

# BENTON CITY COUNCIL MEETING

JUNE 22, 2015

7:00 PM



AGENDA MEETING 6:45 PM



BENTON MUNICIPAL COMPLEX  
114 SOUTH EAST STREET  
COUNCIL CHAMBERS

**DAVID MATTINGLY, MAYOR**

**REGULAR SESSION**  
**June 22, 2015**  
**7:00 PM**  
**AGENDA**

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|--------------|---|---|
| <b>I.</b>    | <b>Call to Order</b>  | <b>Mayor Mattingly</b>  |
| <b>II.</b>   | <b>Invocation</b>   |   |
| <b>III.</b>  | <b>Pledge of Allegiance</b>   | <b>Alderman Lee</b>   |
| <b>IV.</b>   | <b>Roll Call</b>  | <b>City Clerk</b>   |
| <b>V.</b>    | <b>Approval of Minutes</b>  | <b>June 8, 2015</b><br><i>Regular Meeting</i>   |
| <b>VI.</b>   | <b>Employee of the Month</b><br><i>Anthony Boyer - May 2015</i>   | <b>Alderman Donnor</b>  |
| <b>VII.</b>  | <b>Service Awards</b><br><i>Juan Suarez - 10 years</i><br><i>Loretta Ford - 15 years</i><br><i>Curtis Wood - 20 years</i><br><i>Garland Phillips - 30 years</i><br><i>John Wissler - 30 years</i> | <b>Mayor Mattingly</b><br><i>Brett Nalley - 15 years</i><br><i>Terry Fuller - 15 years</i><br><i>Alan Appling - 25 years</i><br><i>Phillip Christenberry - 30 years</i> |
| <b>VIII.</b> | <b>COMMITTEE REPORTS &amp; MOTIONS</b>  |   |
|              | <b>1. Finance Committee</b>   | <b>Alderman Ponder</b>  |
|              | <b>2. Community Services/Animal Control</b>   | <b>Alderwoman Reed</b>  |
|              | <b>A.) ORDINANCE NO 31 OF 2015</b><br><i>AN ORDINANCE AMENDING ORDINANCE 32 OF 2013; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES</i>   |   |
|              | <b>3. Streets &amp; Drainage Committee</b>  | <b>Alderman Cunningham</b>  |
|              | <b>4. Personnel/Health &amp; Safety Committee</b>   | <b>Alderman Donnor</b>  |
|              | <b>5. Parks Committee</b>   | <b>Alderman Lee</b>   |
|              | <b>6. Public Utilities Commission</b>   | <b>Alderman Herzfeld</b>  |
|              | <b>7. A &amp; P Commission</b>  | <b>Aldermen Donnor/<br/>Alderman Ponder</b>   |
| <b>IX.</b>   | <b>Unfinished Business</b>  |   |
| <b>X.</b>    | <b>New Business</b>   |   |
| <b>XI.</b>   | <b>Old Business</b>   |   |
| <b>XII.</b>  | <b>Announcements</b>  |   |
| <b>XIII.</b> | <b>Adjourn</b>  |   |

**MINUTES OF THE BENTON CITY COUNCIL**  
**Regular Session**  
**June 8, 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 Herzfeld 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 Jim Gardner</b>	<b>Alderman James Herzfeld</b>
<b>Alderman Steve Lee</b>	<b>Alderman Lori Terrell</b>
<b>Brent Houston, City Attorney</b>	<b>David Mattingly, Mayor</b>

When roll was called ten (10) council members were present. A quorum was declared. The city clerk was absent and Quinn Rambo filled in for her.

The Mayor requested approval for the May 26, 2015 city council meeting minutes. Alderman Ponder made a motion to approve the minutes. Seconded by Alderman Lee. The Mayor called for a voice vote on the approval of the minutes. All aldermen replied in the affirmative. The minutes for the May 26, 2015 council meeting were approved with 10 affirmative votes.

Alderman Lee made a motion to move Ordinance 30 of 2015 up on the agenda. Seconded by Alderman Herzfeld. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion was approved with 10 affirmative votes. Alderman Herzfeld made a motion to suspend the rules and read Ordinance 30 of 2015 – An Ordinance Authorizing the Issuance and Sale of Public Utility Refunding Revenue Bonds to Refund Outstanding Bonds; Providing for the Payment of the Principal of and Interest on the Bonds; Prescribing Other Matters Relating Thereto; and Declaring an Emergency by title only instead of in its entirety. 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 yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Gardner yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to read Ordinance 30 of 2015 by title only was approved with 10 affirmative votes. Alderman Herzfeld asked for the first reading of Ordinance 30 of 2015 by title only. Seconded by Alderman Ponder. Ordinance 30 of 2015 was read by title only. The Mayor asked for any questions or comments. None. Alderman Herzfeld made a motion to suspend the rules for the second and third readings of Ordinance 30 of 2015 by title only. Seconded by Alderman Lee. The ordinance was read by title only. A vote was never taken on the motion to suspend. Alderman Herzfeld made a motion to

adopt Ordinance 30 of 2015 on its second and third readings. Seconded by Alderman Donnor. The ordinance was read by title only. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 30 of 2015 was adopted with 10 affirmative votes. Alderman Herzfeld made a motion to approve the emergency clause. Seconded by Alderman Terrell. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause for Ordinance 30 of 2015 was approved with 10 affirmative votes.

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 30 of 2015 – A Resolution Authorizing the City to Enter into a Contract with Black Corley Owens and Hughes, PA to Render Professional Services for the Construction of a Fire Station and Police Substation on Highway 5; and For Other Purposes. Seconded by Alderman Herzfeld. The resolution was read by Quinn Rambo. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 30 of 2015 was approved with 10 affirmative votes.

Alderman Ponder made a motion to adopt Resolution 31 of 2015 – A Resolution Authorizing the Execution of an Agreement with McClelland Consulting Engineers, Inc. for a Wastewater Study for the Construction of the Fire Station and Police Substation on Highway 5; and For Other Purposes. Seconded by Alderman Lee. The resolution was read by Quinn Rambo. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 31 of 2015 was approved with 10 affirmative votes.

Alderman Ponder made a motion to adopt Resolution 32 of 2015 – A Resolution Authorizing the Purchase of a Raft and Trailer for the Fire Department from Tactical Rescue Services, LLC (TRS); Appropriating Funds for this Purchase; and For Other Purposes. Seconded by Alderman Murphy. The resolution was read by Quinn Rambo. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 32 of 2015 was approved with 10 affirmative votes.

Alderman Reed was recognized for a report from the Community Service/Animal Control Committee. Alderman Reed made a motion to adopt Resolution 33 of 2015 – A Resolution Authorizing the Mayor to Demolish the Structure Located at 224 West South Street (Palace Theater), Benton, Arkansas; and for Other Purposes. Seconded by Alderman Lee. The resolution was read by Quinn Rambo. The Mayor asked for any comments. The Mayor

stated that for two years the members of this staff, past and present have assisted to help me find any means possible to renovate, save the Palace Theater. This is not about tearing down a building. It is very clear that last August I asked for a report from a certified structural engineer for the purpose of understanding the city's position in respect to some of these buildings. A serious event happened in Morrilton, some buildings collapsed in Pine Bluff and an incident happened in Texarkana. My responsibility is to bring to the council a serious issue that must be faced. This report which I have shared and am willing to share with whomever; shows very clearly that the building's structure and state of disrepair presents a life safety hazard and warrants removal. The group who I spoke with last week has not come forward. The city has a liability and it is time for us to take a stand on what to do with the Palace Theater. Mr. Houston stated that the city has tort immunity in many different things but I am concerned if the structure did fall and someone was injured or killed that a cause of action might be brought against the city and the allegation made that we should not have tort immunity in this instance because we know and have it in black and white that the structure is a known danger to us. I think that the city has to do something with this building. It is for the members of this council to determine what to do with it. We have to take some kind of action because if it does fall then we could be facing some type of exposure to the individuals who are harmed. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 33 of 2015 was approved with 10 affirmative votes. The Mayor stated that Robert Edwards and I spent hours agonizing with any and all kinds of grants and anything else we could think of but again we came up empty. Alderman Herzfeld stated that he spent a lot of time at the Panther Den or Palace Theater, and then it was the library. I feel like we are doing the right thing, it is in dire need of repair and the repair would be much more than it is worth so I think we are doing the right thing. Mr. Houston stated that two people contacted him within the last week and I have provided these engineer reports to them. They have expressed interest in doing something with the Palace. It is not too late at this point if someone wants to come forward and say I will do X, Y and Z to this building before it is razed, this council has the authority to enter into that transaction but they have to come forward and do that. The Mayor stated that it will take approximately 90 days to get all the documents in place to raze the building so it should be more than enough time for someone to put a proposal together with the plans and present it to me or Alderman Reed. It will then be considered by the committee for council consideration. The council can decide what to do at that point. At the end of the 90 days we will be in the position to raze it. I will share any information that I have. I don't think that it is prudent that the city should continue to spend money on engineering reports and other things for someone else to make a decision. Twelve months from the date that the council decides that they are going to let someone do something then the building needs to meet city code.

Alderman Reed made a motion to adopt Resolution 34 of 2015 – A Resolution Authorizing Exempting the City of Benton, Independence Day Celebration Activities from Ordinance 29 of 2007; and For Other Purposes. Seconded by Alderman Murphy. The resolution was read by Quinn Rambo. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 34 of 2015 was approved with 10 affirmative votes.

**Alderman Reed made a motion to adopt Resolution 35 of 2015 – A Resolution Authorizing the City to Enter into a Contract with Cummins Power Generation for Providing Generator Preventative Maintenance Services to the City; and for Other Purposes. Seconded by Alderman Donnor. The resolution was read by Quinn Rambo. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 35 of 2015 was approved with 10 affirmative votes.**

**Alderman Reed made a motion to adopt Resolution 36 of 2015 – A Resolution Authorizing the Execution of an Agreement with Garver Engineers; for Construction Engineering/Inspection Services; and For Other Purposes. Seconded by Alderman Terrell. The resolution was read by Quinn Rambo. 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 yes, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 36 of 2015 was approved with 10 affirmative votes.**

**Alderman Cunningham was recognized for the Streets and Drainage Committee report. He stated that he had nothing to report but that the committee will meet at its regular time.**

**Alderman Donnor was recognized for the Personnel/Health & Safety Committee report. He stated that he had nothing to report.**

**Alderman Lee was recognized for the Parks Committee report. He stated that the committee will meet a week from Thursday.**

**Alderman Donnor was recognized for the Advertising and Promotion Commission's report. He stated that the commission will meet next week.**

**Alderman Herzfeld was recognized for the Public Utility Commission report. He distributed a report. See attached.**

**There was not any unfinished business.**

**The Mayor stated that the Police Department will be hosting the Hook on Fishing Tournament on June 18<sup>th</sup> from 9 am to 11 am. Birchtree is having their art show and sale at the Event Center tomorrow night. On the 24<sup>th</sup> of June, our Economic Development Department will be having a city booth for the first time at the Municipal League Conference. Surveys are also being given to businesses. A cereal drive by the Police Department for the Arkansas Food Bank is taking place. Tomorrow there will be a press release about the activities and ground breaking ceremony at Riverside Park for the 4<sup>th</sup> of July.**

**The meeting adjourned at 7:45 p.m.**

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**Cindy Stracener, City Clerk**

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**David Mattingly, Mayor**

ORDINANCE 31 OF 2015

AN ORDINANCE AMENDING ORDINANCE 32 OF 2013;  
DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

**WHEREAS**, the City Council of the City of Benton, Arkansas, adopted Ordinance 32 of 2013 which provided for the limited use and sale of fireworks within the City of Benton during certain times of the year, and prescribed penalties for the violation of same; and

**WHEREAS**, it has been determined that Section 2.A. needs to be amended;

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

SECTION 1: Section 2.A of Ordinance 32 of 2013 shall be amended by adding to the end of Section 2 A. "If June 1 follows on a Saturday or Sunday then the date for submission of the application and permit fee will be the following Monday. If the permit fee is submitted up to 7 days late a 10% or \$50 late fee will be assessed, if the fee is submitted after the 7 days but before or on the 14th day then a 20% or \$100 late fee will be assessed. After 14 days from the deadline of June 1 applications and permit fees will not be accepted"; and,

SECTION 2: All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; and,

SECTION 3: Due to the upcoming fireworks season the establishment of a late fee will allow additional business and economics associated with the sale of fireworks within the City, an emergency is hereby declared and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this the 22<sup>nd</sup> day of June, 2015.

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David Mattingly, Mayor

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Cindy Stracener, City Clerk