

BENTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
MARCH 1, 2022

The Benton County Board of Commissioners met in regular session on March 1, 2022, in the Benton County Board Room in Foley, MN. Call to order by Chair Steve Heinen was at 9:00 AM followed by the Pledge of Allegiance to the flag. A roll call showed Commissioners Beth Schlangen, Scott Johnson, Steve Heinen, Jared Gapinski and Ed Popp present.

Motion by Johnson and seconded by Gapinski to approve the agenda as written. Motion carried unanimously.

There were two people present to speak at the Open Forum. Benton County Employee Pam Foss was first to speak regarding the David Drown and Associates Career Advancement Promotions. Foss disagreed with her placement on the Grade and STEP of her Seniority Career Advancement. Also present was Benton County Employee Mike Lewandowski to express his gratitude and appreciation of the County Board for the investigation efforts of the Auditor-Treasurer.

Motion by Popp and seconded by Johnson to approve Consent Agenda items 1 – 9: 1) approve the Regular Meeting Minutes of February 15, 2022 and authorize the Chair to sign; 2) approve the Committee of the Whole Meeting Minutes of February 7, 2022 and authorize the Chair to sign; 3) approve the Committee of the Whole Meeting Minutes of February 15, 2022 and authorize the Chair to sign; 4) approve the 2022 & 2023 Natural Resources Block Grant Agreement and Payment and an agreement with Benton Soil and Water Conservation District to administer the SSTS Low-income Fix Up and BWSR SSTS Grant programs on behalf of Benton County and authorize the Chair to sign; 5) approve the 2022 Solid Waste Haulers License Round III and authorize the Chair to sign; 6) approve the Special Road Use Permit for Foley Fun Days and authorize the Chair to sign; 7) approve the contract amendment with TurnKey Corrections and authorize the Chair to sign; 8) approve two contracts with Reliance Telephone for inmate communication services and authorize the Chair to sign; 9) approve the contract with Lumen for maintenance of Benton County dispatch call handling equipment and authorize the Chair to sign. Motion carried unanimously.

Next, Land Services Director Roxanne Achman requested the County Board approve a Resolution setting a deadline for plats expected to be recorded by year end. Achman stated that the end of 2021 brought an abundance of plats that clients expected to be finalized and recorded by the end of the last business day of the year. This causes a lot of undue stress on county staff and local surveyors during an already busy time of year. Minn. Stat. §272.121 requires that the taxes due in the current tax year for the whole parcel be paid when a deed or other instrument conveys a parcel of land that is less than a whole parcel of land as described in the current tax list. That being said, clients generally want to have their plat recorded by the end of the year so that they are not subject to paying the next years taxes in full. When the county receives the plat mylars for final review, signature and recording, it must be routed to the following individuals: Land Services Director, County Engineer, County Surveyor, County Attorney, County Auditor/Treasurer and County Recorder, in addition to the County Board Chair and County

Administrator on minor and major subdivision plats. At a minimum, this can take 1.5 to 2 weeks to complete based on staff availability. Additionally, most of these offices need to complete final reviews prior to signing the plat. This policy was discussed with local surveyors at the end of 2021. They would be supportive of such a policy because they are also placed under a lot of pressure if the County is accepting plats within the last two weeks of the year. The policy was routed to all county offices listed above. All were supportive of the policy. Motion by Popp and seconded by Johnson to adopt the Resolution setting a deadline for plats expected to be recorded by year end. Motion carried unanimously.

Next, Benton County Sheriff Troy Heck requested the County Board approve the contract with Advanced Inmate Medical Management (AIMM), LLC for electronic medical record system in the jail. Heck stated on February 1, 2022, the County Board approved a contract with Advanced Correctional Health (ACH) to provide medical services in the county jail. Recording, tracking, and storing records of the health care provided to inmates is a critical and required aspect of jail medical services. The attached contract proposes to provide an electronic medical records (EMR) system to the county jail to appropriately gather and store inmate medical data. This contract is with AIMM, a business with close ties to ACH. This contract will provide Benton County with the software and support required to operate an EMR in the jail. The terms of the contract call for Benton County to pay \$14,392.65 in one-time costs in 2022. The Sheriff's Office was able to negotiate a 0% increase in annual fees charged by AIMM through 2024 with the contract calling for Benton County to pay \$10,459.38 annually in licensing fees in years 2022 through 2024. In year 2025 the annual license fee will increase 3% to \$10,773.16. Heck identified the Inmate Welfare Fund as the most appropriate funding source for the cost of the purchase and ongoing maintenance. Heck referenced a memo from Assistant County Attorney Michelle Meyer who pointed out the insurance coverage maintained by AIMM is below the recommended limit. It should be noted that the options for jail EMR are limited and the AIMM solution is the EMR our jail medical provider is most familiar with, providing our jail with the most efficient service from ACH. Motion by Gapinski and seconded by Popp to approve the contract with AIMM for electronic medical record system in the jail. Motion carried unanimously.

Next, County Administrator Montgomery Headley requested the County Board to consider the recommendation of the County Assessor Selection Committee to appoint Brian R. Folden as Benton County Assessor. Headley stated Minnesota Counties are required to appoint a County Assessor under Minnesota Statutes §273.061, subject to final approval by the Minnesota Department of Revenue. All County Assessors are appointed to four-year terms, with such terms beginning on January 1st on every fourth year after 1973. Consequently, current terms of County Assessors run through December 31, 2024. Mr. Brian Folden has agreed to a start-date of March 14, 2022. Mr. Folden currently serves as a Deputy Chief Assessor in Wadena County. He has held that position since 2015. Mr. Folden is a Senior Accredited Minnesota Assessor (SAMA), which is required to serve as the appointed County Assessor. Based on the recent reorganization of the Land Services Department, the County Assessor position reports to the Land Services Director and provides supervision of the County Assessor Division. Motion by Gapinski and seconded by Heinen to approve a Resolution to appoint Brian R. Folden as Benton County Assessor for the remaining term of March 14, 2022 to December 31, 2024, subject to Minnesota

Department of Revenue approval, and authorize the County Board Chair to sign. Motion carried unanimously.

Next, Human Resources Director Johanna Mattson requested the County Board to consider the request to recruit for a new Human Resources Safety Administrator position. Mattson stated that a new Human Resources position was approved as part of the adopted 2022 budget, with the understanding of additional discussion would occur with the County Board before the position could be filled. The position was discussed at a February 15th Committee of the Whole. It was the consensus of the County Board to place the item on the March 1st County Board agenda for formal consideration. There was a consensus by the County Board to start recruitment for a new Human Resources Safety Administrator position.

Next, Headley gave an update on the Phase 1 Environmental Study of the Old High School property findings. Headley stated that Braun Intertec examined available historical records on the site to aid in determining if additional site investigation is necessary. A Phase 1 study does not include the collection of soil or water samples from the site. The County Board agreed to complete a Phase 1 study because available environmental documentation did not conclusively rule out the presence of contaminated soils on the site. Samantha Schmidt from Braun Intertec was in attendance virtually and stated that a Phase 1 Environmental Site Assessment (ESA) of the former Foley School located at 520 Dewey Street in Foley, Minnesota, identified the following controlled recognized environmental condition in connection with the site:

- MPCA Leaksite #LS00014507 is registered at the Site, which was closed by the MPCA in 2002. Considering the release was addressed to the satisfaction of the MPCA, with residual petroleum contamination allowed to remain in place, it is Braun Intertec's opinion that the residual soil contamination related to closed Leaksite #LS00014507 is considered a controlled recognized environmental condition.

The Phase II ESA Scope of Services will evaluate the Site for potential soil, groundwater, and soil vapor impacts that could affect the planned acquisition and redevelopment of the Site. The scope of services includes the following components:

- Staking and Utility Clearance
- Soil Borings
- Soil Screenings
- Soil Sampling and Analytical Testing
- Groundwater Sampling and Analytical Testing
- Reporting

Verbal results of the assessment will be provided as soon as they become available. Motion by Johnson and seconded by Gapinski to have Braun Intertec complete Phase II of the Environmental Site Assessment (ESA) of the old High School property for the estimated cost of \$11,845. Motion carried unanimously.

The Regular County Board meeting was recessed at 9:50 AM to conduct a Human Services Board Meeting.

The Regular Board meeting reconvened at 10:05 AM.

Under Commissioner Concerns, Popp stated that as we move forward with Phase II of the Environmental Study with Braun Intertec, we should make sure that the owner is “ok with the studies” and Popp does not want “any surprises”. Headley stated that he has been in contact with Property Owner Mr. Sobonia with updates of the Study and will send him an email today letting Mr. Sobonia know the County Board approved Phase II of the Study.

Next, County Board members reported on Commissioner updates and recent meetings they attended on behalf of the County.

Motion by Popp and seconded by Johnson to set the future Committee of the Whole Meetings: Tuesday, March 22, 2022, Land Services Topics: 1) Eagle View Commons Septic System, 2) Kings Inn clean-up updates, 3) One Watershed One Plan Memorandum of Agreement; County Commissioner Redistricting at the Benton County Boardroom, Foley, 9:00 AM; Wednesday, March 30th thru Friday, April 1, 2022 Association of Minnesota Counties Leadership Summit at Grand View Lodge, 23521 Nokomis Ave, Nisswa, MN 56468 beginning at 12:00 PM. Motion carried unanimously.

Last, Headley, on behalf of the County Board, requested to review and discuss the public documents related to the Benton County Auditor-Treasurer’s residency. The County Board requested that this item be placed on the March 1st County Board agenda for discussion and possible consensus/direction from the County Board. The County Board also directed that staff include various public documents obtained related to the Benton County Auditor-Treasurer’s residency. Headley stated that the County Board requested to read certain materials to commit to the record. Headley stated that documents 1 through 13 were public records that were obtained from our County Attorney’s Office, which were then obtained from the Sherburne County Attorney’s Office. Headley noted that documents #6, #8, #10, #12 and #13 were public documents that were obtained through data practices request through our county records, and Headley wanted to clarify which documents were obtained through Sherburne County and which documents were obtained from our internal records. Headley then reiterated that all the documents that were collected were “all public records”. Headley began with reading pages 6 and 7 of the investigative report form Sergeant Luke McLean dated June 12, 2020. The Narrative reads as follows:

On April 30th, 2020, I (Sergeant Luke McLane, Sherburne County Sheriff’s Office) was assigned an alleged perjury case involving an elected official. According to emails that were forwarded to me, Benton County was requesting the Sherburne County Sheriff’s Office to investigate a possible incident involving their Auditor-Treasurer. According to emails from Benton County Attorney Philip Miler, Nadean Inman (the Auditor-Treasurer) was possibly residing outside of Benton County despite being an elected official with Benton County. On April 28th, 2020, a concerned citizen emailed the St. Cloud Times as well as Philp Miller, stating they believed that Nadean Inman has been and continues to reside out of the county.

I viewed the email string that was sent from Benton County and it appears that on April 29th 2020, Miller had already forwarded the allegation to Nadean Inman via email. Miller had already told Inman that the allegation was going to be investigated further.

I queried Nadean Inman in the Minnesota DVS website and Inman was reporting an address of 5179 85th St NE Sauk Rapids, Minnesota. I verified that this address does indeed exist in Benton County. When querying the vehicles registered to Nadean Inman, I noticed all her vehicles were registered to the address of 9745 166th Court SE Becker, Minnesota 55308. These vehicles include a 2019 Jeep Grand Cherokee that was titled to Terrance and Nadean on 11/21/2019. I queried the address of 9745 166th Court SE Becker, MN within the Beacon property ID website and identified the owners as Terrance J Inman and Nadean M Inman. I requested copies of the property tax statements from 2017-2020 belonging to this address and all of the documents identified the same taxpayers as being Terrance and Nadean Inman.

I queried Nadean Inman within the Accurint public information system and there were no known associations of Nadean Inman to the address of 5179 85th St NE Sauk Rapids, Minnesota. I was forwarded a letter sent from Jolene Ellenbecker dated May 1, 2020. In the letter Ellenbecker identifies Nadean Inman as a tenant at her address. Ellenbecker advised that due to COVID-19 concerns she was discontinuing the room rental to Nadean. In the letter it mentions that Nadean has been temporarily not living at the Sauk Rapids address since March of 2020 due to COVID-19 concerns.

On 5/4/2020, I knocked on the front door of 5179 85th St NE and made contact with Jolene Ellenbecker. Ellenbecker advised that she worked for Nadean Inman at Benton County but was currently on leave due to COVID-19 concerns. When asked if Inman lived at the address Ellenbecker replied "I couldn't tell you, I mean I don't keep track. We go on vacations". Ellenbecker advised that Inman paid her \$100 per month for rent. Ellenbecker said Inman didn't have family come to the house and stated that Inman had some property at the house when she would stay there. When pressed how often Inman would stay at the residence, Ellenbecker would not commit to Inman staying at her residence full-time. When specifically asked if Inman was using her residence to keep her employment in Benton County, Ellenbecker responded "That's what I would imagine. Would you want to?" When asked a second time if Inman was just using the address to keep her job? She responded, "Well, that's part of the requirement, yeah". When asked if she believed Inman used her address as a permanent address she responded, "She basically lives in several places." When asked if Jolene's husband who also resided in the home would have any information about Inman living there, she responded, "he works in the cities, so he wasn't around much."

I emailed Inman and asked if she was willing to give me a statement about the residence requirement issue. Inman initially agreed to, but after a couple of days she changed her mind and declined to meet with me to give me a statement about the residency issue.

I contacted the Minnesota Secretary of State phone number and was sent a copy of the Affidavit of Candidacy that was completed by Nadean Inman. According to Benton County Officials, Inman was initially named the County Auditor in 2017 by appointment. As such, she did not need to run for office and wasn't required to move into Benton County at that time. On 5/22/2018, Inman filed for candidacy to run for the Auditor-Treasurer position for the November of 2018 election. Per Minnesota state statute, Inman would be required to move into the jurisdiction in which she is filing at least 30 days prior to the actual election.

When Inman completed her Affidavit of Candidacy, she swore (or affirmed) she would be residing in the jurisdiction of her office. According to Minnesota State Statute definitions of "Determination of Residence" (MN Stat 200.031) I don't not believe Inman could use the Benton County address to fulfill her residency requirements.

On 7/7/2020 I requested a historical search warrant of cell phone usage and the physical whereabouts to assist in determining if Inman was residing the majority of her time within Benton County rather than her

listed address in Sherburne County. This information could assist in determining whether or not Inman committed perjury under Minnesota state statute. I requested the time frame to be from October 1st, 2018 through April 30th, 2020. This time period covered the dates in which Inman would be required to be residing in Benton County.

I was provided Inman's personal phone number of xxx-xxx-xxxx from Benton County Officials as well as Inman listed the phone number on her Affidavit of Candidacy. A search through Accurant also identified this phone number to belong to Nadean Inman from Verizon Wireless.

On 7/7/2020, the Honorable Karen Schommer signed the search warrant. On 7/8/2020, I faxed a copy of the search warrant to Verizon Wireless.

Further Investigation will be conducted when the results are returned from Verizon Wireless.

End of Report

Sergeant Luke McLean

Headley stated that we will now go to page 23 of the investigation. Headley stated that the following pages are the investigator's post-investigation report. Headley stated this report was dated August 26, 2020. The Narrative reads as follows:

On 070820, a copy of the signed search warrant for the cell data belonging to phone number xxx-xxx-xxxx, was faxed to Verizon Wireless.

On 071720, the Sherburne County Sheriff's Office received the search warrant via an email attachment. The records returned from Verizon Wireless were encrypted. Upon opening the records, they were immediately placed onto a folder and the records were given to Criminal Intelligence Analyst William Jones, to put into the CellHawk program.

On 082420, I received a PowerPoint completed by William Jones, associated with the call data records and cell tower locations. According to the cellphone data, the only dates that Verizon had within their scope was from 071019 through 043020. Jones completed his PowerPoint, analyzing each phone call/data usage event from phone number xxx-xxx-xxxx on a week-to-week basis. The usage is significant at Nadean Inman's residence of 9745 166th Court SE Becker MN, as well as significant usage at her place of employment in the city of Foley. Please see the PowerPoint for exact times in which phone number xxx-xxx-xxxx was used during the above-mentioned time frame.

It should be of note that according to the cell tower records during that timeframe, there was little to no cellphone usage at the address of 5179 85th Street SE Sauk Rapids MN 56379. This was the alleged address that Nadean Inman was using for her employment, while being the County Auditor/Treasurer for Benton County.

The complete usage list was broken down on the cell records, and as previously mentioned, usage was extremely limited in the Sauk Rapids area. The vast majority of the phone calls made, occurred at the residence in Becker, within the cell tower range of the residence in Becker and the city of Foley, where Nadean Inman worked.

A copy of the PowerPoint presentation will be placed into the evidence room of the Sherburne County Sheriff's Office and a copy of the report will be forwarded up to the Sherburne County Attorney's Office as part of this review.

By going through the cell tower records and usage, it appears that Nadean Inman was not residing in the Sauk Rapids residence, according to the data provided by Verizon Wireless.

According to MN State Statute 200.031, under the determination of residence, I do not believe that Nadean Inman follows any of the criteria of residing in Benton County when Nadean Inman completed her affidavit of candidacy.

On 052218, Nadean Inman swore that she will be maintaining residence within Benton County at least 30 days before the general election. I could find no records indicating that Nadean Inman actually moved to the address in Sauk Rapids that would meet those definitions.

In MN State Statute 609.48.1(1), it states whoever makes false material statement not believing it to be true or in any of the following cases guilty of perjury.

The affidavit of candidacy will be attached to this case file for reference.

Due to these circumstances, I will forward this case to the Sherburne County Attorney's Office for the possible charge of perjury against Nadean Inman.

End of Report

082820/cam

Gapinski stated that he wanted to note key timelines of the investigation:

- Ms. Inman was appointed office in 2017
- Ms. Inman filed for office in May of 2018
- Ms. Inman had to establish Benton County residency 30 days prior to the election
- Ms. Inman took office in 2019
- Email of an anonymous complaint sent April 28, 2020 to Benton County Attorney Phil Miller (and forwarded by Benton County Sheriff Troy Heck to Sherburne County Sheriff Joel Brott on April 29, 2020
- Investigations sent to Sherburne County April 29, 2020
- May 1, 2020 lease termination from Ms. Ellenbecker to Ms. Inman
- May 4, 2020 Sergeant McLean interview with Ms. Ellenbecker
- May 5, 2020 thru May 7, 2020, McLean's multiple emails to Ms. Inman with Ms. Inman ultimately declining an interview referencing it was her decision and not because of COVID-19
- May 20, 2020 thru June 20, 2020 filing started and finished for new current County Board Members (Johnson, Gapinski, and Schlangen)
- October 6, 2020 letter from Samuel Wertheimer II, Chief Deputy Sherburne County Attorney to Sergeant Luke McLean, Sherburne County Sheriff's Office declining to file any criminal charges
- November 2020 election with three new Board Members (Johnson, Gapinski, and Schlangen)
- June 30, 2021 letter from Michelle Meyer, Assistant Benton County Attorney to the Benton County Board of Commissioners
- July 2021, County Board was addressed by Meyer on this issue
- July 2021 to present, heavy push from public to continue to look into this issue
- December 10, 2021 Memorandum from Benton County Attorney Phil Miller to the Benton County Board (and at least one person from the public) regarding the Auditor-Treasurer residency
- And to this date, all personal data on Benton County employee databases go to Ms. Inman's Becker address

Gapinski stated the reason why he went through the timeline like this is because "I don't have a clue how we got here. This should have been handled before we even thought about filing for election as County Commissioners. Gapinski stated that the investigation started on April 28, 2020, and there was a letter dated October 6th, 2020 copied to Benton County Officials, before the election even happened. Gapinski added that to his recollection, and to the knowledge of current and past Board members, the previous Board didn't even know about the investigation, the outcome, and none of the documents that

were included. Gapinski stated that this is substantial information “that a County Board didn’t know about but are in charge of all these budgets and people.”

Heinen stated “this information that has been brought forth to us, would have been nice if it was brought to us in October 2020 when all this information was available. Maybe that’s on us for not asking for it. But here we are sitting in March dealing with this...”. Heinen stated that there is one thing that he would like to disclose on “her residency in Benton County, on pages 64 thru 67, they are all requests for salary increases and they all have her Becker address. Even when she filled it out for our financial supervisor for an employee, it’s still her Becker address”. Heinen queried “if she is supposed to be a resident of Benton County, is that acceptable”?

Johnson stated that one of his’s frustrations as a new Board member is that he recalls specifically when a member of the public addressed this Board and basically put Commissioner Popp on the spot as Board Chair questioning this. Commissioner Popp stated that he checked her driver’s license and other various documents, and it was a non-issue based on the information he had, he didn’t have this information that we have from October of 2020, or he probably would have shared it at that time. Now as a new Board member, Johnson trusted that Popp had checked it out and everything was “good to go”. Heinen added that after Popp had checked with Ms. Inman on this, Heinen checked with Ms. Inman too and she provided Heinen with the same information that she provided to Popp.

Popp stated that none of this, when he was asked about this, was available. Popp “finds it appalling that the rules were out there for you to read and to understand, and to abide by, and somewhere here we didn’t think we had to do it. It’s frustration on my part, and I think the work in that office is very good, but I didn’t know there were all these rules you had to follow, and the titles of the vehicles, and when you get back to the employee part, that is the worse than anything for me. Was it the responsibility of the Board to check this out, I don’t know...”

Heinen added that it was the lack of information that the Board did not receive, and asked Headley “is it the County Board’s responsibility to keep asking, asking, and asking or is it the County Employees or elected officials that are supposed to give us the information, or try to provide us with information?”

Headley stated that may be “something that you might look inside yourselves and say that we as a County Board, do we have a fiduciary responsibility to our residents to investigate issues that concern us?” Headley stated that he “can imagine for many of you that answer is yes”. Headley stated Attorney Scott Anderson has advised the County Board that you can initiate action just as any citizen could challenge residency and Headley does not know if you could find anywhere in statute that states “you must or you shall”, but he thinks that you can and that is a choice that you can make. The second part of the question is that does the elected official or anyone else have the responsibility to divulge relevant information to you, and Headley stated that if you are asking him as a person, he would say “yes” because he “believes that would be the right thing to do, to not withhold information. Do we have a legal obligation that’s a matter for a lawyer to answer...” Headley stated that Scott Anderson is an experienced an attorney with Rupp, Anderson, Squires, Waldspurger & Mace, P.A. in Municipal Law out of Minneapolis, and Headley stated we retained Mr. Anderson’s services.

Gapinski then referenced page 15 of the investigation and Sergeant McLane's interview with Jolene Ellenbecker, the homeowner where Inman was renting a room:

McLean: But I have a hard time believing, you know, she obviously lives in Becker, right, in the township. She actually doesn't live very far from me. I know that for a fact actually, yeah, so, um, you know, and I know the vehicle that she drove and stuff and now and then I would see it because I happen to drive by that area quite often unfortunately.

Ellenbecker: Okay.

McLean: So that's why I know she didn't stay there very often.

Ellenbecker: Yeah

Gapinski stated "that was alarming." Gapinski then went back to the investigation on page 15.

McLean: So that's why I'm going to try to figure out if it was more of a she did it because she didn't want to lose her job and she didn't want to get away from her family and she just wanted, you know, keep her employment.

Ellenbecker: I can imagine, you know?

McLean: That's what you imagine?

Ellenbecker: That's what I would imagine. Would you want to?

McLean: I would think so. I wouldn't want to lose my job, you know? You know and it sounds like she did a good job there.

Gapinski then goes to page 16 of the investigation:

McLean: And like I said, I know I'm putting you in a tough spot and I know she's probably a friend of yours and she's – and she is nice enough...

Ellenbecker: Yeah you know, boss, you know, friend. She is just a nice person.

Gapinski stated that it was weird how she led with the word "boss". Then Gapinski read further into the investigation:

McLean: Okay so - was she mainly just using this address so she'd have – so she could keep her job?

Ellenbecker: Well, that's part of the requirement, yeah.

Gapinski then went to page 18 of the investigation:

McLean: Would you consider this her permanent residence?

Ellenbecker: Not anymore.

McLean: No. Okay, prior to March, would this have been her permanent residence?

Ellenbecker: Well, I wouldn't say so.

McLean: Sure, sure. So when she first filed, was she living here more then?

Ellenbecker: Um, probably not because she didn't know if she won.

Gapinski stated "she ran unopposed".

Heinen asked to turn to page 81 of the investigation. There, in the Minnesota Statutes, under Statute §200.031 Determination of Residence, Heinen addressed highlighted item (3): *an individual does not acquire a residence in any precinct of this state if the individual is living there only temporary, without the intention of making that precinct home.* Heinen stated that "an elected official must live in Benton County in his opinion". Then, Heinen read the next highlighted items from page 81 (6): *except as*

otherwise provided in this section, an individual's residence is located in the precinct where the individual's family lives, unless the individual's family is living in that precinct only temporary. Heinen said he is very "frustrated", and "this has been brought to our attention for the last four years". Last, Heinen read highlighted item (9) *the mere intention to acquire a new residence, is not sufficient to acquire a new residence, unless the individual moves to that location; moving to a new location is not sufficient to acquire a new residence unless the individual intends to remain there.*

Gapinski added that "some information came to him by an individual and it has to deal with the property taxes, and it says right on the property tax that they homestead, and if you print off items from websites, including the Benton County website, it says: "Homestead Credit: you must occupy the property as a primary place of residence. Token occupancy does not qualify." Then Gapinski referenced the Requirements: "you will be required to show proof of ownership and maybe required to show proof of occupancy". Then Gapinski went into the State Requirements. Under Qualifications it states: Occupy the property as a sole or primary residence. Then Gapinski went into another website where it talked about exclusion and read Exclusion E: "in case of property owned by a property owner who is married, the assessor must not deny homestead treatment in whole or in part, if only one of the spouses occupy the property, and the other spouse is absent due to (1) marriage dissolution proceedings; (2) legal separation; (3) employment or self-employment in another location; or (4) other personal circumstances causing the spouse to live separably, not including an intent to obtain two homesteads classification for property tax purposes". Gapinski then stated that "to qualify under clause number 3, the spouse's place of employment or self-employment must be at least 50 miles distance from the other spouse's place of employment and the homestead must be at least 50 miles distance from each other." Gapinski stated that "the moral of the story is that if they homesteaded it, and she's still on the property tax that's supposed to be the primary residence, how can you have two primary residences; one for you job and one for your taxes?" Popp stated, "you can't claim homestead credit tax on rented property". Heinen then stated "when our (County) Attorney recuses himself of this and works very closely with the Auditor-Treasurer, and we've got these issues coming up like this, does he get to recuse himself from that too? I'm trying to understand the political end of it". Then Headley referenced the email from County Attorney Phil Miller on page 83 of the investigation stating: "this is from December of 2021, and the original purpose of the email was to inquire whether or not this matter could be discussed in closed session and at the time, our County Attorney Phil Miller, said that he did not believe this qualified as a closed session subject. And it was at that time that he recommended that we seek outside counsel and that was the point where we made contact with Scott Anderson and began consulting with him". Gapinski referenced the letter from Samuel Wertheimer II to Sergeant Luke McLean on October 6th which talks about Ms. Inman's residency and Ms. Inman signed an affidavit of candidacy on May 22, 2018 swearing or affirming that "I will have maintained residence in this district for at least 30 days before the general election". Gapinski stated "I went back and asked County Attorney Kathleen Heaney from Sherburne County to relook at this. They responded and said that they weren't going to follow up on anymore charges or anything like that. But at the bottom of this October 6th, 2020 letter that was copied to Sherburne County Sheriff's Department Records, Phil Miller, Benton County Attorney, and Troy Heck Benton County Sheriff, says it would be up to Benton County authorities to determine if any possible civil action would be applicable as a result of the evidence obtained in your Mr. McClain investigation. If we've got our County Attorney that's conflicted out, our County Sheriff, you know they couldn't do the investigation. Or the Benton County authorities... I think it should have been the past

Board, and this this is very pertinent information that should have been forwarded from departments within... I'm frustrated... When did the County Board know about this?" Headley stated "the first time that I, and I think board members learned about this investigation was in the June 30, 2021 memorandum from Michelle Meyer to the Board regarding this... on page 54 in paragraph two, it says "an investigation on this matter was done in 2020 by the Sherburne County Sheriff's Office into the residency matter. Criminal charges for perjury were declined by the Sherburne County Attorney's Office." While the Office declined to pursue criminal charges, the Attorney noted that their decision to decline did not preclude civil action if warranted. So again, this is the first time that we learned about the investigation was June 30, 2021 when Michelle Meyer referenced it in her letter to the Board". Gapinski responded by saying "nobody even knew about the investigation... and I've talked to past Board members, and they are not happy about it..." Headley replied "I know to Michelle's credit that she says in her letter if the board is interested in pursuing this matter further, I do have a copy of the public data relating to the Sherburne County investigation item... it was also stated that that doesn't preclude that existing County Board from moving ahead with civil charges... and I don't think that that information was presented to that Board. Headley responded by saying "well, for me personally, I guess I assumed that our Attorney's office had reviewed the file, and if they had seen something, they would have let the Board and me know... so I was not inclined to ask for the file. It wasn't negligence or being lazy, there was just no inclination to ask because we assumed things were fine". Heinen stated "I guess it's Ok to rent an apartment". Johnson added "for one hundred dollars (per month) by the way". Heinen responded by saying "and it is, but it's still got to be your primary residency, though. There's a difference between just renting an apartment and also keeping your primary residency..." Gapinski added that "one of the things I have a very serious problem with is the memo from Mr. Miller going to the County Board as well as to at least one member in the public basically going through the whole residency issue... but the only thing that was referenced really in this whole deal was that they're not pursuing any criminal charges..." Heinen added that "I'm assuming the criminal charges would be perjury..."

Gapinski stated "then you look at the cell phone records from July of 2019 through April 30, 2020 there's little to no usage at her Sauk Rapids address... She was then basically told to leave from her apartment, or her room, from Ms. Ellenbecker on May 1, 2020. She didn't gain residency back for another nine months... so we're looking at over two years..." Popp stated that "I think on the residency 30 days prior to the election would have been really tough for the county board to get a handle on in 30 days. There's just not enough information... you know she basically changed her driver's license... looked to be on the up and up... and she was running unopposed... and we needed to start moving forward on other aspects of this, which we didn't". Schlangen addressed the vehicles, and noted the title that's there, and queried if "any other investigation into how insurance, or how she gets her filings for the license renewal every year, and how much was looked at and stated: "there's so much lacking..." Heinen responded saying that "these are questions we can't answer. We don't have that information..." Gapinski replied and said "I'm just going back to primary residence, and if you look at the affidavit that she did when Ms. Inman went to be an elected official, and what the homestead classification is... there's some significant issues here... it sure looks like she has two primary addresses... and you can't do that being an Elected Official using one address and getting tax breaks on another. it just doesn't look good..." Heinen added "we all signed on all those affidavits saying that I'm residency of Benton County. Let's be a resident of Benton County... it seems like seven out of eight are doing their job..."

Heinen then had Headley provide the three recommendations from Attorney Scott Anderson that the County Board could take regarding the issue of the Auditor-Treasurer's residency: 1) the board would act under Minnesota Statutes to declare the Office vacant and then the Board has authorization in to fill vacancies under Minnesota law. Headley stated Mr. Anderson had some concerns about that because there's not an abundant case law on this particular course of action, so it's difficult predict what a Court is going to do in the absence of lots of case law. Headley added that Mr. Anderson did say that this could result in court action, where the person in question could challenge it and then the Board would be involved in litigation. 2) The second option would be to have a "quo warranto" action challenging the person's right to hold the office and cites Minnesota Statute by saying it's an appropriate action to challenge a person's title to or qualifications for office or the constitutionality of a statute of which a person holds office. Headley stated "I think that's the one he would tend to steer you towards since the board would authorize it's attorney to file an action District Court... and it would lead to the discovery phase of which would involve depositions of individuals under oath. 3) The last option, (which is not a County Board action) Mr. Anderson says it's a petition and hearing process where registered voters can petition the County to have essentially a recall election for a person in office. You must have a petition contain at least 25% of the number of persons who voted in the last election, to bring the matter to a public vote.

Headley stated Mr. Anderson tends to steer the County Board towards quo warranto action where the Board would file a suit in District Court. That deposition discovery process is civil action. Headley stated "there were no criminal charges and we hear that this is the civil side of the matter and it's not the criminal side, that's where the Board would have the ability to act is on the civil side" Gapinski then asked "so if we chose to do a civil action and, you know, depositions and stuff like that come out... and if something was gained in those depositions, I believe Mr. Anderson had said something on that, and that's where the potential criminal charges could come back or not?" Headley stated "I will ask a question to be clear on that subject... what could arise as a result of a civil deposition process... I'll find out..." Headley then added "hopefully many of your questions would be answered with that process... because individuals would be testifying under oath." Heinen stated that he would like to go with option #2 quo warranto action. Johnson added "I think it goes without saying that if that's a choice of the Board... it's going to consume some considerable resources. With that said, I think that's part of our job." Popp stated that option #2 (quo warranto action) would be the best way to go. Popp asked what the anticipated cost would be and Heinen replied "\$35,000 to \$65,000". Gapinski stated that he is in agreeance with option # 2 (quo warranto action). Popp then stated "\$35,000 to \$65,000, that's a lot of money and I'm not real sure how many of the general public that really care... We hear about the people that think it's wrong, but if you talk to ten people, I wouldn't be so sure that seven of those ten people would say "I don't care where she lives", and if you're going to spend \$65,000, we have to take a good hard look at that... that we're spending their money... I think there's some people who do care and rightfully so. But I think there's a large portion out there that really don't care, as long as she's doing her job... we could let the election play out". Heinen stated he "has never heard the end of this ever since I've been Commissioner in my district". Gapinski stated "this has been my number one". Schlangen stated "everybody I talked to are appalled". Johnson then asked, "if we choose to move ahead, how are we paying for it and from where?" Headley stated it would come from the Commissioner Contingency Account. Schlangen stated "this is a State Statute, and I would make a motion that we would pursue option number two (quo warranto action) and to seek Anderson's assistance to help this case. Seconded

by Gapinski. Motion carried unanimously. Heinen requested to Headley to address Mr. Anderson about obtaining his services. Headley stated he will reach out to Mr. Anderson to retain his services.

Motion by Johnson and seconded by Gapinski to adjourn the meeting at 11:36 AM. Motion carried unanimously.

ATTEST:

Steven J. Heinen, Chair
Benton County Board of Commissioners

Montgomery Headley
Benton County Administrator