

BENTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
JANUARY 4, 2022

The Benton County Board of Commissioners met in regular session on January 4, 2022 in the Benton County Board Room in Foley, MN with Commissioners Steve Heinen, Ed Popp, Jared Gapinski, Beth Schlangen and Scott Johnson present. Call to order by Administrator Monty Headley was at 9:00 AM followed by the Pledge of Allegiance to the flag.

Popp nominated Heinen for 2022 Chair of the Board. Second by Gapinski. Nominations were closed and a unanimous ballot was cast for Heinen for Board Chair for 2022. Chair Heinen called for nominations for 2022 Board Vice-Chair. Gapinski nominated Johnson for 2022 Vice-Chair of the Board. Second by Popp. Nominations were closed and a unanimous ballot cast for Johnson for Board Vice-Chair for 2022.

Johnson/Gapinski unanimous to approve the agenda as written.

No one was present to speak under Open Forum.

Schlangen requested to “pull” Consent Agenda item # 4 for further discussion. Motion by Johnson and seconded by Gapinski to approve Consent Agenda items 1-3 and 5: 1) set the 2022 Per Diem Rate for Boards and Commissions; 2) accept Nadean Inman’s written notice of filing for Auditor-Treasurer as the Benton County Auditor-Treasurer, Elect; 3) accept appointments to the Board of Adjustment, Planning Commission and Solid Waste Advisory Committee; 5) set the minimum salaries for the County Attorney, Sheriff and Auditor-Treasurer for Terms of Office beginning in 2023 and authorize the Chair to sign.

Schlangen questioned Consent Agenda item #4 to consider an alternative method to disseminate bids and Request for proposals. County Engineer Chris Byrd explained that the resolution would establish where bids would be found, and that he has been advertising bids on the County website for the past 3-4 years. Byrd stated that construction companies are looking at our website, and since statute allows us to, Byrd feels this is an efficient way to advertise. Byrd stated that when they have advertised in the paper, it costs approximately \$1,000 for each bid. Byrd stated that he has not received any negative feedback for advertising bids on the County website. Motion by Schlangen and seconded by Johnson to approve the alternative method to disseminate bids and requests for proposals and to adopt the resolution and authorize the Chair to sign. Motion carried unanimously.

Headley explained that the draft listing of 2022 County Board meeting dates and times reflects the traditional meeting dates of “first and third” Tuesday of each month at 9:00 AM; December meetings will be on Thursday, December 8, 2022 (due to the Annual AMC Conference) commencing at 6:00 PM for the “Truth in Taxation Meeting” and the second meeting in December will be on Tuesday, December 20, 2022 at 9:00 AM. Following discussion, Johnson/Popp to set 2022 County Board meeting dates and times: “first and third” Tuesday of each month at 9:00 AM with the exception of December—December meetings will be on December 8th at 6:00 PM (to combine with the Truth in Taxation meeting) and December 20th at 9:00 AM. Motion carried unanimously.

Next, Headley requested the County Board consider a policy to implement the COVID Emergency Temporary Standard (ETS) issued by the Occupational Health and Safety Administration (OSHA). An ETS was issued by OSHA in November 2021 requiring employers with 100 or more employees to implement a mandatory COVID vaccination policy, by allowing weekly COVID testing as an alternative to vaccinations. The ETS requires employers to adopt and distribute policies for how the ETS will be administered. The policy was based on a model policy developed by OSHA, customized by Benton County. It establishes that weekly COVID testing is allowed in lieu of vaccination. Other provisions such

as allowing paid time for vaccinations and recovery are consistent with the requirements of the ETS. The policy stipulates that the cost of testing shall be the responsibility of employees (although currently health plans must pay with no out-of-pocket cost to employees). Lastly, the policy establishes timelines for when employees must attain fully vaccinated status (or begin weekly testing if they do not provide documentation of their vaccination status). Headley stated that the United States Supreme Court will hear challenges to the OSHA ETS on January 4th, but technically the ETS is in effect now and we are obligated to show good-faith efforts towards implementing it.

The County Board then proceeded to ask questions of Headley regarding the ETS, and also to make comments. Commissioner Johnson asked what the County would do if an employee refused to follow the policy. Would the employee be forcibly removed from the workplace, asked Commissioner Johnson? Headley replied that he would recommend first seeking voluntary cooperation, using education and information and only turning to removal from the workplace as a last resort. Headley noted the ETS requires employers to remove employees from the workplace when the employee does not provide a weekly negative COVID test result. Other Board members commented that the OSHA ETS is being imposed on local governments by the federal government, leaving us with no choice but to implement it. It was observed that employers failing to implement the OSHA ETS can face fines of up to \$14,000 per violation. Commissioner Schlangen offered comments on the efficacy of COVID vaccines and the constitutional rights of individuals to have choices.

Headley commented that the most disputed aspect of the OSHA ETS will be on who pays for the cost of weekly COVID testing. He noted the ETS does not require employers to pay for testing. Headley stated that if Benton County's employee vaccination rate is similar to the County population as a whole, the annual cost of COVID testing could be about \$700,000 (\$100 per test, times 140 employees, times 52 weeks). Headley stated it is likely employee groups will challenge who should pay the cost of testing. For now, Headley recommended the ETS policy state that employees will pay the cost of testing until such time as the Courts or a grievance arbitration establishes otherwise.

Johnson moved to table the policy to implement the COVID Emergency Temporary Standard until the Supreme Court has made their decision and will have an Emergency Meeting to adopt the ETS if necessary. Motion seconded by Schlangen. Johnson and Schlangen voted "aye" and Popp, Gapinski and Heinen voted "no". Motion failed with a two to three vote. Motion by Gapinski and seconded by Popp to adopt the policy to implement the COVID Emergency Temporary Standard issued by the Occupational Health and Safety Administration on January 4, 2022. Motion carried with a three to two vote with Commissioners Gapinski, Heinen and Popp voting "aye" and Commissioners Johnson and Schlangen voting "no". Johnson stated his no vote was an expression of his personal views on the ETS and that he has supported all year long unity among the County Board.

Next, Headley requested the County Board consider appointing Stephen C. Behrenbrinker as Interim County Assessor. Mr. Behrenbrinker served in this capacity in 2018 for approximately three months. Also, Headley requests Board approval of a professional services agreement with Mr. Behrenbrinker, whose preference is to work on an hourly basis as a contractor. The agreement stipulates an hourly rate of \$50, with hours work to be determined by the Land Services Director and County Administrator. Motion by Popp and seconded by Johnson to appoint Stephen C. Behrenbrinker as Interim County Assessor and to approve a professional services agreement with Stephen C. Behrenbrinker for County Assessor services, at the rate of \$50.00 per hour. Motion carried unanimously.

The Regular County Board meeting was recessed at 10:23 AM to conduct a Human Services Board meeting.

The Regular County Board meeting was reconvened at 10:27 AM.

Next, Auditor-Treasurer Nadean Inman requested the County Board to re-designate the Auditor-Treasurer the authority to designate depository banks. Popp/Johnson unanimous to adopt Resolution 2022-#3, designating depository banks for Benton County, and authorize the Chair to sign. Commissioner Gapinski asked in the future if it would be possible to show the percentage of County funds that are allocated to each financial institution. Inman stated she could provide that information. Also, Inman was asked by Commissioner Popp why we have this number of banks designated as depository banks. Inman replied that some are smaller banks that are not able to obtain the necessary collateral to cover the County's funds, so we must spread the County's funds among several banks. Inman also noted we attempt to utilize most all banks that have a presence in Benton County.

Next, Inman reported on the two newspaper bids that were received (Benton County News and Sauk Rapids Herald) for publication of the official proceedings of the County Board and other publications as required. She noted the rates included in the bids (the legal rate will increase 3% for 2022 as both paper and postage rates have gone up substantially in 2021 and more increases are forecasted for 2022), along with a combined rate for publishing in both papers (continuation of a 30% discount on ads and legal notices). Motion by Johnson and seconded by Popp to designate the Benton County News and Sauk Rapids Herald as the official newspapers for Benton County for 2022. Motion carried unanimously.

Next, Inman asked the County Board to consider establishment of Benton County Absentee and Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) for 2022. Benton County is required by Minnesota Statute 203B.121 to establish an absentee ballot board and Minnesota Statute 203B.23 to establish an UOCAVA ballot board. The absentee and UOCAVA ballot board would consist of a sufficient number of election judges or deputy county auditors trained in the processing and counting of absentee ballots as outlined in Minnesota Statutes 203B.121 and 203B.24. Motion by Johnson and seconded by Gapinski to approve a resolution establishing the Benton County absentee and UOCAVA ballot board for 2022. Motion carried unanimously.

County Board recessed at 10:43 AM.

County Board reconvened at 10:47 AM.

Next, Headley requested the County Board review and update County Board appointment to Boards and Commissions. At the first County Board meeting of the year, the County Board will review its appointments to the various Boards and Commissions. Once any changes are made to those assignments, the County Administrator's Office will notify the affected Board or Commission of the change, including providing each with County Board member contact information. Motion by Johnson and seconded by Gapinski to set the County Board appointments as written with the exception of these changes:

- Add Johnson to the Minnesota Transportation Alliance/Central MN Transportation Alliance along with keeping Schlangen as an appointed member and Popp being the alternate member
- Add Johnson to the Highway 23 Coalition along with keeping Gapinski as the other appointed member
- Remove the St. Cloud Airport Advisory Board from the listing
- Have the Benton Soil and Water Conservation District Board Meetings listed under "Standing Committees of the Whole"

The Boards and Commissions that the County Board would like "tabled" include:

- Benton County Criminal Justice Committee
- Benton County Labor Negotiating Committee
- Fair Board Committee

Motion carried unanimously.

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

There were no Commissioner Concerns to report at this time.

There were no new Committees of the Whole.

Johnson/Gapinski unanimous to adjourn at 11:27 AM.

Steven J. Heinen, Chair
Benton County Board of Commissioners

ATTEST:

Montgomery Headley
Benton County Administrator