Old Business</b>   |  |
| <b>XII.</b>  | <b>Announcements</b>  |  |
| <b>XIII.</b> | <b>Adjourn</b>  |  |

**MINUTES OF THE BENTON CITY COUNCIL**  
**Regular Session**  
**February 13, 2017**  
**Benton Municipal Complex**

**The Benton City Council was called to order for a regular session at 7:04 pm.**

**The Mayor gave the invocation.**

**Alderman Cunningham led the pledge of allegiance.**

**Roll was called.**

**The following persons were in attendance:**

<b>Alderman Kerry Murphy</b>	<b>Alderman Charles Cunningham</b>
<b>Alderman Evelyn Reed</b>	<b>Alderman Frank Baptist</b>
<b>Alderman Jerry Ponder</b>	<b>Alderman Judd Hart</b>
<b>Alderman James Herzfeld</b>	<b>Alderman Steve Lee</b>
<b>Alderman Jeff Hamm</b>	<b>Brent Houston, City Attorney</b>
<b>Cindy Stracener, City Clerk</b>	<b>David Mattingly, Mayor</b>

**When roll was called nine (9) council members were present. Alderman Bill Donnor was absent. A quorum was declared.**

**The Mayor requested approval for the January 23, 2017 city council meeting minutes. Alderman Lee made a motion to approve the minutes, seconded by Alderman Herzfeld. The Mayor called for a voice vote on the approval of the minutes. All aldermen present replied in the affirmative. The minutes for the January 23, 2017 council meeting were approved with 9 affirmative and 1 absent vote.**

**Sergeant Eric Porter was recognized with 10 years of service to the city and Sergeant Quinton Jackson was recognized for 15 years of service.**

**The youth of the month for January, Madison Bailey was unable to attend.**

**The next item on the agenda was committee reports and motions. Alderman Ponder was recognized for a report from the Finance Committee. Alderman Ponder made a motion to adopt Resolution 18 of 2017 – A Resolution Declaring Certain Property as Surplus; and Authorizing the Sale of the Property at Public Auction. Seconded by Alderman Baptist. The resolution was read by the city clerk. The property was a rescue truck from the Fire Department. The Mayor asked for any comments. None. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Resolution 18 of 2017 was adopted with 9 affirmative and 1 absent vote.**

**Alderman Ponder made a motion to adopt Resolution 19 of 2017 – A Resolution Of the Council of Benton, Arkansas Certifying Local Government Endorsement of Business To Participate in the Tax Back Program ( The Consolidated Incentive Act of 2003, Section 15-4-2706(d)), and For Other Purposes. Seconded by Alderman Herzfeld. The resolution was**

read by the city clerk. The business is ACDI. The Mayor asked for any comments. None. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Resolution 19 of 2017 was adopted with 9 affirmative and 1 absent vote.

Alderman Reed was recognized for a report from the Community Service/Animal Control Committee. Alderman Reed made a motion to adopt Resolution 20 of 2017 – A Resolution Authorizing the Execution of an Agreement with the United States Department of Interior for Operation and Maintenance of the Gaging Station on the Saline River; Appropriating the Funds Therefore; and For Other Purposes. Seconded by Alderman Cunningham. The resolution was read by the city clerk. The Mayor asked for any comments. None. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Resolution 20 of 2017 was adopted with 9 affirmative and 1 absent vote.

Alderman Reed made a motion to adopt Resolution 21 of 2017 – A Resolution Accepting the Lowest Acceptable Bid for the Police Department Renovation at City Hall; and For Other Purposes. Seconded by Alderman Cunningham. The bid was awarded to Powell and Sons, Inc. in the amount of \$139,400. The resolution was read by the city clerk. The Mayor asked for any comments. None. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Resolution 21 of 2017 was adopted with 9 affirmative and 1 absent vote.

Alderman Reed asked for the first reading of Ordinance 5 of 2017 – An Ordinance Waiving Construction Related Fees for the Police Department Renovation Project; Declaring an Emergency; and For Other Purposes. Seconded by Alderman Baptist. The ordinance was read by the city clerk. The Mayor asked for any comments; none. Alderman Reed made a motion to suspend the rules for the second and third readings. Seconded by Alderman Cunningham. Roll was called on the motion to suspend which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Motion to suspend was approved with 9 affirmative and 1 absent vote. Alderman Reed made a motion to adopt Ordinance 5 of 2017 on its second and third readings by title only; seconded by Alderman Cunningham. The ordinance was read by title only. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Ordinance 5 of 2017 was adopted with 9 affirmative and 1 absent vote. Alderman Reed made a motion to adopt the emergency clause; seconded by Alderman Hart. The Mayor asked that the roll be called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. The emergency clause for Ordinance 5 of 2017 was adopted with 9 affirmative and 1 absent vote.

**The next resolution was Resolution 22 of 2017 – A Resolution Authorizing the City Attorney to File a Lawsuit in the Saline County Circuit Court Seeking to Abate a Nuisance Located at 2501 Denise Drive, Benton, Arkansas; and For Other Purposes. Alderman Ponder made a motion to table Resolution 22 of 2017 based on discussion in the agenda meeting as to such time as the city attorney has an opportunity to get a search warrant to view the interior of the home. Seconded by Alderman Herzfeld. The Mayor asked that the roll be called on the motion to table which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Motion to table was approved with 9 affirmative and 1 absent vote.**

**Alderman Reed made a motion to adopt Resolution 23 of 2017 – A Resolution Authorizing the City Attorney to File a Lawsuit in the Saline County Circuit Court Seeking to Abate a Nuisance Located at 2109 Military Road, Benton, Arkansas; and For Other Purposes. Seconded by Alderman Cunningham. The resolution was read by the city clerk. The Mayor asked for any comments. None. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Resolution 23 of 2017 was adopted with 9 affirmative and 1 absent vote.**

**Alderman Reed made a motion to adopt Resolution 24 of 2017 – A Resolution Authorizing the City Attorney to File a Lawsuit in the Saline County Circuit Court Seeking to Abate a Nuisance Located at 1509 Oak Street, Benton, Arkansas; and For Other Purposes. Seconded by Alderman Herzfeld. The resolution was read by the city clerk. The Mayor asked for any comments. None. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Resolution 24 of 2017 was adopted with 9 affirmative and 1 absent vote.**

**Alderman Reed made a motion to adopt Resolution 25 of 2017 – A Resolution Authorizing the City Attorney to File a Lawsuit in the Saline County Circuit Court Seeking to Abate a Nuisance Located at 1613 Cedar Street, Benton, Arkansas; and For Other Purposes. Seconded by Alderman Herzfeld. The resolution was read by the city clerk. The Mayor asked for any comments. None. Roll was called which resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor absent, Alderman Ponder yes, Alderman Hart yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Hamm yes. Resolution 25 of 2017 was adopted with 9 affirmative and 1 absent vote.**

**There was not a report from the Streets and Drainage Committee.**

**There was not a report from the Personnel/Health & Safety Committee.**

**There was not a report from the Parks Committee.**

**Alderman Herzfeld was recognized for a report from the Public Utility Commission. He gave each alderman a summary of the February 6, 2017 commission meeting. See attached.**

**There was not a report from the Advertising and Promotion Commission.**

**There was not any unfinished, new or old business.**

**Alderman Ponder stated that the annual Golden K spaghetti dinner will be the second Tuesday in March at First Baptist Church fellowship hall. Alderman Hart stated that the Benton Cheerleaders came in 6<sup>th</sup> at Nationals to make Benton Proud. The Mayor stated that the Bryant Cheerleaders came in first in the non-tumbling divisions at Nationals.**

**The meeting adjourned at 7:28 pm.**

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**Cindy Stracener, City Clerk**

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**David Mattingly, Mayor**

## SUMMARY OF PUC MEETING 02/06/17

The meeting was called to order at 6:00 with all members present.

1.)

Recognition of Chris Martin as January Employee of the Month. Mr. Vondran said this evening, he'd like to recognize our January 2017 Employee of the month Chris Martin. Chris truly embodies the standards of excellence we like to see in our employees here at Benton Utilities. He did an outstanding job filling the role originally held by Steve DiCicco in stepping in as project manager and seeing the Customer Service Department through to completion on schedule. He worked many late evenings, Saturdays and holidays, and his efforts weren't unnoticed. Though everyone had a part including the ladies and gentlemen in Billing, Chris stepped completely out of his typical duties and went "above and beyond" in what we call "other duties assigned" to see the project finished. On behalf of myself, the management and the Public Utilities Commission, he'd like to say thanks for a job well done; we all appreciate you and are thankful for your daily contributions to our work force.

2.)

Bo Briester and Representatives from Stephens will deliver a short presentation on our pension plan investments. Mr. Larry Middleton, Executive Vice President of Stephens introduced Mr. Bo Briester and he passed out a report to the Commission. Mr. Middleton said he hired Mr. Briester a little over 10 years ago to work for Stephens in a group he managed and advised. He said he is the Executive VP and has been at Stephens for 25 years. His group manages about 10 billion dollars. They serve as a fiduciary under ERISA and 90% of the money they manage is pension funds and almost 80% of that money is within a 200 mile radius of where you sit, so as you can imagine, we manage a lot of money for a lot of different people. They are a group with over 20 years of experience per person. The majority of that is at Stephens. Our job is to take the profile of your employees, cash flow from the City, draft an investment policy, manage the money accordingly and engage whether we add value or not to the process. As of 12-31-16, you earned 8.13%. That should rank you in one of the top half or quarter of the best plans in the country. He is really pleased with that. More importantly, and he wants them to understand the math of this; the first 2 weeks of 2016 were not that great in the market. The first 2 weeks of 2017 have been really good in the market. We dropped off the bad and report the good, because that is from the trailing 12 months. He is trying to give them a frame of reference so this doesn't sound skewed. He will probably not ever stand before you again and tell you this but; you are up 14.91% in the trailing 12 months as a result of the market move. It is easy to be up here when you have the wind at your back and sound smart. You really learn a lot more about us in a down market, but there are a handful of changes that are taking place economically that are driving this market. Rather than talk about the stock market, here is what you have: you have a defined benefit plan. You hired us to advise and make decisions on your behalf. We serve as a fiduciary. We charge a fee to manage the money and that is it, so there are no commissions made based on trade. Every year we provide this to your actuary so they can try to figure out if we are meeting your obligations as a city and as an employer as a benefit for all the employees that are going to be the beneficiaries of this infrastructure.

3.)

Possible request by Bobby and Kim Mathis of 4235 Silica Heights for an extension of all 3 utilities to his property outside the city limits. Mr. and Mrs. Mathis were not in attendance and Mr. Hawkins said he would be glad to inform the Commissioners. Mr. Hawkins said he could only speak specifically about the involvement of the sewer department. He gave them a map of the City boundaries and said on December 14th, the Inspector, Chuck Thompson was called by James Cole, the plumber to do a plumbing inspection at 4235 Silica Heights. All 3 of the utilities are Benton water, electric and sewer and have been connected to this home. It is a manufactured home. The gentleman who applied for the permits is Jimmy Bearden. He is an uncle, as he understands it, to Mrs. Kim Mathis. Bobby and Kim Mathis own the property here. The uncle lives at 4015 Silica Heights to the west and north. You can see a designation of 4012 and 4014 on the north side of Silica Heights, so obviously he lives on the other side of the road in that proximity. He suggested that he was building a new home, and it was on the back side of his place. We later found out that this resident was in the County. Mrs. Mathis has had conversations with our Attorney, Mr. Brent Houston, who is present. His task, as assigned

by Mr. David Vondran, General Manager of BU, was to try and contact her and ask her to appear before the Commission to request a connection outside the City Limits by resolution, or to seek to be annexed since she is continuous with the City. Member Martin said it takes an ordinance to allow us to do that outside the city limits. We have done it on other occasions. He asked if the Tackett's were a similar situation and Mr. Hawkins said yes. Member Martin said we might need to hear both of them before we make a decision on both of them. Chairman Miller asked if he wanted to make a motion and Member Martin said he was only reporting as an FYI. Member Ferrell asked what the City's position is and Mr. Houston said once we sold the permit to them and let them connect that we waived that. We need to bill them at the County rate and send them a letter telling them about the billing structure, and offer for them to come into the City. Member Livers asked if they need to take any action and Mr. Houston said instruct him to send such correspondence to them, he believes. Member Ferrell said we don't need to go backwards to get this to the City Council and Mr. Houston said we do not. Chairman Miller asked since this happened in December, if the commission chose to, could they not refund his money and rescind the permit. Mr. Houston said he thinks they waived it once they took their money, sold them a permit and allowed the connection to take place. He doesn't think they can disconnect them at this point. Mr. Hood, Manager of the Water Department said even though he indicated he was building a home there? Mr. Houston said we sold him a permit. Member Martin said he would like to hear the other case before a decision is made. Mr. Vondran said Mr. Tackett's property is east of Congo, on the south side of Long Hills. There are a few parcels there together, he is not sure if Mr. Tackett or his parents are the owners, but he is representing the owner. It is a very similar situation. The City has sold a connection permit and Mr. Tackett has been thinking it over as to whether he wants to go through the process of being approved by the commission and a resolution by the City Council or the alternative of annexation. Mr. Vondran believes he has made the decision to pay the out of City rate rather than being annexed into the City. He is here requesting approval from the Commission to go forward to the Council for a resolution of approval to serve our utilities outside of the City limits at the 1.75 rate. Mr. Brent Houston asked if in this situation he is connected and Mr. Vondran said no. Mr. Tackett said he has been sold a permit. Mr. Houston said he does see a difference between the 2... between connection and permit plus connection. Member Martin asked if the ground would not perk for a sewer system and Mr. Tackett said he was told he could not put a sewer system in, He would prefer to go ahead and do it. He would have been moved in by now if he could have. In calling the Department of Health, he was told that because he is surrounded by the City limits, they would not issue a septic permit. Chairman Miller asked if he has an aversion in coming into the City limits and if there is a reason he would not want to become a part of the City. Mr. Tackett said he just doesn't want to go through it. He figures he will eventually since he is surrounded by it. Member Martin made a motion to grant his request contingent upon on a future annexation within 6 months. He would recommend to the City Council to pass a resolution not to apply the 1.75 rate to Mr. Tackett's case until which time as he has 6 months to get into the City limits. That will save him the 1.75. Mr. Houston said what they would do would be a like a pre-annexation agreement... similar to that... with the condition that he come in within 6 months. Member Best seconded the motion. A vote was taken and unanimous approval given. Mr. Vondran said the staff would like a motion on the other property in what direction to go to. He asked if they want to, in this case with the City Attorney's advice, we have already issued the permits and the connections are already made. He asked what the recommendation is for the staff. He asked if they should begin charging the 1.75 since the connection is already made and Member Ferrell said he would make the motion that the staff send a letter to the occupants that they are outside the city limits, that they were given permitting and have connected, but because they are outside the City limits, they will be charged the 1.75 for outside the City rates. Member Martin seconded the motion. Member Best asked if there was anything else that they could do. Mr. Houston said he doesn't think a court is going to allow us to disconnect their service. He really doesn't. Member Best said he just wanted to make sure he understood. Mr. Houston said as part of his advice, he suggests thinking through what would happen if we disconnect. He will go get an attorney and Mr. Houston does not see this being a case that we are going to win since we allowed the connection to take place. Member Best asked if it would be appropriate to put in the letter the benefits of annexing in. Mrs. Hawkins asked if they can annex in since it is a manufactured home and Mr. Houston said they can annex in. Member Ferrell said what you can put in the letter is if they annex in, they would go back to the other rate. A vote was taken and unanimous approval given. Member Ferrell said he wanted to make sure that they did not to take any action on



the property outside the City limits with the City Council and Mr. Houston said no and you can note that in the minutes that it would be crucial to do so.

4.)

Tonya Collins wishes to address the Commission seeking reimbursement for damages to her automobile on 12/15/2016 caused by a manhole lid shifting resulting in the driver losing control. Mr. Hawkins said Mrs. Collins is not present, but he encouraged her to come. Someone driving in the front seat and she was in the back seat of a little Toyota Corolla, and they hit a manhole on 5<sup>th</sup> Street just north of Hoover Street. The report made by the police officer said that the driver said the left front tire of the vehicle hit the manhole lid, pushed it out, the back end dropped into the hole, spun it around and hit a house. He encouraged her, if she had not, to contact her insurance, which she does have insurance, and that would be Lyndon Southern Insurance. She said they would help her, but she also mentioned that her car was financed. He can't imagine her not having full coverage insurance on the amount she gave him. She is not here, so obviously it has been worked out. He will just leave it at that. He has a police report he can give them, but since she is not here she obviously is not seeking damages. Member Livers asked if the police report concurred with her claim. Mr. Hawkins said it was just a police report and it just basically gives an account of what happened and documents where it was. There are discrepancies in pronouns. The driver, according to the officer reporting the driver's license, indicated he was John Burrow. On the 3<sup>rd</sup> page of the handout, a Lori Burrow is identified, so he is taking that as an error there. It mentions calling the Street Department, but it was actually the Sewer Department. The pictures on the back do show the home and the manhole in the front. The driver actually hit the manhole, spun around and went into the corner of that porch. The interesting thing is there are no skid marks in the street. The skid marks actually begin it would appear, just a few feet from the porch that was hit. There was no drug test or sobriety test were performed. It was checked "none required". He is just not sure about it all. The Foreman, Billy Holt indicated to him that he had never known of that manhole being loose before. Chairman Miller asked if the manhole was replaced and said if it was knocked out of whack did he not have to fix it. Mr. Hawkins said he just knocked the manhole out. It was a manhole to the sewer that was in the street. Member Ferrell asked why the Street Department didn't respond to it and Mr. Hawkins said that was a wrong term... it was the Sewer Department. Chuck Thompson and Nathan Schultz were both on call and both went that night. Chairman Miller said he is wondering if they put the manhole back in the hole and if it was really loose. Mr. Hawkins said as he understands it, Mr. Schultz was there before Mr. Thompson and he put it back on. It was indeed out. Member Ferrell asked if the manhole cover was worn out and Mr. Hawkins said he asked Mr. Thompson about that tonight and he told Mr. Hawkins that he said nothing of the sort, so he is not sure. He is not sure how you would wear a manhole out. Chairman Miller asked how you could do that and said we may hear more about this. Mr. Hawkins said the damage was mainly on the front end of the vehicle, according to the officer's report and what she told him. However, she is just asking for repair on the backend of her car. She said she has had to put 4 tires on the backend of her car already. Obviously, it is one of those trailer type of axel. The wheel is probably way out of line. That is why she wanted to come. She was good with the front, and he thought the bank might not be.

5.)

Discussion on Michael Wheeler and his duplex being built over a sewer main at 226 East Maple. Mr. Hawkins said Mr. Wheeler is not present tonight, perhaps an FYI and a little direction as well. He really hates that this has happened, especially with everything the Commission had gone through to make sure it didn't happen. The picture was taken when Mr. Chris Dyer, the plumber for Mr. Wheeler's 2<sup>nd</sup> duplex, was called for an inspection. He referenced a handout saying you see the sewer main that has been there probably since the 1920's or 30's. It has been pipe bursted, so it is seamless and high density pipe, however, you will note that it does run under the house. This is again the 2<sup>nd</sup> duplex and in the 2<sup>nd</sup> picture you will see the 2<sup>nd</sup> duplex with concrete for a drive. The 1<sup>st</sup> duplex was built on the left of that 2<sup>nd</sup> picture and the sewer main does go under the corner of the 2<sup>nd</sup> duplex and to the back. Mr. Dyer, plumber did connect the 1st duplex to that sewer line, he exposed it and knew where it was, and it still got connected. The 2<sup>nd</sup> duplex of the building, per say, if you look at the drawing that was prepared by Jacob Gillip of McClelland Engineers, you will see the dark gray areas that signifies the drawing of the plot plan was submitted to Community Development on June 27<sup>th</sup>. This was done ahead of McClelland's work preparing the easement that you all were giving in exchange. We were to get the easement surveyed out, he was to sign it and give it over to us in exchange for the connection fee deferred. The

diagonal line buildings is the survey crew's findings as to where the 2 structures were actually built. The easement and sewer line, as they are shown without being shaded do represent the exact location of the easement and the sewer main. You will see that had he built it according to the plot plan and had not moved the building 8 feet to the north and 4 feet to the west, he would have just barely had the tip of the house on it, but as it is, he went over according to his own plot plan. You will see the cost estimate prepared by McClelland Engineers for the actual contract work of extending or rerouting that sewer between the 2 lots or on the lot line of the 2 lots, and bring it around 144 feet, 2 new manholes and connecting to the manhole that has been there forever, plus engineering costs. He knows Mr. Houston has had conversation with Mr. Wheeler and he may have something else to add. Mr. Houston said he told him that he believed that the sewer line needed to be moved, that this was an error on his part and not the City's, that the City shouldn't issue an occupancy permit for that duplex, and that he needs to get with the City about proceeding in that direction. He thinks he should also be responsible for the engineering costs to McClelland to verify our position in this, and that was done. He threatened to sue the City and we wanted him to know on the front end rather than the back end what the facts were, and that is why this work was undertaken so we would know exactly where we stand. Mr. Byron Hicks of McClelland Engineers said he discovered the things that Mr. Hawkins said and the way the building was originally situated for his plat it would have just clipped the corner. He shifted it a little bit; he thinks he shifted his building to get away from a bank on one side of his building so he wouldn't have much slope stability to worry about. He shifted it thinking the pipe was somewhere other than where it was. Chairman Miller said we had marked it he is sure. He had to know where it was at. You don't just start building a building. Mr. Hawkins said the same plumber that connected it had already connected it once before. It had been marked about 4 times. Member Best said the original shade here was on his plot plan, right and Mr. Hawkins said yes. Mr. Houston said he does want to point out one thing Mr. Wheeler told him, and that was that the City Inspectors had gone out and approved the location of the building, and that was for the purpose of the setback and not anything underneath the dirt or where pipes are located or anything like that. Member Martin made a motion to propose to Mr. Wheeler that he pay for the cost for the engineering and the cost of rerouting the sewer line. Member Ferrell seconded the motion. Member Ferrell asked Mr. Houston we are going to expect him to pay for the fees and location and Mr. Houston said you can state your will and this is going to be carried over to Community Development and they are not going to issue a permit because you are withholding your consent to that. Member Ferrell asked if that is the understanding we have and Mr. Houston said yes. Mr. Hood asked with this being a rental property, because it has happened in the past, if tenants move in without an CO being issued, do we have the authority to remove the water meter and electric meter off of this unit and Mr. Houston said he did not see why not they wouldn't, because there is not an occupancy permit there. Member Ferrell asked if they have utilities now and Mr. Hood said he knows there is a water meter there. They have already set it. He is sure there is at least temporary electricity, and he's sure it has probably been moved over to permanent now. Mr. Hood said they have not approved the sewer connection. Mrs. Hawkins asked if they are indicating they would like to have those meters pulled as well to prevent occupancy and Member Martin amended his motion to include pulling those meters and any other utility meters. Member Ferrell seconded the amended the motion. A vote was taken and unanimous approval was given.

6.)

Presentation by Cindy Hawkins on preliminary December financials. Mrs. Hawkins passed out a simple summary of November and December and said they did start the audit today and have already found an error that they are going to be correcting. If you will look at November on the current year to date actual; it shows 1.9 million and this month we are \$706,000 in the red. If you subtract that from the 1.9 it would be 1.1 million. The difference is in Electric. She asked is they remembered the \$400,000 that the Commission had her remove so they didn't see it as income as repeats. She said it is December and we have to show it now, so the \$400,000 is in the Electric. There will be some adjustments made of about \$250,000. She does expect us to come in 1.25 ROE for 2016. That is just a broad brushstroke. This shows you how each of the utilities are doing. Everybody was in the red this month. We were hoping we wouldn't be, but all the vehicles that were purchased were paid for in December, because they couldn't be ordered until September. There is a 3 month timeline on getting those in. She hopes the audit will be finished in the next 2 weeks, so she can have numbers and details for the Commissioners in the next meeting. She is not asking the Commission to approve them, obviously, because they are not finalized. While they ponder the financials, she told them that the Share Board is having a hard time

finding members. They had 2 that went off in December, which brought them down to 5. They have been advertising almost all of 2016. They had one gentleman who wanted to go off at the end of the year and they just had nobody, and were worried that they might have to get the Commission to change the By-laws to 5 members. Now all of a sudden, they have 3 people who want to be on the board. You never want to turn anyone away when you have such a hard time getting people to fill the positions. The Share Board wanted he to ask the Commission if there is anything in the By-laws that say you can't have more than 7 members, but that there shall be 7 members. They want you to approve them having 8 members so it will be easier for them to have a quorum. They have to have 4 to have a quorum. It is pretty easy to have 3 people out during high vacation time in the summer. Member Martin said he guessed they could amend the By-Laws to authorize you to bring them all on. We understand trying to get a quorum. Member Ferrell asked if they want to amend it to a minimum of 7 up to 8. Mrs. Hawkins said that would be their preference. It may be a moot point... we may meet in February and someone may say that they don't want to do this after all, but just in case; all 3 that were interviewed are still willing. Member Martin made a motion to recommend to the Commission to amend the By-Laws from a minimum of 7 up to 8 on the board that administers the chairman, and bring them in now although it will take 30 days to modify the By-laws. Member Ferrell seconded the motion. A vote was taken and unanimous approval given. Mrs. Hawkins said she would bring a copy of the By-laws with that amendment on it, the names of the 3 new members and hope you say yes to them. Chairman Miller said he appreciates them volunteering.

7.)

Discussion on changing or cancelling February 20<sup>th</sup> meeting due to Presidents Day Holiday. Member Best made a motion to not meet on February 20<sup>th</sup>, Presidents Day unless they call a special meeting for some reason. Member Ferrell seconded the motion. A vote was taken and unanimous approval given.

8.)

Discussion and possible approval of 2017 budget. Mr. Vondran said now with the personnel issue is behind us, and with the stipulation that the \$80,000 MISO adjustment to Wholesale Power, that was assumed at that time to last the whole year, so what we did in anticipation of that risk we went back to the Department Heads and had them reduce their budgets 5%. We are now back in the black, so to speak, so even if the MISO charge doesn't happen, we can come back to the Commission and add back into the budget the things that the Department Heads had removed in order to get us at a point to move forward. We are in the black, the personnel item has been fixed and the MISO Security has been included in the budget. He doesn't know of any other issues that the Commission may have had. Member Martin said the numbers that they are looking at in the blue book were not accurate. Mr. Vondran said that is correct. Member Martin said the \$735,000 in the red and Mr. Vondran said it has gone away and that is due to the \$965,000 MISO adjustment. Member Martin said he had a real concern with the wastewater section. We have added \$1, 735,000 to that budget from what we had last year total. \$700,000 of that was in projects and stuff that you have listed. Mr. Jonathan Buff, Wastewater Manager, said we were told to put our Capital Projects in the budget. Member Martin said his question on that item is if there is anything that is a real emergency on the front end of this budget that needs to be done in the next month or 2 that could wait until mid-year. Mr. Jonathan Buff said no, the only thing he would ask about is the digester rehab. They took one of those out, because doing the repair of just one digester and one decant was estimated by McClelland to be about \$624,000. He would ask that they go ahead and do the engineering on that so they will be well ahead, because if they put the project off it will probably be about midsummer. Member Martin said he was just trying to find what escalated the \$700,000 when earlier it was a million and something in the red and that is where he found the biggest project was on that side. Mr. Buff said the digester repairs is more of a safety issue, as well as that equipment being about 40 years old, so to address the safety issues we need to rehab that equipment too. Mrs. Hawkins said to balance this budget, Mr. Buff removed number 4 of the special projects that was over \$200,000, which was the RAS or WAS building to take the 5% off of his budget. That was one of the items he cut. Member Martin said so we are still looking at another revision to these documents. Mr. Vondran said yes, but in removing those projects, we don't want to discount or discredit the need for those projects. We just wanted to get a budget to you Gentlemen that's in the black so we could move forward. We want to plan for the worst and hope for the best. Member Martin asked if they could get a new sheet like that, then that would satisfy him. Mrs. Hawkins said she could print copies. Member Best said on the Water, Mr. Hood had a clarifier and asked if it that was what they were talking about the other day. Mr. Hood

said yes, they did take the east clarifier down this past Tuesday. They cleaned and inspected it. There are not any immediate repairs that are required. There are some repairs that they are going to have to start planning for. The actual concrete structure was in pretty good condition. He plans to have a Power Point at one of the next PUC meetings to show them what they have. There is some painting that needs to take place. We have some issues, but he doesn't think they are going to be able to do it this year due to time restraints and the time where we can get the clarifier down. The clarifier has not been pulled down in over 20 years. We didn't really know what to expect when we pulled it down, but we were pleasantly surprised. We got a lot of tools and stuff that were dropped in there over the years. The integrity of the structure itself is in fantastic shape. The rake arm and some of the other steel is going to have to be sandblasted, painted and replace a lot of the bolts that holds the weir on. We can't have that clarifier down at this time long enough to perform those duties. The money he had in there is probably not going to be used this year. Mr. Vondran said if they have their books, then please leave them and we will get them revised, the budget completed and redistributed to them so they can have a final copy. Member Best made a motion to approve the 2017 budget as presented tonight. Member Martin seconded the motion. Member Martin said our expectations are to have an increase of 3 million dollars in revenue over 2016 in 2017 and Mr. Vondran said yes. Member Martin asked if most of that will come from Lindsey Properties and Mrs. Hawkins said a good amount of it, yes, and rate increases. A vote was taken and unanimous approval given.

9.)

Mr. Vondran said under Old Business, he received a letter from Mr. Roberson today on the property adjacent to us and his letter was behind it. Our offer was \$45,000 with each party paying respective closing costs. His counter-offer was \$46,750 with BU paying all closing costs. It is a very minimal increase. Member Best made a motion to accept the offer and move on. Member Livers seconded the motion. A vote was taken with 3 voting yes and Member Martin voting no. Motion passes.

10.)

Mr. Vondran said he had one more item. He was advised by the City Attorney that with a motion from the Commission, they could proceed with waiving the RFQ process for auditing services. The way that motion needs to be worded is: The State law says that the request for qualifications procurement methods is recommended in the absence of sole source justification. Our motion tonight needs to indicate sole source justification. We can justify sole sourcing in this instance due to time and the reputation of the firm that we are proposing to provide a service. We are familiar with their qualifications, work history and their vicinity to our location in order to quickly serve our needs. He can present that justification to the Commission for sole sourcing in this instance. Member Ferrell made a motion with a second by Member Best. Member Martin asked for the name of the company and Mr. Vondran said Hudson Cisne. Member Miller said that is a very reputable firm. A vote was taken and unanimous approval given.

# ~ Proclamation ~

**WHEREAS**, The Benton Athletic Memorial Museum Wall of Fame members have been ambassadors for the Benton High School Panthers and the City of Benton and have influenced the lives of hundreds of students and student athletes over the past twenty-one years; and

**WHEREAS**, the citizens of Benton take great pride in those members successes and admire the highest standards they have upheld in their representation of self and family; and

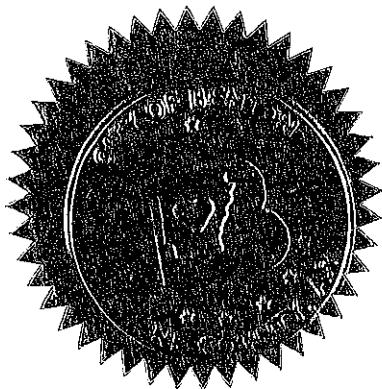
**WHEREAS**, we wish to thank all who have contributed to preserving the memories of our great city and Benton High School through the "Benton Athletic Memorial Museum"

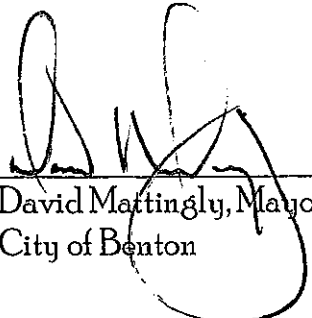
**NOW, THEREFORE, I, DAVID MATTINGLY**, acting under my authority as Mayor of the City of Benton, Arkansas, do hereby proclaim Sunday, February 19, 2017 through Saturday, February 25, 2017 as:

## "BENTON ATHLETIC MEMORIAL MUSEUM WALL OF FAME WEEK"

in the City of Benton and urge all our citizens to join me in recognizing the accomplishments of the inductees and encourage everyone to follow their example to improve our quality of life.

**IN WITNESS HEREOF**, I have hereunto set my hand and caused the Seal of the City of Benton, Arkansas to be affixed at City Hall this 27<sup>th</sup> day of February in the year of our Lord, two thousand and seventeen.



  
\_\_\_\_\_  
David Mattingly, Mayor  
City of Benton

ORDINANCE NO. 6 OF 2017

AN ORDINANCE WAIVING CONSTRUCTION RELATED FEES FOR THE CONSTRUCTION OF THE EVERETT INFINITY DEALERSHIP; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Benton, Arkansas has assessed certain fees which are to be charged for the issuance of building permits, conducting inspections, and storm-water fees which are associated with the construction of buildings; and

WHEREAS, Everett Infinity has announced plans to construct a new facility in Benton and is now ready to proceed with this project; and

WHEREAS, the City Council, as promised in Resolution 20 of 2008 and Resolution 29 of 2009, as an economic incentive for businesses to locate in Benton, desires to waive the hereto for stated fees which are associated with this project.

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

SECTION 1. All building permit fees, inspection fees, and storm-water fees for the construction of the Everett Infinity dealership are hereby waived. The Contractor and all subcontractors must obtain the permits and call for all required inspections; however, the aforementioned fees will not be required, except all State Surcharge fees must be paid in full at the time the permits are issued.

SECTION 2. All other ordinances in conflict with this Ordinance are hereby repealed to the extent that such a conflict exists, but not otherwise.

SECTION 3. Because of the need to proceed with this project which will be of benefit to the local economy, 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 the \_\_\_\_\_ day of February, 2017.

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**David J. Mattingly**  
Mayor

Attest:

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**Cindy Stracener**  
City Clerk

**NOT DESIGNATED FOR PUBLICATION**

## ORDINANCE NO. 7 OF 2017

AN ORDINANCE DECLARING A STREET NAME CHANGE FOR A PUBLIC STREET DEDICATED AND NAMED ON THE PLEASANT FOREST SUBDIVISION PLAT (PHASE 4), IN BENTON, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the City Council has determined that two streets within the city have been given the name of Pleasant Ridge Drive; and

WHEREAS, one of these streets has no residential structures nor will it in the future; and

WHEREAS, the City Council however finds and declares that the presence of two streets with the same name presents a life/safety issue to the public if a first responder went to the incorrect street or was confused about which street was at issue during an emergency call; and

WHEREAS, it has been determined that the best course of action for the city is to change the name of the Pleasant Ridge Drive on which there are no residential structures.

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

SECTION 1: Pleasant Ridge Drive which is located in the Pleasant Forest Subdivision, Phase Four shall now be known as Pleasant Trail Drive. The office of Community Development shall take all necessary action to have the street name changed with all necessary and appropriate agencies.

SECTION 2: This ordinance hereby repeals all ordinances in conflict therewith, but not otherwise.

SECTION 3: Because of the public safety concerns with having two streets with the same name, 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 the day \_\_\_\_ of February, 2017.

\_\_\_\_\_  
David J. Mattingly, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

DESIGNATED FOR PUBLICATION

RESOLUTION NO. 26 OF 2017  
A RESOLUTION AUTHORIZING THE MANAGER OF THE SEWER  
DEPARTMENT TO MAKE CERTAIN SEWER CONNECTIONS  
OUTSIDE THE CORPORATE LIMITS OF THE CITY OF BENTON,  
ARKANSAS; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Benton, Arkansas has authorized in Ordinance 68 of 2005 and in Ordinance 8 of 2008 that sewer connections made be made outside the corporate limits of the City; and,

WHEREAS, the General Manager of the utility department has requested that certain sewer connections be authorized by the City Council.

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

SECTION 1: Pursuant to Ordinance 8 of 2008 the Manager of the Sewer Department is hereby authorized to connect sewer to the following property which is located outside the corporate limits of the City of Benton, Arkansas contingent upon the property owner executing an agreement with the City of Benton to annex the property into the City of Benton within the next six (6) months:

Legal Description

Part of the NW1/4 of the NW1/4, Section 36, Township 1 South, Range 15 West, Saline County, Arkansas, more particularly described as follows: Commence at the NE corner of said NW1/4 of the NW1/4, thence South 89°25'09" West, along the North line of said NW1/4 of the NW1/4, 100 feet to the point of beginning; thence South 00°01'51" East, 160.00 feet; thence North 89°25'09" East, 99.98 feet; thence South 279.82 feet; thence South 89°25'11" West, 198.37 feet; thence North 439.83 feet to the North line of said NW1/4 of the NW1/4; thence North 89°25'09" East, 98.16 feet to the point of beginning.

(legal description obtained from Saline Co. Document No. 2013-079525, Warranty Deed)

PASSED AND APPROVED this the 27th day of February, 2017.

\_\_\_\_\_  
David, Mattingly, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



