

# BENTON CITY COUNCIL MEETING

APRIL 13, 2015

7:00 PM



AGENDA MEETING 6:15 PM



BENTON MUNICIPAL COMPLEX  
114 SOUTH EAST STREET  
COUNCIL CHAMBERS

**DAVID MATTINGLY, MAYOR**

**REGULAR SESSION**  
**April 13, 2015**  
**7:00 PM**  
**AGENDA**

- |              |  |   |
|--------------|--|---|
| <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>Alderman Ponder</b>                                |
| <b>IV.</b>   | <b>Roll Call</b>   | <b>City Clerk</b>                                     |
| <b>V.</b>    | <b>Approval of Minutes</b>   | <b>March 23, 2015</b><br><i>Regular Meeting</i>       |
| <b>VI.</b>   | <b>Approval of Minutes</b>   | <b>April 2, 2015</b><br><i>Special Called Meeting</i> |
| <b>VII.</b>  | <b>Firefighter's Award Presentation</b>  | <b>Mayor Mattingly</b>                                |
| <b>VIII.</b> | <b>Service Awards</b><br><i>Craig Vidrine, 15 years</i><br><i>James Melson, 10 years</i><br><i>Matt Sanders, 10 years</i>  | <b>Mayor Mattingly</b>                                |
| <b>IX.</b>   | <b>Employee of the Month</b><br><i>Kathy Kirk - February 2015</i>  | <b>Alderman Donnor</b>                                |
| <b>X.</b>    | <b>MYAC Youth of the Month</b><br><i>Hope Ernhart - March 2015</i>   | <b>Lila Buchanan</b>                                  |
| <b>XI.</b>   | <b>Proclamation</b><br><i>Child Abuse &amp; Neglect Prevention Month - April 2015</i>  | <b>Mayor Mattingly</b>                                |
| <b>XII.</b>  | <b>PUBLIC HEARING TO ABANDON AN EASEMENT</b>   |   |
| <b>XIII.</b> | <b>COMMITTEE REPORTS &amp; MOTIONS</b>   |   |
| 1.           | <b>Finance Committee</b>   | <b>Alderman Ponder</b>                                |
|              | <b>A.) ORDINANCE NO. 21 OF 2015</b><br><i>AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL IMPROVEMENT REVENUE BONDS, SERIES 2015; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY</i>                        |   |
| 2.           | <b>Community Services/Animal Control</b>   | <b>Alderwoman Reed</b>                                |
|              | <b>A.) ORDINANCE NO. 22 OF 2015</b><br><i>AN ORDINANCE MAKING UNLAWFUL THE PRACTICE OF FEEDING STRAY DOGS AND STRAY CATS ON PUBLIC PROPERTY AND ON THE REAL PROPERTY OF OTHER PEOPLE WITHOUT CONSENT; PRESCRIBING PENALALTIES FOR THE ENFORCMENT OF THIS ORDINANCE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES</i> |   |

**Continued**

**3. Streets & Drainage Committee Alderman Cunningham**

**4. Personnel/Health & Safety Committee Alderman Donnor**

**A.) RESOLUTION NO. 21 OF 2015**

*A RESOLUTION RATIFYING AND CONFIRMING THE APPOINTMENT OF WINIFRED STAMPS AS COMMISSIONER TO THE BENTON CIVIL SERVICE COMMISSION; AND FOR OTHER PURPOSES*

**5. Parks Committee Alderman Lee**

**6. Public Utilities Commission Alderman Herzfeld**

**A.) ORDINANCE NO. 23 OF 2015**

*AN ORDINANCE ABANDONING THE CITY'S PARTIAL INTEREST IN A CERTAIN UTILITY EASEMENT LOCATED WITHIN THE CITY; AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS NECESSARY TO PARTIALLY ABANDON THE EASEMENT; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES*

**7. A & P Commission Aldermen Donnor & Ponder**

**XIV. Unfinished Business**

**XV. New Business**

**XVI. Announcements**

**XVII. Adjourn**

**MINUTES OF THE BENTON CITY COUNCIL**  
**Regular Session**  
**March 23, 2015**  
**Benton Municipal Complex**

The Benton City Council was called to order for a regular session at 7:00 p.m.

The Mayor gave the invocation.

Alderman Donnor led the pledge of allegiance.

Roll was called.

The following persons were in attendance:

<b>Alderman Frank Baptist</b>	<b>Alderman Kerry Murphy</b>
<b>Alderman Charles Cunningham</b>	<b>Alderman Evelyn Reed</b>
<b>Alderman Bill Donnor</b>	<b>Alderman Jerry Ponder</b>
<b>Alderman James Herzfeld</b>	<b>Alderman Steve Lee</b>
<b>Alderman Lori Terrell</b>	<b>Cindy Stracener, City Clerk</b>
<b>David Mattingly, Mayor</b>	<b>Brent Houston, City Attorney</b>

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

The Mayor requested approval for the March 9, 2015 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 March 9, 2015 council meeting were approved with 9 affirmative votes and 1 absent vote.

Joey Bedsole was recognized for 10 years of service with the city. Billy Hope was recognized for 15 years of service with the city.

A proclamation declaring March as “March for Meals Month” was read by Mr. Houston. See attached.

Officer Eli Fowlkes was recognized as the 2014 Employee of the Year.

The next item on the agenda was Ordinance 16 of 2015 – An Ordinance Designating the District Court Clerk as the Official Responsible for the Collection of Fines Assessed in District Court for the City of Benton, Arkansas. Alderman Ponder asked for the first reading of Ordinance 16 of 2015. Seconded by Alderman Herzfeld. The ordinance was read by the city clerk. The Mayor stated that this was requested by the Executive Director the Arkansas Municipal League for all class A cities. Alderman Ponder made a motion to suspend the rules. Seconded by Alderman Lee. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to suspend the rules was approved with 9 affirmative and 1 absent vote.

**Alderman Ponder made a motion to adopt Ordinance 16 of 2015 on its second and third readings. Seconded by Alderman Lee. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 16 of 2015 was adopted with 9 affirmative and 1 absent vote.**

**Alderman Ponder asked for the first reading of Ordinance 17 of 2015 -- An Ordinance Granting a Non-Exclusive Franchise to Windstream Communications, LLC; Windstream Norlight, LLC; Windstream Nuvox, LLC, McLeod, USA, LLC; Paetec Communications, LLC; and Their Successors and Assigns a Non-Exclusive Franchise to Operate in the City of Benton; Establishing Franchise Fees to be Paid; Authorizing the Acceptance of Past Due Franchise Fees; Repealing Ordinance 6 of 2015; Declaring an Emergency; and For Other Purposes. Seconded by Alderman Lee. The ordinance was read by the city clerk. The Mayor asked for any comments. None. Alderman Ponder made a motion to suspend the rules. Seconded by Alderman Donnor. The Mayor asked that the roll be called on the motion to suspend. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to suspend the rules was approved with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt Ordinance 17 of 2015 on its second and third readings. Seconded by Alderman Cunningham. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 17 of 2015 was adopted with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt the emergency clause. Seconded by Alderman Herzfeld. The Mayor asked that the roll be called for the emergency clause. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause was approved with 9 affirmative and 1 absent vote.**

**Alderman Ponder asked for the first reading of Ordinance 18 of 2015 -- An Ordinance Amending the 2015 Budget for the General Fund as Adopted in Ordinance 75 of 2014; Appropriating Funds for the Operations of the City; Declaring an Emergency; and For Other Purposes. Seconded by Alderman Lee. The ordinance was read by the city clerk. This ordinance reflects the additional franchise payment from Windstream. The Mayor asked for any comments. None. Alderman Ponder made a motion to suspend the rules. Seconded by Alderman Donnor. The Mayor asked that the roll be called on the motion to suspend. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to suspend the rules was approved with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt Ordinance 18 of 2015 on its second and third readings. Seconded by Alderman Herzfeld. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes,**

Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 18 of 2015 was adopted with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt the emergency clause. Seconded by Alderman Lee. The Mayor asked that the roll be called for the emergency clause. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause was approved with 9 affirmative and 1 absent vote.

The next item on the agenda was Committee reports and motions. Alderman Ponder was recognized for the Finance Committee report. Alderman Ponder made a motion to adopt Resolution 15 of 2015 – A Resolution Authorizing the Offering of Capital Improvement Revenue Bonds to Finance Park and Recreational Improvements; and Prescribing Other Matters Relating Thereto. Seconded by Alderman Donnor. The resolution was read by the city clerk. The Mayor asked for any comments or questions. Alderman Murphy stated that he had several constituents and business leaders call him, I know we are doing the bonds for the overages at Riverside Park and agree that we need to get the money. The question is what expenditures occurred that created the overages. The Mayor stated that the areas contributing to the overages are the site developmental plan, it was estimated in September that 45 of the 65 acres would have to have some type of slope and grade. \$140,000 per acre was the amount used for the overall cost plan, \$6.35 million. As we proceeded on and CDI looked at other projects in central Arkansas the cost per acre was \$225,210 or \$13.278 million for site cost. This created \$7 million of additional cost that was not in the \$39 million that I was using in September, thus we are at \$46 million. This is final number that was given to me, \$49.7 million to build Riverside Park. The bonds cover the additional costs. Alderman Murphy stated that he appreciated the answer. Another question is concerning the structures and design who is in charge of making sure that we stay under budget and is there any other plan. Some thought that because I was on the Parks Committee I would have something to do with it but we don't. I explained that there was a committee and feel certain that you will stay on top of this. If we have to cut corners where would we? The Mayor stated the \$49.6 million figure has been massaged. There is a \$2.5 million for contingencies for construction and architects if they make a change. This amount is in the number. If the city makes a change we did not have anything to cover it so we put in \$1.7 million for contingencies for the city. If I saw anything that was going to go over budget then I would throw the contingency at it. There is \$2.6 million in lighting and landscaping for parking lots this would be second place to cut. We will make sure the buildings are built but if we don't have all the landscaping or lighting for the parking lots this is where we can cut. There are places where we are not going to affect what the public is expecting. I don't see that happening. I am optimistic that we will be at budget or below. We have about \$4 million in city latitude to do things to protect that from not happening. I have also received the question about the Parks Committee, this was not done to exclude the committee you will be brought in as a committee. Alderman Lee who is the chairman has been involved with me every step of the way, representing the interest of the Parks and the legislative body. Mr. Eckart who is head of the Parks Department has been involved in almost every meeting that I have had for the last seven months to be sure that operationally he would know where we were going. Why have I not given this to the legislative body until now? For the exact reasons that you are hearing about. Until the numbers were solidified, I would have been coming to you every two weeks with a different set of numbers. Let's just get it over with we went from \$39 million to \$49 million and I am explaining it one time. Alderman Lee asked

**Alderman Murphy to go back to the constituents asking the questions and invite them to any park committee meeting. Then they can ask any questions that they want to and I would be happy to talk to them face to face. Alderman Murphy stated that he would but so far this has not been discussed in committee. Alderman Lee stated that the council voted to put John Eckart, the Mayor and myself on the committee to meet with contractors, engineers and architects so that we did not have to have a Parks Committee meeting every day or every other day for every little aspect of the project. Alderman Murphy stated that the only reason the questions came up was due to the overages.**

**The Mayor stated that back in September when the \$39.6 number was given which is now \$49.7 million. \$7 million is this one issue. I was asked why you only went for only \$37.9 million for the bond, well that was because at that time we had sufficient cash to make up \$2 or \$3 million worth of the difference. It is \$49.750 million to build everything, it is all priced out and it is now protected with contingencies and I think that we can make it happen.**

**The Mayor asked that the roll be called for Resolution 15 of 2015. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 15 of 2015 was approved with 9 affirmative and 1 absent vote.**

**Alderman Ponder made a motion to adopt Resolution 16 of 2015 – A Resolution Authorizing the Offering of Sales and Use Tax Bonds to Finance Park and Recreational Improvements; and Prescribing Other Matters Relating Thereto. Seconded by Alderman Donnor. The resolution was read by the city clerk. The Mayor asked for any comments. None. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 16 of 2015 was approved with 9 affirmative and 1 absent vote. The Mayor stated that he covered the \$7 million but there is still the other \$4 million. Contingency is \$2 million of it and the other part is the combination of the land what we paid plus the parking lot. Jack Truemper Stephens, Inc. was recognized. He stated that the first issue that will be sold are the franchise fee bonds to net the city \$6 million. We will offer these bonds on April 13, 2015 and then come back to the council with the final bond ordinance. We are scheduled to close that issue on May 19, 2015 and that is when the city will receive funds from the proceeds of the bond issue. For the balance of the sales tax issue we will come back two weeks later for the April 27, 2015 council meeting that will be the day that we offer the bonds to net the city a little over \$1.240 million. We will offer them on the 27<sup>th</sup> and come back to the council on the 27<sup>th</sup> for approval and then that issue will be closed on June 2, 2015.**

**Alderman Ponder made a motion to adopt Resolution 17 of 2015 – A Resolution Authorizing the Purchase of a Pumper Truck and Related Equipment for the Fire Department From Sunbelt Fire, Inc.; Appropriating Funds for This Purchase; and For Other Purposes. Seconded by Alderman Donnor. The resolution was read by the city clerk. The Mayor asked for any comments. None. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner**

absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 17 of 2015 was approved with 9 affirmative and 1 absent vote.

Alderman Reed was recognized for a report from the Community Service/Animal Control Committee. Alderman Reed asked for the first reading of Ordinance 19 of 2015 – An Ordinance Rezoning Certain Land in the City of Benton, Saline County, Arkansas; Declaring an Emergency; and for Other Purposes. Seconded by Alderman Baptist. The ordinance was read by the city clerk. This rezoning was requested by the county for land located at 6325 Cynamide Road from Mining to Light Industrial. 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 Murphy. The Mayor asked that the roll be called on the motion to suspend. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to suspend the rules was approved with 9 affirmative and 1 absent vote. Alderman Reed made a motion to adopt Ordinance 19 of 2015 on its second and third readings. Seconded by Alderman Lee. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 19 of 2015 was adopted with 9 affirmative and 1 absent vote. Alderman Reed made a motion to approve the emergency clause. Seconded by Alderman Donnor. The Mayor asked that the roll be called for the emergency clause. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause was approved with 9 affirmative and 1 absent vote.

Alderman Reed made a motion to adopt Resolution 18 of 2015 – A Resolution Setting a Public Hearing to Discuss the Closing of a Utility Easement Located Along the West Lot Line of Lot 64, Hurricane Lake Estates, Westshore Addition, Phase 3 (6587 Westminster Drive). Seconded by Alderman Baptist. The resolution was read by the city clerk. The Mayor asked for any comments. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 18 of 2015 was approved with 9 affirmative and 1 absent vote.

Alderman Cunningham was recognized for the Streets and Drainage Committee report. Alderman Cunningham made a motion to approve Resolution 19 of 2015 – A Resolution Amending Resolution 23 of 2009 and Resolution 10 of 2012; and For Other Purposes. Seconded by Alderman Lee. The resolution was read by the city clerk. This resolution amends the procedure for emergency drainage problems. The Mayor asked for any comments. None. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 19 of 2015 was approved with 9 affirmative and 1 absent vote.

**Alderman Donnor was recognized for the Personnel/Health & Safety Committee report. He stated that the committee would be meeting in the next couple of weeks.**

**Alderman Lee was recognized for the Parks Committee report. Alderman Lee made a motion to approve Resolution 20 of 2015 – A Resolution Expressing the Willingness of the City of Benton to Utilize Federal-Aid in Seeking Recreational Trail Funds in Developing a Walking Trail Through Riverside Park. Seconded by Alderman Terrell. The resolution was read by the city clerk. Alderman Lee stated that this was an 80/20 grant. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 20 of 2015 was approved with 9 affirmative and 1 absent vote.**

**Alderman Herzfeld was recognized for the Public Utility Commission report. He gave that report. See attached.**

**Alderman Donnor was recognized for the Advertising and Promotion Commission's report. He stated that the commission met on March 19, 2015. We agreed to fund Amplify Festival up to \$10,000. We had a second funding request from the Wally Hall Tournament they requested that we buy an ad for the program and we will make that decision at our next meeting. The contract between the A&P and the Chamber of Commerce has expired and a new contract is being worked on.**

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

**The Mayor stated that this Saturday is the annual Easter Egg Hunt on the Courthouse Lawn. Also I would like to add that neither bond issues create any additional tax or request for money from the public.**

**The meeting adjourned at 8:01 p.m.**

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**Cindy Stracener, City Clerk**

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**David Mattingly, Mayor**



## Benton Senior Wellness and Activity Center March for Meals Proclamation

**WHEREAS**, on March 22, 1972, President Richard Nixon signed into law a measure that amended the Older Americans Act of 1965 and established a national nutrition program for seniors 60 years and older; and

**WHEREAS**, Central Arkansas Development Council, in recognizing the importance of the Older Americans Act Senior Nutrition Program, and to raise awareness about senior hunger in Saline County, established the Benton Senior Activity Center on February 10, 1975; and

**WHEREAS**, the 2015 observance of the March for Meals campaign provides an opportunity to support Senior Nutrition Programs that deliver vital and critical services by donating, volunteering and raising awareness about senior hunger; and

**WHEREAS**, the Benton Senior Wellness and Activity Center has served our community admirably for 40 years; and

**WHEREAS**, volunteer drivers for Meals on Wheels programs in Benton are the backbone of the program and they not only deliver nutritious meals to homebound seniors and individuals with disabilities, but also caring concern and attention to their welfare; and

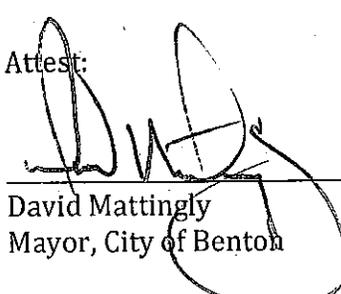
**WHEREAS**, the Benton Senior Wellness and Activity Center provides nutritious meals to seniors in Saline County, helping them to avoid premature or unnecessary hospitalization and institutionalization and combating loneliness and isolation; and

**WHEREAS**, the Benton Senior Wellness and Activity Center deserves recognition for the contributions they have made and will continue to make to our local community.

**NOW THEREFORE, I** David Mattingly, acting under my authority as Mayor of the City of Benton, Arkansas, do hereby proclaim March 2015 as "MARCH FOR MEALS MONTH" in the City of Benton and urge every citizen to take time this month to honor our Senior Nutrition Programs, the seniors they serve and the volunteers who care for them. Our recognition of and involvement in the national 2015 March for Meals campaign can enrich our entire community and help end senior hunger in America—*so no senior goes hungry®*.



Attest:

  
David Mattingly  
Mayor, City of Benton

## Public Utility Commission Meeting Summary of the March 16, 2015 Meeting

- 1- The first item on the agenda was John Davis (Donna Craig's fiancé) who wanted to address the commission regarding sales of auto parts/chemicals to the Utilities. Mr. Davis thanked the Commission for having him. He explained that Ms. Craig's father owns Pro Auto of Arkansas and he said there were a lot of things that he thought they could save the utilities money on such as wiper blades and bulbs. He said he spoke to Mr. Terry McKinney and Ms. Linda McAdoo about selling to the Utilities but Ms. McAdoo thought we needed to bring the option before the Commission to make sure there is no conflict of interest because Ms. Craig works for the Electric Department. Mr. McKinney said Ms. Craig had come to him recently and asked him about this. Mr. McKinney said he spoke to City Attorney, Brent Houston and asked him about conflict of interest. There is a way they can do this and that is by ordinance from the City Council that would waive that. Mr. Houston said if there are products that needed to be bided out that Mr. Davis could bid just like the other vendors do. He also said if Ms. Craig does not own the company there shouldn't be a problem. A request was made to defer this item until Ms. McAdoo is present at the next meeting. All commissioners were in agreement. Mr. McKinney said the next meeting is April 6<sup>th</sup>. Chairman Martin said the request is deferred until the next meeting and will take it under advisement until then.
- 2- Presentation by Scott Lovell on the 2014 audit. Mr. Lovell said normally he would like to have the copies to them a few weeks before the meeting so you would have time to look over it, but Mr. Mark McBride of Stephen's Inc. was pushing it a little bit because of some circumstances of a meeting he had with him earlier. We are pushing to get it done and move on with other things. The first four pages of the report is the Management Discussion and Analysis completed this year by Mr. McKinney. Usually the CFO writes it but we don't have a CFO so it was written by Mr. McKinney this year. Basically it talks about the financial highlights for the 3 years of 2012, 2013 and 2014 year ends and gives insight to a reader who isn't aware of the financials of the Utilities of what has gone on in the past and how it has affected and will affect the future. Mr. McKinney's report has nothing to do with his report other than they use the same numbers. Mr. Lovell's report starts on page 4 and 5 where the opinion is and it is in their opinion that the financial statements are in all material respects the financial position of the Benton Municipal Light and Water Works as of December 31<sup>st</sup> of 2014 and 2013, and the changes in its net position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America. Mr. Lovell went through each page of the audit explaining each one as he went. When Mr. Lovell was finished a motion was made and seconded to accept the report as published and presented. A vote was taken and unanimous approval given.
- 3- Discussion and approval of January financials. Mr. McKinney said he had reported last time a little bit to them but this time they have the details in front of them. Basically, January actuals we ended up \$160,176 based on cash flow. If you look back at previous periods of this we have been about the same really. Member Ferrell said actually we would have made money if Plum Point had not gone down. Mr. McKinney said he was 100% right. That has happened to us twice, so it was not a bad month if you look at it that way. They would have made money and they lose about \$100,000 per month when that unit is down. We also make money when it is running too. The report is very clear and it is very early in the year. We have not approved any capital expenses at this time. As we had indicated, we are going to probably wait until May or June before we do that. We really need to see how January, February and March turn out this year before we can do anything. You will know when we are going to do it because

**MINUTES OF THE BENTON CITY COUNCIL**  
**Special Called Meeting**  
**April 2, 2015**  
**Benton Municipal Complex**

The Benton City Council was called to order for a special called meeting at 6:06 p.m.

Roll was called.

The following persons were in attendance:

Alderman Frank Baptist	Alderman Kerry Murphy
Alderman Charles Cunningham	Alderman Bill Donnor
Alderman Jerry Ponder	Alderman Jim Gardner
Alderman James Herzfeld	Alderman Steve Lee
Alderman Lori Terrell	Cindy Stracener, City Clerk
David Mattingly, Mayor	Brent Houston, City Attorney

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

The Mayor gave the invocation. Alderman Donnor led the pledge of allegiance.

Alderman Cunningham asked for the first reading of Ordinance 20 of 2015 – An Ordinance Waiving Competitive Bidding and Authorizing and Ratifying the Making of a Contract with H&H Excavating, Inc.; Declaring an Emergency; and For Other Purposes. Alderman Donnor. The ordinance was read by the city clerk. This was to replace a storm drain pipe on Cypress Point in the Longhills Subdivision. The Mayor asked for any comments. None. Cunningham made a motion to suspend the rules. Seconded by Alderman Baptist. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed absent, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to suspend the rules was approved with 9 affirmative and 1 absent vote. Alderman Cunningham made a motion to adopt Ordinance 20 of 2015 on its second and third readings. Seconded by Alderman Lee. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed absent, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 20 of 2015 was adopted with 9 affirmative and 1 absent vote. Alderman Cunningham made a motion to approve the emergency clause. Seconded by Alderman Donnor. The Mayor asked that the roll be called for the emergency clause. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed absent, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause was approved with 9 affirmative and 1 absent vote.

Alderman Donnor announced that a Personnel/Health & Safety committee meeting will be held right after this. The meeting was adjourned.

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Cindy Stracener, City Clerk

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David Mattingly, Mayor

# Proclamation

## *Child Abuse & Neglect Prevention Month*

*WHEREAS*, Saline County's future prosperity depends on nurturing the healthy development of over 30,000 children currently living, growing and learning within our many diverse communities; and

*WHEREAS*, research shows that safe and nurturing relationships and stimulating and stable environments improve brain development and child well-being, while neglectful or abusive experiences and unstable or stressful environments increase the odds of poor childhood outcomes; and

*WHEREAS*, the abuse and neglect of children can cause severe, costly and lifelong problems affecting all of society, including physical and mental health problems, school failure and criminal behavior; and

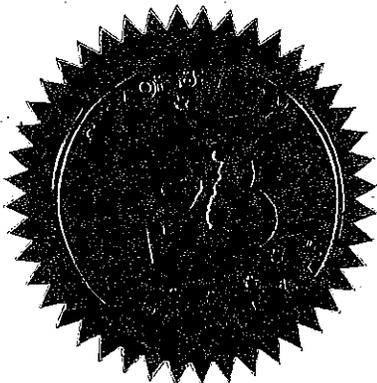
*WHEREAS*, research also shows that parents and caregivers who have social networks and know how to seek help in times of trouble are more resilient and better able to provide safe environments and nurturing experiences for their children; and

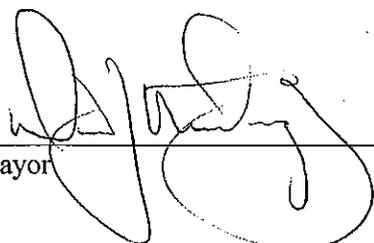
*WHEREAS*, individuals, businesses, schools, and faith-based and community organizations must make children a top priority and take action to support the physical, social, emotional and educational development and competency of all children; and

*WHEREAS*, during the month of April, Saline County Child Abuse & Neglect Prevention Coalition, in collaboration with the Arkansas Department of Health and Human Services and Prevent Child Abuse America, will be engaging communities in Saline County, Arkansas in a coordinated effort to prevent child abuse and neglect by promoting awareness of healthy child development, positive parenting practices and the types of concrete support families need within their communities,

NOW, THEREFORE, I, DAVID MATTINGLY, ACTING UNDER MY AUTHORITY AS MAYOR OF THE CITY OF BENTON, ARKANSAS, do hereby proclaim April 2015 as Child Abuse Prevention Month in the City of Benton and urge all citizens, businesses, churches, community organizations and schools to engage in activities for the purpose of strengthening families and communities to provide the optimal environment for healthy child development.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Benton, Arkansas to be affixed at Benton City Hall, this 13<sup>th</sup> day of April, 2015.



  
\_\_\_\_\_  
Mayor

ORDINANCE NO. 21 of 2015

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL IMPROVEMENT REVENUE BONDS, SERIES 2015; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Benton, Arkansas (the "City") is in need of park and recreational improvements (the "Improvements"); and

WHEREAS, the City can finance costs of the Improvements by the issuance of Capital Improvement Revenue Bonds, Series 2015 in the aggregate principal amount of \$\_\_\_\_\_ (the "bonds"); and

WHEREAS, the City has made arrangements for the sale of the bonds to Stephens Inc. (the "Purchaser") at a price of \$\_\_\_\_\_ (principal amount less \$\_\_\_\_\_ of underwriter's discount less \$\_\_\_\_\_ of net original issue discount) plus accrued interest (the "Purchase Price") pursuant to a Bond Purchase Agreement (the "Purchase Agreement") which has been presented to and is before this meeting; and

WHEREAS, the Preliminary Official Statement, dated March 27, 2015, offering the bonds for sale (the "Preliminary Official Statement") has been presented to and is before this meeting; and

WHEREAS, the Continuing Disclosure Agreement between the City and \_\_\_\_\_ (the "Disclosure Agreement"), providing for the ongoing disclosure obligations of the City with respect to the bonds, has been presented to and is before this meeting;

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

Section 1. The offer of the Purchaser for the purchase of the bonds from the City at the Purchase Price is hereby accepted, and the Purchase Agreement, in substantially the form submitted to this meeting, is approved and the bonds are hereby sold to the Purchaser. The Mayor is hereby authorized and directed to execute and deliver the Purchase Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Purchase Agreement.

Section 2. The Preliminary Official Statement is hereby approved and the previous use of the Preliminary Official Statement by the Purchaser in connection with the sale of the bonds is hereby in all respects approved and confirmed, and the Mayor is hereby, authorized and directed, for and on behalf of the City, to execute the Preliminary Official

Statement and the final Official Statement in the name of the City for use in connection with the sale of the bonds as set forth in the Purchase Agreement.

Section 3. Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including particularly Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, City of Benton, Arkansas Capital Improvement Revenue Bonds, Series 2015 are hereby authorized and ordered issued in the aggregate principal amount of \$\_\_\_\_\_ for the purpose of financing costs of the Improvements, funding a debt service reserve and paying necessary expenses of issuing the bonds. The bonds shall mature on September 1 in the years and in the amounts and shall bear interest as follows:

<u>Year</u> <u>(September 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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The bonds shall be dated May 1, 2015 and shall be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. Unless the City shall otherwise direct, the bonds shall be numbered from 1 upward in order of issuance. Each bond shall have a CUSIP number.

The bonds shall be registered initially in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), which shall be considered to be the registered owner of the bonds for all purposes under this Ordinance, including, without limitation, payment by the City of principal of, redemption price, premium, if any, and interest on the bonds, and receipt of notices and exercise of rights of registered owners. There shall be one certificated, typewritten bond for each stated maturity date which shall be immobilized in the custody of DTC with the beneficial owners having no right to receive the bonds in the form of physical securities or certificates. DTC and its participants shall be responsible for maintenance of records of the ownership of beneficial interests in the bonds by book-entry on the system maintained and operated by DTC and its participants, and transfers of ownership of beneficial interests shall be made only by DTC and its participants, by book-entry, the City having no responsibility therefor.

DTC is expected to maintain records of the positions of participants in the bonds, and the participants and persons acting through participants are expected to maintain records of the purchasers of beneficial interests in the bonds. The bonds as such shall not be transferable or exchangeable, except for transfer to another securities depository or to another nominee of a securities depository, without further action by the City.

If any securities depository determines not to continue to act as a securities depository for the bonds for use in a book-entry system, the City may establish a securities depository/ book-entry system relationship with another securities depository. If the City does not or is unable to do so, or upon request of the beneficial owners of all outstanding bonds, the City and the Trustee (hereinafter defined), after the Trustee has made provision for notification of the beneficial owners by the then securities depository, shall permit withdrawal of the bonds from the securities depository, and authenticate and deliver bond certificates in fully registered form (in denominations of \$5,000 or integral multiples thereof) to the assigns of the securities depository or its nominee, all at the cost and expense (including costs of printing definitive bonds) of the City, if the City fails to maintain a securities depository/book-entry system, or of the beneficial owners, if they request termination of the system.

Prior to issuance of the bonds, the City shall have executed and delivered to DTC a written agreement (the "Representation Letter") setting forth (or incorporating therein by reference) certain undertakings and responsibilities of the City with respect to the bonds so long as the bonds or a portion thereof are registered in the name of Cede & Co. (or a substitute nominee) and held by DTC. Notwithstanding such execution and delivery of the Representation Letter, the terms thereof shall not in any way limit the provisions of this Section or in any other way impose upon the City any obligation whatsoever with respect to persons having interests in the bonds other than the registered owners, as shown on the registration books kept by the Trustee. The Trustee shall take all action necessary for all representations of the City in the Representation Letter with respect to the Trustee to at all times be complied with.

The authorized officers of the Trustee and the City shall do or perform such acts and execute all such certificates, documents and other instruments as they or any of them deem necessary or advisable to facilitate the efficient use of a securities depository for all or any portion of the bonds; provided that neither the Trustee nor the City may assume any obligations to such securities depository or beneficial owners of bonds that are inconsistent with their obligations to any registered owner under this Ordinance.

Interest on the bonds shall be payable on September 1, 2015, and semiannually thereafter on March 1 and September 1 of each year. Payment of each installment of interest shall be made to the person in whose name the bond is registered on the registration books of the City maintained by \_\_\_\_\_, as Trustee and Paying Agent (the "Trustee"), at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of any such bond subsequent to such Record Date and prior to such interest payment date.

Each bond shall bear interest from the payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first interest payment date, in which event it shall bear interest from May 1, 2015, or unless it is authenticated during the period from the Record Date to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication thereof interest is in default thereon, in which event it shall bear interest from the date to which interest has been paid.

Only such bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Section 5 hereof (the "Certificate") duly executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No bond shall be valid and obligatory for any purpose unless and until the Certificate shall have been duly executed by the Trustee, and the Certificate upon any such bond shall be conclusive evidence that such bond has been authenticated and delivered under this Ordinance. The Certificate on any bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate on all of the bonds.

In case any bond shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new bond of like date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated bond, or in lieu of and in substitution for such bond destroyed or lost, upon the owner paying the reasonable expenses and charges of the City and Trustee in connection therewith, and, in the case of a bond destroyed or lost, his filing with the Trustee evidence satisfactory to it that such bond was destroyed or lost, and of his ownership thereof, and furnishing the City and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new bond. In the event any such bond shall have matured, instead of issuing a new bond, the City may pay the same without the surrender thereof. Upon the issuance of a new bond under this Section, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

The City shall cause books to be maintained for the registration and for the transfer of the bonds as provided herein and in the bonds. The Trustee shall act as the bond registrar. Each bond is transferable by the registered owner thereof or by his attorney duly authorized in writing at the principal office of the Trustee. Upon such transfer a new fully registered bond or bonds of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor.

No charge shall be made to any owner of any bond for the privilege of transfer or exchange, but any owner of any bond requesting any such transfer or exchange shall pay any tax or other governmental charge required to be paid with respect thereto. Except as otherwise provided in the immediately preceding sentence, the cost of preparing each new bond upon each exchange or transfer and any other expenses of the City or the Trustee incurred in connection therewith shall be paid by the City. The City shall not be required to transfer or exchange any bonds selected for redemption in whole or in part.

The person in whose name any bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or premium, if any, or interest of any bond shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid.

In any case where the date of maturity of interest on or principal of the bonds or the date fixed for redemption of any bonds shall be a Saturday or Sunday or shall be in the State a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal (and premium, if any) need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after the date of maturity or date fixed for redemption.

Section 4. The bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk and shall have impressed or imprinted thereon the seal of the City. The bonds, together with interest thereon, are secured solely by the Pledged Revenues. The Pledged Revenues are hereby pledged and mortgaged for the equal and ratable payment of the bonds on a parity with the pledge in favor of the City's Capital Improvement Refunding and Improvement Revenue Bonds, Series 2012 (the "Parity Bonds"). This pledge in favor of the bonds is hereby irrevocably made according to the terms of this Ordinance, and the City and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

The "Pledged Revenues" are a special revenue source and are defined to mean all revenues received by the City from the franchise fees charged to public utilities for the privilege of using the streets, highways and other public places in the City, pursuant to the authority contained in Title 14, Chapter 200, Sections 101 through 112 of the Arkansas Code of 1987 Annotated or successor statutes. The Pledged Revenues shall not be deemed to be general revenues of the City and shall be deposited into a special fund hereinafter created. The bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation. The bonds shall never give rise to a charge against the City's general credit or taxing power and no funds derived from the City's taxes are pledged to pay the bonds. Nothing herein shall require the City to pay the principal of and interest on the bonds from sources other than the Pledged Revenues, but nothing herein shall prohibit the City from doing so.

Section 5. The bonds shall be in substantially the following form and the Mayor and City Clerk are hereby expressly authorized and directed to make all recitals contained therein:



Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”) to the Trustee for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

This bond is one of an issue of City of Benton, Arkansas Capital Improvement Revenue Bonds, Series 2015, aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in principal amount (the “bonds”), and is issued for the purpose of financing costs of park and recreational improvements, funding a debt service reserve and paying necessary expenses of issuing the bonds.

The bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas (the “State”), including particularly Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, and pursuant to Ordinance No. \_\_\_\_\_ of the City, duly adopted on \_\_\_\_\_, 2015 (the “Authorizing Ordinance”), and do not constitute an indebtedness of the City within any constitutional or statutory limitation. The bonds are not general obligations of the City, but are special obligations secured solely by a pledge of revenues received by the City that are derived from the payment of franchise fees by public utilities for the privilege of using the streets, highways and other public places in the City (the “Pledged Revenues”). The Pledged Revenues shall be deemed to be a special source for the payment of the bonds. The bonds shall never give rise to a charge against the City's general credit or taxing power and no funds derived from the City's taxes are pledged to pay the bonds. An amount of Pledged Revenues sufficient to pay the principal of and interest on the bonds has been duly pledged and set aside into the 2015 Capital Improvement Revenue Bond Fund identified in the Authorizing Ordinance. The pledge of the Pledged Revenues in favor of the bonds is on a parity with the pledge in favor of the City's Capital Improvement Refunding and Improvement Revenue Bonds, Series 2012. Reference is hereby made to the Authorizing Ordinance for a detailed statement of the terms and conditions upon which the bonds are issued, of the nature and extent of the security for the bonds, and the rights and obligations of the City, the Trustee and the registered owners of the bonds. Nothing herein or in the Authorizing Ordinance shall require the City to pay the principal of and interest on this bond except from the Pledged Revenues, but nothing herein or in the Authorizing Ordinance shall prevent the City from doing so.

The bonds shall be subject to optional, extraordinary and mandatory sinking fund redemption as follows:

1. The bonds shall be redeemed from proceeds of the bonds which are not needed for the purposes intended, in whole or in part, on any interest payment date, in inverse order of maturity (and by lot within a maturity in such manner as the Trustee shall determine), at a price equal to the principal amount being redeemed plus accrued interest to the redemption date.

2. The bonds are subject to redemption at the option of the City, from funds from any source, in whole at any time or in part on any interest payment date on and after March 1, 2025, at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date. If fewer than all of the bonds shall be called for redemption, the particular maturities of the bonds to be redeemed shall be selected by the City in its discretion. If fewer than all of the bonds of any one maturity shall be called for redemption, the particular bonds or portion thereof to be redeemed from such maturity shall be selected by lot by the Trustee.

3. To the extent not previously redeemed, the bonds maturing on September 1 in the years 2030, 2035 and 2045 are subject to mandatory sinking fund redemption by lot in such manner as the Trustee shall determine, on September 1 in the years and in the amounts set forth below, at a redemption price equal to the principal amount being redeemed plus accrued interest to the date of redemption:

Bonds Maturing September 1, 2030

<u>Year</u> <u>(September 1)</u>	<u>Amount</u>
2026	
2027	
2028	
2029	
2030 (maturity)	

Bonds Maturing September 1, 2035

<u>Year</u> <u>(September 1)</u>	<u>Amount</u>
2031	
2032	
2033	
2034	
2035 (maturity)	

Bonds Maturing September 1, 2045

<u>Year</u> <u>(September 1)</u>	<u>Amount</u>
2036	
2037	
2038	
2039	
2040	
2041	
2042	
2043	
2044	
2045 (maturity)	

In the case of any redemption of bonds prior to maturity, the Trustee shall mail or send via other standard means, including electronic or facsimile communication, a copy of the redemption notice to the registered owners of the bonds to be redeemed, in each case not less than 30 nor more than 60 days prior to the date of redemption. After the date for redemption no further interest shall accrue on any bond called for redemption if funds for redemption of such bond have been deposited with the Trustee as provided in the Authorizing Ordinance.

In case any outstanding bond is in a denomination greater than \$5,000, each \$5,000 of face value of such bond shall be treated as a separate bond of the denomination of \$5,000.

Notice of redemption identifying the bonds or portions thereof (which shall be \$5,000 or a multiple thereof) to be redeemed shall be given by the Trustee, not less than 30 nor more than 60 days prior to the date fixed for redemption, by mailing a copy of the redemption notice by first class mail, postage prepaid, or sending a copy of the redemption notice via other standard means, including electronic or facsimile communication, to all registered owners of bonds to be redeemed. Failure to mail or send an appropriate notice or any such notice to one or more registered owners of bonds to be redeemed shall not affect the validity of the proceedings for redemption of other bonds as to which notice of redemption is duly given in proper and timely fashion. All such bonds or portions thereof thus called for redemption and for the retirement of which funds are duly provided in accordance with the Authorizing Ordinance prior to the date fixed for redemption will cease to bear interest on such redemption date.

This bond is transferable by the registered owner hereof in person or by his attorney-in-fact duly authorized in writing at the principal corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, and upon surrender and cancellation of this bond. Upon such transfer a new fully registered bond or bonds of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor. This bond is issued with the intent that the laws of the State shall govern its construction.

The City and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

The bonds are issuable only as fully registered bonds in the denomination of \$5,000, and any integral multiple thereof. Subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, fully registered bonds may be exchanged for a like aggregate principal amount of fully registered bonds of the same maturity of other authorized denominations.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the bonds do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the bonds, together with all obligations of the City, does not exceed any constitutional or statutory limitation; and that the above referred to revenues pledged to the payment of the principal of and premium, if any, and interest on the bonds as the same become due and payable will be sufficient in amount for that purpose.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Authorizing Ordinance until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Benton, Arkansas has caused this bond to be executed by its Mayor and City Clerk, their signatures thereunto duly authorized and its corporate seal to be impressed or imprinted on this bond, all as of the Dated Date shown above.

CITY OF BENTON, ARKANSAS

ATTEST

\_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
Mayor

(SEAL)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds issued under the provisions of the within mentioned Authorizing Ordinance.

Date of Authentication: \_\_\_\_\_

\_\_\_\_\_  
Trustee

By \_\_\_\_\_  
Authorized Signature

(Form of Assignment)

[A Form of Assignment shall be attached to the bond.]

Section 6. (a) The City agrees to continuously charge franchise fees to all public utilities occupying the streets, highways and other public places under Arkansas Code Annotated §§14-200-101-112, or successor statutes, while the bonds are outstanding.

(b) The franchise fees currently charged to public utilities, are hereby ratified, confirmed and continued and such fees shall never be reduced while the bonds are outstanding unless the City receives an opinion of a certified public accountant not in the regular employ of the City ("Accountant") to the effect that Pledged Revenues for the preceding fiscal year, assuming such reduction had been in effect for the entire year, would have equaled not less than 125% of the maximum annual debt service on all obligations of the City to which Pledged Revenues are pledged.

(c) The franchise fees currently collected from the public utilities are sufficient to pay the principal of and interest on the bonds when due and the City agrees that the percentage rate of each franchise fee currently collected by the City from public utilities will not be increased solely for the purpose of providing funds to pay the principal of and interest on the bonds when due.

Section 7. The Treasurer of the City shall be the custodian of all Pledged Revenues. All Pledged Revenues shall at all times be accounted for separately and distinctly from other moneys of the City and shall be used and applied only as provided herein. Upon receipt by the City, the Pledged Revenues shall not be deposited into the General Fund but shall be deposited into a special fund of the City heretofore created and designated as the "Franchise Fee Fund" (the "Franchise Fee Fund"). The Franchise Fee Fund shall be established in such depository or depositories for the City as may be lawfully designated by the City from time to

time; provided that such depository or depositories shall hold membership in the Federal Deposit Insurance Corporation or any successor entity ("FDIC").

Any surplus in the Franchise Fee Fund after making the monthly deposits hereinafter described into the Bond Fund and the bond funds for the Parity Bonds and any additional parity bonds (collectively, the "Parity Bond Funds") may be withdrawn from the Franchise Fee Fund and used, at the option of the City, for other lawful municipal purposes; provided, however, that if the City receives Pledged Revenues only on a quarterly and/or annual basis, there shall always remain in the Franchise Fee Fund an amount sufficient to make the required payments into the Bond Fund until the next Pledged Revenues are to be received.

Section 8. There shall be transferred from the Franchise Fee Fund, pro rata, into the Parity Bond Funds and into a special fund hereby created with the Trustee and designated "2015 Capital Improvement Revenue Bond Fund" (the "Bond Fund"), the sums in the amounts and at the times described below for the purpose of providing funds for the payment of the principal of and interest on the bonds, with Trustee's fees and the fees of the trustees for the Parity Bonds and any additional parity bonds.

There shall be paid into the Parity Bond Funds the monthly amounts required by the ordinances authorizing the Parity Bonds and any additional parity bonds to pay the principal of, interest on and trustee's fees in connection with Parity Bonds and any additional parity bonds when due and to maintain the debt service reserves therein at the required levels.

There shall be paid into the Bond Fund, on or before the 25th day of each month, commencing in June 2015, a sum equal to one-sixth (1/6) of the next installment of interest plus one-twelfth (1/12) of the next installment of principal on all outstanding bonds due at maturity or upon mandatory sinking fund redemption; provided, however, the payments for June, July and August of 2015 shall be in an amount equal to one-third (1/3) of the interest on the bonds due September 1, 2015. The City shall also pay into the Bond Fund such additional sums as necessary to provide for the Trustee's fees and expenses and any arbitrage rebate due to be paid to the United States Treasury under Section 148(f) of the Code.

There is created, as a part of the Bond Fund, a Debt Service Reserve which shall be maintained in an amount equal to the average annual principal and interest requirements on the bonds (the "required level"). There shall be deposited into the Debt Service Reserve from the proceeds of the bonds, a sum sufficient for such purpose. Should the Debt Service Reserve become impaired or be reduced below the required level, the City shall make additional monthly payments from the Franchise Fee Fund until the impairment or reduction is corrected over a twelve month period. All earnings in the Debt Service Reserve that increase the amount thereof above the required level shall be transferred to the debt service portion of the Bond Fund.

The City shall realize a credit against monthly deposits into the Bond Fund to the extent of interest earnings on moneys in the Bond Fund and deposits into the Bond Fund from bond proceeds.

If for any reason there shall be a deficiency in the payments made into the Bond Fund so that there are unavailable sufficient moneys therein to pay the principal of and interest on the bonds as the same become due, any sums then held in the Debt Service Reserve shall be used to the extent necessary to pay such principal and interest. The Debt Service Reserve shall be used solely as herein described, but the moneys therein may be invested as hereinafter set forth.

If Pledged Revenues are insufficient to make the required payment by the 25th day of the month into the Bond Fund, the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund by the 25th day of the next month.

When the moneys held in the Bond Fund shall be and remain sufficient to pay the principal of and interest on the bonds then outstanding, there shall be no further obligation to make further payments into the Bond Fund. All moneys in the Bond Fund shall be used solely for the purpose of paying the principal of and interest on the bonds, Trustee's fees and arbitrage rebate due the United States, except as hereinafter set forth.

The Trustee is authorized and directed to withdraw moneys from the Bond Fund from time to time as necessary for paying principal of and interest on the bonds when due at maturity or at redemption prior to maturity and for making other authorized Bond Fund expenditures.

Section 9. Any surplus in the Franchise Fee Fund after making the monthly deposits into the Bond Fund and the Parity Bond Funds may be withdrawn from the Franchise Fee Fund and used, at the option of the City, for other lawful municipal purposes; provided, however, that if the City receives Pledged Revenues only on a quarterly or annual basis, there shall always remain in the Franchise Fee Fund an amount sufficient to make the required payments into the Bond Fund until the next Pledged Revenues are to be received.

Section 10. So long as any of the bonds are outstanding, the City shall not issue or attempt to issue any bonds or obligations claimed to be entitled to a priority of lien on the Pledged Revenues over the lien securing the bonds. The City reserves the right to issue additional bonds to finance or pay the cost of constructing any additional capital improvements or to refund bonds issued for such purpose, but the City shall not authorize or issue any such additional bonds ranking on a parity with the outstanding bonds unless and until there have been procured and filed with the City Clerk and the Trustee a statement by an Accountant reciting the opinion, based upon necessary investigation, that the Pledged Revenues for the fiscal year immediately preceding the fiscal year in which it is proposed to issue such additional bonds were equal to not less than 150% of the maximum annual principal and interest requirements on all the then outstanding obligations secured by Pledged Revenues and the additional bonds then proposed to be issued. In making the computation, the Accountant may treat any increase in franchise fees enacted subsequent to the first day of such preceding year as having been in effect throughout that year and may include in Pledged Revenues for such year the amount that would have been received had the increase been in effect throughout such year.

The additional bonds, the issuance of which is restricted and conditioned by this Section, shall be understood to mean bonds secured by Pledged Revenues ranking on a parity of security with the bonds and not bonds secured by Pledged Revenues subordinate in security to the bonds and such bonds may be issued without complying with the terms and conditions hereof.

Section 11. The bonds shall be subject to redemption prior to maturity in accordance with the terms set out in the bond form hereinabove set forth.

Section 12. The City shall cause proper books of accounts and records to be kept (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the Pledged Revenues, and such books shall be available for inspection by the Trustee, Insurer and/or any Bondholder at reasonable times and under reasonable circumstances. The City agrees to have its financial statements audited by the Joint Legislative Auditing Committee, Division of Legislative Audit of the State of Arkansas, or, at the option of the City, an Accountant, and a copy of the audit shall be delivered to the Trustee and any Bondholder requesting the same in writing within 45 days after it is received by the City.

Section 13. Any bond shall be deemed to be paid within the meaning of this Ordinance when payment of the principal of and interest on such bond (whether at maturity or upon redemption as provided herein, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment, (1) cash sufficient to make such payment and/or (2) non-callable direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America ("Investment Securities") (provided that such deposit will not affect the tax exempt status of the interest on any of the bonds or cause any of the bonds to be classified as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code")), maturing as to principal and interest in such amounts and at such times as will provide sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee pertaining to the bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

On the payment of any bonds within the meaning of this Ordinance, the Trustee shall hold in trust, for the benefit of the owners of such bonds, all such moneys and/or Investment Securities.

When all the bonds shall have been paid within the meaning of this Ordinance, if any arbitrage rebate due the United States Treasury under Section 148(f) of the Code has been paid or provided for to the satisfaction of the Trustee and if the Trustee has been paid its fees and expenses, the Trustee shall take all appropriate action to cause (i) the pledge and lien of this Ordinance to be discharged and canceled, and (ii) all moneys held by it pursuant to this Ordinance and which are not required for the payment of such bonds to be paid over or delivered to or at the direction of the City. In determining the sufficiency of the deposit of Investment

Securities there shall be considered the principal amount of such Investment Securities and interest to be earned thereon until the maturity of such Investment Securities.

Section 14. (a) If there be any default in the payment of the principal of and interest on any of the bonds, if the City defaults in the performance of any covenant contained in this Ordinance or if the City declares bankruptcy, the Trustee may, and shall, upon the written request of the owners of not less than 10% in principal amount of the bonds then outstanding, by proper suit compel the performance of the duties of the officials of the City and the Commission under the Constitution and laws of the State and under this Ordinance, and to take any action or obtain any proper relief in law or equity available under the Constitution and laws of the State.

(b) No owner of any bond shall have any right to institute any suit, action, mandamus or other proceeding in equity or in law for the protection or enforcement of any right under this Ordinance or under the Constitution and laws of the State unless such owner previously shall have given to the Trustee written notice of the default on account of which such suit, action or proceeding is to be taken, and unless the owners of not less than 10% in principal amount of the bonds then outstanding shall have made written request of the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers herein granted or granted by the Constitution and laws of the State, or to institute such action, suit or proceeding in its name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the cost, expense and liabilities to be incurred therein or thereby and the Trustee shall have refused or neglected to comply with such request within a reasonable time, and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trust of this Ordinance or to any other remedy hereunder. It is understood and intended that no one or more owners of the bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all owners of the outstanding bonds, and that any individual rights of action or other right given to one or more of such owners by law are restricted by this Ordinance to the rights and remedies herein provided.

(c) All rights of action under this Ordinance or under any of the bonds, enforceable by the Trustee, may be enforced by it without the possession of any of the bonds, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name and for the benefit of all the owners of the bonds, subject to the provisions of this Ordinance.

(d) No remedy herein conferred upon or reserved to the Trustee or to the owners of the bonds is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by any law or by the Constitution of the State.

(e) No delay or omission of the Trustee or of any owners of the bonds to exercise any right or power accrued upon any default shall impair any such right or power or

shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy given by this Ordinance to the Trustee and to the owners of the bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(f) The Trustee may, and upon the written request of the owners of not less than a majority of the owners in principal amount of the bonds then outstanding shall, waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

Section 15. (a) The terms of this Ordinance shall constitute a contract between the City and the registered owners of the bonds and no variation or change in the undertaking herein set forth shall be made while any of the bonds are outstanding, except as hereinafter set forth in subsections (b) and (c).

(b) The Trustee may consent to any variation or change in this Ordinance that the Trustee determines is not to the material prejudice of the owners of the bonds or to cure any ambiguity, defect or omission in this Ordinance or any amendment hereto without the consent of the owners of the outstanding bonds.

(c) The owners of not less than 75% in aggregate principal amount of the bonds then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance supplemental hereto as shall be necessary or desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing contained in this Section shall permit or be construed as permitting (a) an extension of the maturity of the principal of or the interest on any bond, or (b) a reduction in the principal amount of any bond or the rate of interest thereon, or (c) the creation of a lien or pledge superior to the lien and pledge created by this Ordinance, or (d) a privilege or priority of any bond or bonds over any other bond or bonds, or (e) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

Section 16. When the bonds have been executed, they shall be authenticated by the Trustee and the Trustee shall deliver the bonds to or at the direction of the Purchaser upon payment of the Purchase Price. The accrued interest shall be deposited into the Bond Fund. The amount necessary to pay the expenses of issuing the bonds as set forth in the delivery instructions to the Trustee signed by the Mayor and City Clerk shall be paid from the Purchase Price. The amount from the Purchase Price necessary to establish the Debt Service Reserve at the required level shall be deposited therein. The remainder of the Purchase Price shall be remitted to the City for deposit into a special account in the name of the City designated "2015 Park and Recreational Improvement Fund" (the "Improvement Fund") in a depository or depositories designated by the City that are members of FDIC. The moneys in the Improvement Fund shall be disbursed solely in payment of the costs of accomplishing the Improvements,

paying necessary expenses incidental thereto and paying expenses of issuing the bonds. Disbursements shall be on the basis of checks which shall contain at least the following information: the person to whom payment is being made; the amount of the payment; and the purpose by general classification of the payment. Each check must be signed by two authorized representatives of the City. The City shall be required to keep accurate records of all payments made on the basis of checks.

When the Improvements have been completed and all required expenses paid and expenditures made from the Improvement Fund for and in connection with the accomplishment of the Improvements and the financing thereof, this fact shall, if moneys remain in the Improvement Fund, be evidenced by a certificate signed by the Mayor, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Improvement Fund have been discharged. A copy of the certificate shall be filed with the depository or depositories of the Improvement Fund, and a copy with the Trustee, and upon receipt thereof the depository of the Improvement Fund shall transfer any remaining balance to the Bond Fund for the purpose of redeeming the bonds.

Section 17. (a) Moneys held for the credit of the Bond Fund shall be continuously invested and reinvested by the Trustee, at the direction of the City or in the discretion of the Trustee in the absence of such direction, in Permitted Investments (as hereinafter defined), all of which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, (i) not later than (A) five (5) years after the date of investment or (B) the final maturity date of the bonds, whichever is earlier, in the case of moneys in the Debt Service Reserve and (ii) not later than the payment date for interest or principal and interest in the case of other Bond Fund moneys.

(b) Moneys held for the credit of the Improvement Fund and the Franchise Fee Fund shall be continuously invested and reinvested in Permitted Investments or other investments as may, from time to time, be permitted by law, which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when the moneys held for the credit of the particular fund will be required for purposes intended.

(c) Obligations so purchased as an investment of moneys in any fund shall be deemed at all times to be a part of such fund and the interest accruing thereon and any profit realized from such investments shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund.

(d) "Permitted Investments" are defined as (i) direct or fully guaranteed obligations of the United States of America ("Government Securities"), (ii) direct obligations of an agency, instrumentality or government-sponsored enterprise created by an act of the United States Congress and authorized to issue securities or evidences of indebtedness, regardless of whether the securities or evidences of indebtedness are guaranteed for repayment by the United States Government, (iii) demand deposits or certificates of deposit of banks, including the Trustee, which are insured by the FDIC, or, if in excess of insurance coverage, collateralized by

securities authorized by State law to secure public funds, or (iv) money market funds comprised exclusively of Government Securities and the obligations described in clause (ii) above.

Section 18. (a) The City covenants that it shall not take any action or suffer or permit any action to be taken or conditions to exist which causes or may cause the interest payable on the bonds to be included in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City covenants that the proceeds of the sale of the bonds and the Pledged Revenues will not be used directly or indirectly in such manner as to cause the bonds to be treated as “arbitrage bonds” within the meaning of Section 148 of the Code.

(b) The City represents that it has not used or permitted the use of, and covenants that it will not use or permit the use of the Improvements or the proceeds of the bonds, in such manner as to cause the bonds to be “private activity bonds” within the meaning of Section 141 of the Code.

(c) The City covenants that it will take no action which would cause the bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code. Nothing in this Section shall prohibit investments in bonds issued by the United States Treasury.

(d) The City covenants that it will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the bonds are issued, a statement required by Section 149(e) of the Code.

(e) The City covenants that it will not reimburse itself from proceeds of the bonds for costs paid prior to the date the bonds are issued except in compliance with United States Treasury Regulation No. 1.150-2 (the “Regulation”). This Ordinance shall constitute an “official intent” for the purpose of the Regulation.

(f) The City covenants that it will, in compliance with the requirements of Section 148(f) of the Code, pay to the United States Government in accordance with the requirements of Section 148(f) of the Code, from time to time, an amount equal to the sum of (1) the excess of (A) the amount earned on all Non-purpose Investments (as therein defined) attributable to the bonds, other than investments attributable to such excess over (B) the amount which would have been earned if such Non-purpose Investments attributable to the bonds were invested at a rate equal to the Yield (as defined in the Code) on the bonds, plus (2) any income attributable to the excess described in (1), subject to the exceptions set forth in Section 148 of the Code. The City further covenants that in order to assure compliance with its covenants herein, it will employ a qualified consultant to advise the City in making the determination required to comply with this subsection.

(g) The City covenants that all documents and records related to the bonds and the Improvements will be retained for the life of the bonds plus an additional three (3) years.

Section 19. The Trustee shall undertake to perform such duties and only such duties as are specifically set out in this Ordinance. In case an event of default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Ordinance and use the same degree of care and skill in their exercise, as a reasonable and prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. The recitals in this Ordinance and in the bonds are the recitals of the City and not of the Trustee. The Trustee shall not be required to take any action as Trustee unless it shall have been requested to do so in writing by the owners of not less than 10% in principal amount of bonds then outstanding and shall have been offered reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby. The Trustee may resign by giving 60 days' notice in writing to the City Clerk and the owners of the bonds, and the majority in principal amount of the owners of the outstanding bonds or the City, so long as it is not in default hereunder, at any time, with or without cause, may remove the Trustee. In the event of a vacancy in the office of Trustee, the City shall forthwith designate a new Trustee. The new Trustee shall be a bank or a trust company in good standing, duly authorized to exercise trust powers and subject to examination by federal or state authority, having a reported capital and surplus of not less than \$10,000,000. The Trustee and any successor Trustee shall file a written acceptance and agreement to execute the trusts imposed upon it by this Ordinance, but only upon the terms and conditions set forth in this Ordinance and subject to the provisions of this Ordinance, to all of which the respective owners of the bonds agree. Such written acceptance shall be filed with the City Clerk and the Insurer, and a copy thereof shall be placed in the bond transcript. Any successor Trustee shall have all the powers herein granted to the original Trustee. The Trustee's resignation shall take effect upon the acceptance of the trusts by the successor Trustee.

Section 20. The Disclosure Agreement, in substantially the form submitted to this meeting, is approved, and the Mayor is hereby authorized and directed to execute and deliver the Disclosure Agreement on behalf of the City. The Mayor is authorized and directed to take all action required on the part of the City to fulfill its obligations under the Disclosure Agreement.

Section 21. The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

Section 22. All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 23. It is hereby ascertained and declared that the Improvements are immediately needed for the preservation of the public peace, health and safety and to remove existing hazards thereto. The Improvements cannot be accomplished without the issuance of the bonds, which cannot be sold unless this Ordinance is immediately effective. Therefore, it is declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.

PASSED: \_\_\_\_\_, 2015.

APPROVED:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Benton, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. \_\_\_\_\_, adopted at a regular session of the City Council of the City, held at the regular meeting place of the City Council at 7:00 p.m., on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, and that said Ordinance is of record in Ordinance Record Book No. \_\_\_\_\_ of the City, now in my possession.

GIVEN under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_,  
2015.

\_\_\_\_\_  
City Clerk

(SEAL)

**ORDINANCE NO. 22 OF 2015**

**AN ORDINANCE MAKING UNLAWFUL THE PRACTICE OF FEEDING STRAY DOGS AND STRAY CATS ON PUBLIC PROPERTY AND ON THE REAL PROPERTY OF OTHER PEOPLE WITHOUT CONSENT; PRESCRIBING PENALALTIES FOR THE ENFORCMENT OF THIS ORDINANCE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

WHEREAS, the City Council of the City of Benton has found and determined that the presence of stray dogs and stray cats, especially feral cats, within the City constitutes a risk to the public health and safety; and

WHEREAS, the City Council wishes to forbid the practice of feeding stray dogs and stray cats on public property and on the real property of other individuals without consent because of these public health and safety concerns.

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

**SECTION 1:** Definitions:

City of Benton Property: Any real property owned by the City of Benton or any of its commissions or which has been dedicated to the City for public use. This shall include but is not limited to property designated as a city park; streets and street right of ways; alleyways; public utility easements; drainage easements; city sidewalks; fire stations; police stations; at or around any city owned structure or facility; vacant lots; and city hall.

Feed or Feeding: Any act of giving directly to or providing a supply of any product which may be consumed by a dog or a cat as food.

Stray Dog or Cat: Any dog or cat which is not the property of any person. There is a rebuttable presumption that any dog or cat within the city limits which is not properly confined or restrained by a property owner and does not have a City issued license, pursuant to Ordinance 34 of 2013 as may be amended from time to time, is a stray dog or a stray cat.

**SECTION 2:** It is unlawful for any person to feed a stray dog or a stray cat on any City of Benton Property.

**SECTION 3:** It is unlawful for any person to feed a stray dog or a stray cat on real property which is owned by another person or by an entity without the express permission of the real property owner to do so.

SECTION 4: It is not a violation of this ordinance for a person to feed a stray dog or stray cat on property he or she owns or leases. It is also not a violation for a person to feed a stray dog or a stray cat on real property owned by another person, entity or business if he or she has express permission to do so by the property owner.

SECTION 5: The act of feeding at different locations or on different dates shall constitute a separate violation of this ordinance.

SECTION 6: The first violation of this offense shall be punishable by a \$100.00 fine plus court costs. The second violation of this offense shall be punishable by a \$250.00 fine plus court costs. The third violation and all subsequent violations of this ordinance which occur within a five (5) year period shall be punishable by a fine of \$500.00 plus court costs.

SECTION 7: The City of Benton Police Officers, Code Enforcement Officers and Animal Control Officers are all authorized to issue citations for violations of this ordinance.

SECTION 8: It is hereby found and determined that there is an immediate need to prevent the feeding of stray dogs and stray cats because of the public health and safety issues which are related thereto. Therefore, an emergency exists and this ordinance is necessary for the preservation of the public peace, health and safety. It shall be in full force and effect immediately from and after its passage and approval. However, Sections 5 and 6 of this ordinance shall not become effective until ninety (90) days after the first publication of this ordinance. The officers may however issue warnings for violations of this ordinance until the penalty section contained in Section 5 becomes effective.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

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

DESIGNATED FOR PUBLICATION

**RESOLUTION NO. 21 OF 2015**

**A RESOLUTION RATIFYING AND CONFIRMING THE APPOINTMENT OF WINIFRED STAMPS AS COMMISSIONER TO THE BENTON CIVIL SERVICE COMMISSION; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Benton created the City of Benton Civil Service Commission by Ordinance 26 of 1981; and

**WHEREAS**, the City Council desires to appoint WINIFRED STAMPS to fill the expired term of office which was held by Joey Brannon, whose term of office expired April 6, 2015;

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

**SECTION 1:** Winifred Stamps is hereby confirmed as a member of the City of Benton Civil Service Commission. Her term of office will expire April 1, 2021.

PASSED AND APPROVED this the \_\_\_\_ day of April, 2015.

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

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

ORDINANCE NO. 23 OF 2015

AN ORDINANCE ABANDONING THE CITY'S PARTIAL INTEREST IN A CERTAIN UTILITY EASEMENT LOCATED WITHIN THE CITY; AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS NECESSARY TO PARTIALLY ABANDON THE EASEMENT; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES

WHEREAS, the city owns a certain 10 foot utility easement situated in an area that runs North along the West (rear) property line of Lot 64 Westshore Subdivision Phase 3 (6587 Westminster) owned by William David in Benton, which the East 4 feet of is not being utilized by the City; and

WHEREAS, Benton Utilities have no utilities within the East 4 foot portion of the property and the owners of the property feel that the property behind lot 64 will be developed in the future and the balance of this easement (the West 6 feet) will be needed for that project; and

WHEREAS, the Public Utility Commission has approved the abandoning the East 4 foot portion of the easement; and

WHEREAS, the City Council held a public hearing on abandoning this easement on April 13, 2015 at 7:00 pm prior to the passage of this ordinance; and

WHEREAS, it is the desire of the City Council of the City of Benton that the city abandon its ownership interest in this East 4 foot of its utility easement on the property.

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

SECTION 1: The City of Benton hereby abandons its ownership interests in a certain utility easement described in this Ordinance, that being the east 4 feet of the utility easement on Lot 64 Westshore Subdivision Phase 3. The mayor may execute any document reasonably required to release the city's interest to the landowners.

SECTION 2: Because of the immediate need to clarify for the property owner the easements which the City maintains on its property, an emergency is declared and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this \_\_\_\_\_ day of April, 2015.

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

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

DESIGNATED FOR PUBLICATION