

BENTON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING MINUTES  
JULY 5, 2016

The Benton County Board of Commissioners met in regular session on July 5, 2016 in the Benton County Board Room in Foley, MN with Commissioners Spencer Buerkle, Warren Peschl, Jim McMahon, Jake Bauerly and Ed Popp present. Call to order by Chair Buerkle was at 9:00 AM followed by the Pledge of Allegiance to the flag.

McMahon/Bauerly unanimous to approve the agenda as written.

No one was present to speak under Open Forum.

Popp/McMahon unanimous to approve the Consent Agenda: 1) approve the Regular Meeting Minutes of June 21, 2016 as written; 2) accept and file Committee of the Whole Minutes of June 15, 2016 as written; 3) accept and file Administrator's Report/Monthly Financial Report as presented; 4) accept Vietnam War Commemoration as presented; 5) approve Application for MN Lawful Gambling Exempt Permit—*Foley Area Chapter Ducks Unlimited Inc.*—to hold a raffle at Jack & Jim's Event Center on September 15, 2016; 6) approve Renewal Application for Optional Liquor 2 AM License—*Jack & Jim's Inc.*; 7) approve 2016-2017 State of MN Department of Corrections Work Release Agreement, and authorize the Chair to sign; 8) approve Amendment Number Four to *Law Enforcement Technology Group* contract, and authorize the Chair to sign; 9) approve Special Road Use Permit to hold *Gilman Days* on county highways within the City of Gilman, and authorize the Chair to sign; and 10) approve Special Road Use Permit to hold a color vibe 5K fun run on CSAH 3, and authorize the Chair to sign.

George Fiedler, Veterans Service Officer, informed the Board of recent legislative changes with regard to veterans—1) military retirement pay will be excluded from taxes; 2) changes to Veterans Preference Act (once a veteran is hired, they have the same rights as any other employees—veterans must now serve a probationary period); and 3) will add veteran status to drivers licenses.

Chris Byrd, County Engineer, explained that, after MnDOT completed the construction of new TH 23, the right-of-way of old TH 23 was "turned back" to Benton County; it is his opinion that this is excess right-of-way and does not serve a public purpose. Byrd noted two options for consideration—1) adopt a resolution declaring the property as excess right-of-way and proceed to sell the property (Byrd desires that the property be sold as a whole rather than as individual parcels); or 2) transfer jurisdiction of ownership to the City of Foley as authorized by statute (163.11). Byrd stated there has been some interest expressed by the City of Foley in acquiring this land from the county for economic development purposes. He stated his desire that Glen Street would also become a city street under any proposal. Popp inquired of any private sector interest in this property. Byrd noted interest in this property from a neighbor for the purpose of erecting a sign. Headley inquired if the tax-forfeited parcel could be conveyed to the city in the same manner as the other parcels. Byrd stated the need to research the statutes regarding tax-forfeited property. McMahon stated his preference for transferring ownership jurisdiction to the City of Foley, including Glen Street. Popp inquired of the estimated market value of the property. Bob Barbian, Foley City Administrator, commented that this would be a great site for a convenience store if sewer was available; he felt the parcels should be combined and developed at some point in time. Board consensus that the County Engineer have discussions with the City of Foley regarding transferring ownership jurisdiction of the property, along with the adjacent county road.

Engineer's Report: 1) CSAH 3 project progressing; side streets will remain closed until all four lanes are opened up to traffic; one issue that has surfaced has been the discovery of some regulated waste material which contained asbestos and diesel-range organics—conversations with MPCA are taking place regarding corrective options—full impact of costs are unknown at this time; 2) CSAH 8 reclaim delayed to August; 3) Completed top-cut of mowing on all 450 miles of county roadway; 4) 4<sup>th</sup> Avenue project in the City of Foley to begin the week of July 11<sup>th</sup>.

Joe Janish, Department of Development Director, explained that the proposed resolution regarding the availability of county-wide garbage service acknowledges that there is access to garbage hauling services for all residents and businesses within Benton County; therefore, on-site garbage burning shall be illegal. Janish noted that, in 1969, there was an exemption made which would allow farmers to burn their garbage if they did so in a "nuisance-free, pollution-free, and aesthetic manner"; the MN Pollution Control Agency (MPCA) no longer allows this because of the materials being used in the waste. Janish stated that the adoption of the proposed resolution would make it easier for the MPCA to enforce these regulations when individuals are burning garbage. He stated his belief that, in 2006, the Benton County Board had considered a similar resolution and, in 2007, made the decision not to move forward with the resolution (there were four garbage haulers at that time as compared with the current ten haulers). Janish pointed out that the Benton County Solid Waste Advisory Committee met on May 16, 2016 and recommended adoption of the proposed resolution. He noted that the MPCA has been "going after" individuals even without adoption of this resolution based on the fact that garbage collection services are available throughout the county. Mark McNamara from the Department of Development confirmed that countywide availability of garbage services basically "closed the loophole" for allowing anyone to burn garbage. Popp expressed concerns with the potential costs to farmers to haul additional "non-toxic" garbage that they currently burn. Bauerly questioned the need for the resolution if the EPA already has established laws against on-site garbage burning; he also questioned how the resolution declaring on-site garbage burning illegal would be enforced. Janish explained that the resolution would allow county staff the ability to cite the individual; however, it is likely staff would turn the matter over to the MPCA, who has more authority. He added that the resolution would "close the loophole" for MPCA so they are not expending their funds and their time on the enforcement action. McNamara noted that the county ordinance currently requires that garbage be disposed of in a proper manner; the adoption of the proposed resolution would "make the legal process go smoother". He clarified that this resolution would not preclude the burning of "clean" materials, i.e. lumber, brush. Motion by McMahon to adopt the resolution declaring that garbage service is available throughout the county, making on-site disposal of garbage illegal for all residents in Benton County, as recommended by the Solid Waste Advisory Committee. Motion failed for lack of a second. Chair Buerkle suggested the idea of some type of notification system, short of a resolution/ordinance, that could notify landowners that they are in violation; further, to possibly consider the resolution again in the future should the need be warranted. Popp stated his concern that this resolution is just a way for MPCA to "pass something down to the county again".

The Regular County Board meeting was recessed at 9:39 AM to conduct a Human Services Board meeting.

The Regular County Board meeting was reconvened at 9:41 AM.

Monty Headley, County Administrator, pointed out that the bylaws of the Benton Economic Partnership (BEP) provide that one member of the BEP Board of Directors shall be appointed by the Benton County Board of Commissioners; terms of office on the BEP Board are three years. Bauerly/Peschl unanimous

to appoint Commissioner Ed Popp as primary representative to the Benton Economic Partnership Board of Directors, with Commissioner Spencer Buerkle as alternate representative.

Board members reported on recent meetings they attended on behalf of the county.

Under Commissioner Concerns, Peschl reported that, at their next meeting, the Planning Commission will be discussing wetland delineations of farm homestead splits. Popp also reported a concern with the condition of the deck floor at the Lakeview Center.

Peschl/Popp unanimous to set Committees of the Whole: July 12, Discussion of Excess Road Right-of-Way; July 21, Economic Development Partnership Organizational Meeting; July 27, DNR Little Rock Creek Groundwater Advisory Committee; August 15, 17 & 19, Budget Presentations.

McMahon/Bauerly unanimous to adjourn at 10:05 AM.

---

Spencer C. Buerkle, Chair  
Benton County Board of Commissioners

ATTEST:

---

Montgomery Headley  
Benton County Administrator