

June 11, 2009

**LONG-RANGE PLANNING/REAL ESTATE & BUILDINGS
COMMITTEE REPORT**

The Long Range Planning/Real Estate & Buildings Committee met Tuesday, March 12, 2009 at 5:30 p.m., in the Quorum Court Meeting Room, Third Floor, County Administration Building, 215 East Central, Bentonville, Arkansas

Committee Members Present: Sandlin, Brown, Hubbard, Winscott

Others Present: County Judge Dave Bisbee, County Attorney George Spence, Comptroller Richard McComas

Media: Anna Fry –Morning News; Tabatha Hunter–Daily Record

The meeting was called to order by JP Winscott at 5:30 p.m.

1. Public Comments

None

2. Update: American Legion

Judge Bisbee reviewed the American Legion Building situation. He said that since the county pays property taxes on the building, the private citizen who has subleased it from the American Legion is receiving benefits from public money, and that is illegal. He said the county gets cited every year in the Legislative Audit, and at some point they may incur a penalty. He said that since the county is unable to get access to the building until the year 2052, it is an asset which is giving them no benefit and a lot of liability. He said there are two options for disposing of the property, one of which is to have it appraised and sell it, but state law would require them to receive 75% of the appraised value, which he does not think they could get since anyone purchasing the building would encounter the same problem with the leases as the county has.

Judge Bisbee said that the second option is for him to declare it surplus property, advertise, and sell it at public auction. He said it would be made very clear that the building is being sold with the two leases intact, so the leaseholders will be in no different condition than they are now. He added that he has spoken with representatives of the American Legion, and they are fine with auctioning the building. He said that he wanted to make sure that no one out in the public got the idea that the county was throwing the American Legion out in the street.

JP Hubbard asked if the possibility of buying out the leases had been explored. Judge Bisbee stated that the American Legion is interested in getting enough money to buy another building, and he cannot see the county doing that. He said they are comfortable with the auction.

JP Winscott stated that the building is a liability because it needs numerous repairs, both to the roof and the heat and air unit. He said he is comfortable with letting it go, and it would be in the county's best interest.

JP Hubbard asked County Attorney George Spence if he is 100% sure that the leases would hold up in court if the building is sold at auction.

County Attorney George Spence stated that he has no question at all regarding the validity of the American Legion's lease, and very little question regarding the Ferguson's sublease. He said that if the county were to consider challenging the leases in court, he would not give them very high odds

of winning. Concerning the leases holding up after the auction of the building, he said he could not imagine a judge declaring the leases invalid, when the building was purchased with full knowledge of the existence of the leases.

JP Hubbard asked if there are any plans for the county to step up and provide a facility for the American Legion in the event they lose their lease.

Judge Bisbee stated that the county would not be involved following the sale of the building, but he is certain that the American Legion is comfortable with the building being sold at auction.

County Attorney George Spence stated that as for the leases being struck, anything is possible, but if someone brought the case to him, he would not take it on a contingency or even for a flat fee.

JP Sandlin stated that she would approve of the County Judge declaring the building surplus property, because there is no way they can gain access to it until 2053. She added it is a cumbersome burden, and she feels they should cut their losses and move on.

JP Brown asked how the leases could be so secure if the building is sold. County Attorney George Spence stated that the sales contract can be set up in such a way as to protect the leases. He said that the notice of sale will need to include language stating that the sale is subject to these two leases.

Further discussion was held concerning the American Legion's approval of the sale by auction and including language in the public notice that the two leases are part of the sale.

JP Hubbard made motion to forward discussion of the sale by auction of the American Legion Building to the July 14, 2009 Committee of Thirteen agenda, seconded by JP Sandlin.

Judge Bisbee stated that although it is clearly his responsibility and under his authority, this is a sensitive matter and he thought it would be a good idea for the Committee of Thirteen to be informed.

Motion passed by unanimous voice vote.

4. Discussion: Development of Long Range Plan

County Judge David Bisbee stated that he would like to lay out details for his long range plans for building needs, adding that there are some things he cannot discuss in detail due to ongoing negotiations for sales, and other things that, if made public, could cost the county a lot of money.

He said that the previous Quorum Courts have done a good job of building up the Capital Reserves which are at \$6.8 million right now. He said that the county is paying \$250,000 per year to lease space for various offices, and there is some degree of disorganization. He said that in the 6 months since he took office, he has changed his mind on several things, even some that he campaigned on.

Judge Bisbee stated that his plan is simply a road map, and he encouraged the committee to take what he is going to give them and see if they agree, have better ideas, or suggestions. He said his plan does have a chronological order, and that there are some things that have to be resolved one way or the other before they can get started. He said the first decision that has to be made is what to do with the Juvenile Detention Center. He said it is woefully inadequate, and if it is moved to another site, the only thing the current location is good for is landfill, although it is possible that the foundation could be used later on. He said he had previously disagreed with that idea, but after touring the building, he has come full circle.

He said the second thing he has determined, is that the entire court system should remain downtown, in order to keep as much of county government downtown as possible. He said that he previously had thought that the criminal courts should be moved out to Highway 102, to get the prisoners out of downtown, but after meeting with the circuit judges he has become convinced that that is not practical. He said when Arkansas voters passed a constitutional amendment merging circuit and chancery courts, the Supreme Court determined that the voters' intent was for Circuit Judges to hear all cases, both civil and criminal, and there is no way logistically that the judges and attorneys could travel back and forth. He said moving the criminal courts out to Highway 102

would also require splitting the Circuit Clerk's office and records, so it is just not practical or functional.

He said that he is committed to keeping county government in downtown Bentonville, because he has seen firsthand in the City of Rogers the effect of moving the Police Department and courtrooms out of downtown Rogers, and they are working very hard to recover from that. He said once the courts are moved out of downtown, then you lose the lawyers' offices, and then you lose the restaurants.

He said the problem now is determining how to get out of the leases and into the space that is needed.

He said that the previous Quorum Court obtained a plan for a Juvenile Detention and Courts Center, and when he began looking at the Health Department Building on Highway 102 for possible use as a justice center, he discovered that the Health Department is also woefully under housed. He noted that it is the obligation of the county to the state, which provides the salaries for the staff, along with some other costs, to provide space for the health clinic. He said that the Health Department building would be inadequate to house a justice center, because the one large conference room would not be large enough for a courtroom and jury box, but juvenile cases are not jury trials, so a juvenile courtroom would not need one. He said he also noticed that the space is nearly identical in size to the plans for juvenile court and Juvenile Probation offices that were included in the plans that were drawn up for the juvenile justice center. He said they would only need to build additional space to house the juveniles.

Judge Bisbee stated that the space needed for the juvenile detention housing is the same space being occupied by Road Department Buildings that need to be remodeled, moved, or destroyed. He said that there is one building that needs to be moved, and the slab it is currently sitting on might possibly be used as the outside exercise area for the juvenile detention center.

Judge Bisbee stated that he is working on an alternate location for the Health Department, and right now is the time to purchase space. He said that freeing up the space that is currently occupied by the JDC would allow additional administrative offices to be tied onto what is now referred to as the tower at some point in the future. He added that the new building could be configured in such a way to keep the prisoners off the streets in downtown Bentonville, and the administrative space would take care of the county's needs for several years to come.

Judge Bisbee stated that he realizes that at the Finance Committee meeting two days ago, he said that they needed to cut \$2.8 million from the budget over the next two and a half years, but if they can catch the real estate market at its lowest point, that is the time to do a bond issue.

Judge Bisbee stated that he favored a 15-year bond, and explained that for every \$1 million in bonds issued, they would need \$100,000 per year to make the payment, so a \$500,000 payment would cover a \$5 million bond. He said the money has to come from a dedicated revenue stream, and cannot be taken from general county revenue. He said the County Jail collects \$1 million in fines and fees per year, so he is not suggesting raising taxes.

JP Hubbard asked if the County Judge's primary focus for the Health Department is keeping it in Bentonville. Judge Bisbee stated that the Health Department location is not an issue critical to downtown Bentonville, and that is where his concern is. He said the only criteria they are using are an available building and plenty of accessible parking.

JP Winscott stated that he would like to see the Health Department Director take the data from the past 8 or 10 years and project his growth needs for space and personnel. Judge Bisbee stated that they will be doing that.

JP Hubbard stated that if they are considering moving the juvenile court system out to highway 102, it would be a good time to consider moving the Road Department off of that site completely.

The committee looked at a picture of the County Road Department and discussed the County Judge's plans for reorganizing the buildings. He noted that this type of construction is inexpensive,

and although at one time he was in favor of moving the Road Department, he now thinks that would be a mistake, and with the City of Bentonville opening up a new street on the back side of the yard, which will give them good access to a stoplight. He said that when they get to the point that they are sure this is the way they want to proceed, they will have an architect lay it all out.

Further discussion was held concerning the relocation of the juvenile court system to the Health Department site, and the possibility of getting the State Highway Department to agree to install a stoplight on Highway 102.

Judge Bisbee stated that once the JDC is relocated, the site it now occupies would be available for additional courtroom and office space, so that all of the judges would be in one building, and the Old Post Office, or Annex, would no longer be needed. JP Sandlin stated that the Annex could be used to locate some other county offices that are now leasing space. Judge Bisbee stated that a better use would be to possibly sell it. JP Sandlin stated it is one of the best buildings that the county owns.

Judge Bisbee stated that he is in regular contact with Downtown Bentonville, Inc., and they are committed to opening up 122 additional parking spaces downtown.

JP Hubbard asked what the responsibilities of the Properties Coordinator are. Judge Bisbee explained that the Properties Coordinator keeps track of advertising bids, contracts, does the title work, and serves as the custodian of county property such as vehicles and furniture, and is also responsible for entering the GPS data of all of the County Roads.

JP Hubbard stated that since the County Judge saved some money on his personnel costs by reorganizing his departments, perhaps he should consider hiring some sort of construction manager who could coordinate the various building projects to get them to fit together.

Judge Bisbee said he would love to have such a position, and although his inclination is to do it himself, he has to remind himself that he cannot do it. He said it is a policy question for the county to decide— whether they want to contract out all of the work, hire a construction manager to contract out the work, or a middle ground with a certain percentage of both ways.

JP Hubbard stated that he has seen the need for this type of position for several years. Judge Bisbee stated that the county is probably large enough for some sort of construction engineer but his fear is that they would make him so busy that he would not have time to do a thorough study either. JP Hubbard stated that they have had so many construction projects over the years, and are now discussing another remodeling project, so they need a professional position, and it would be expensive. Judge Bisbee stated that if they get to the point where they could determine that they are going to start on a 3 to 4-year building program, they could contract someone to work for that time period. He added that Washington County hired a construction manager and did all of their own contracting for their new juvenile detention center, but there are pros and cons to it. He said it is up to the court to decide how they want to do it.

JP Hubbard stated that he does not necessarily mean someone to oversee all of the construction projects, but someone who could study all of these buildings in detail, and determine feasibilities and expenses. He added that we could end up with too many construction projects going on at one time for one person to oversee.

Judge Bisbee stated since construction is down, they should be able to get some pretty good bids which could include construction manager services, and may even have two different companies working at once. He said that there are three firms that have agreed to be “on-call” architects, and will work by the hour on whatever project we need, and probably the type work JP Hubbard is referring to. He said it might be cheaper for the county to do it that way. He said there is one firm he would really like to work with, but they are out of Washington County, and he would prefer to keep the money at home.

JP Sandlin stated that they will still need someone whose only interest is Benton County, to make sure the work is done correctly and on time. Judge Bisbee stated that is what the architect is

supposed to do. JP Sandlin said that she is aware that is what is supposed to happen, but she has been through two construction projects with the county, and that is not what always happens if there is not someone from the county riding herd on them. Judge Bisbee stated that there are some good architects who truly work for the client.

JP Winscott stated he is more in favor of contracting the work as the need comes up, with separate organizations that specialize in a specific area. He said that experiences are valid in this area, because if you get someone without experience, you can be misled.

JP Hubbard stated that he is talking about someone who can evaluate each department's needs, and look over all of the buildings, and then work with architects, engineers, and contractors.

JP Winscott stated that he spoke with a representative of a firm in the Dallas area which has 30 years of experience in planning for towns and counties in Texas, Kansas, and Oklahoma. He said he recommended a firm (because he is all booked up) that has a software program which can take all of the historical data and calculate projections, and they could come and do a presentation for the entire Quorum Court if they would like. He said the initial study takes from 6 to 9 months, and costs between \$75,000 and \$110,000. He said over the next 3 years, they would come back and update the data, for an additional fee. He said they have experience working in government and he felt it would be money well spent for collecting information.

JP Hubbard stated that the reason he brought it up was because the County Judge had asked for some direction, and if he is thinking about such a position, he just wanted him to know he would support it.

Judge Bisbee stated that they are looking at big scattered construction projects which all need to dovetail together. He said first of all, you can hire any architecture firm who can come in and tell you what they think you should do, but you have to convey to the architect enough information to get what you want. He said he wants to be able to tell them what we want, and have them help us build it. He said if you give them narrower parameters, they will do a better job of getting you what you need.

JP Winscott asked if the Health Department is the biggest, number one priority need for additional office space capacity and growth.

Judge Bisbee stated that they may not be, but they are the biggest roadblock, because they are occupying the building that we need for the JDC.

JP Sandlin stated that a lot of architects do not understand that county government has unique needs, and each time we get a new set of elected officials, they have the option of making enough changes to the point that the 5- and 10-year plans do not work very well.

JP Winscott stated that he is frustrated by the fact that there are so many people in county government who can only see 18 months past their noses, because there will be another election and they may not be here after that. He said he would like to see the government lay out a plan that is workable, fits the needs, be functional, and efficient, whether or not any of them decide to run again.

JP Sandlin stated that she agrees, and perhaps this person from Texas will understand enough about government to realize that there has to be built-in flexibility. She said she learned a long time ago that she is working on a two-year contract, and she wants to get as much done as she can. She said she does not want a project for this year or next year, but wants to see something that will serve us in 5, 10, or 15 years.

Judge Bisbee stated that he is not a big fan of going to each elected official to find out what they think their needs are, because their opinion may be different than what someone else thinks they need. He said that is why they have to have a good architect on board, and a Quorum Court that has a good concept of 10 or 20 years out.

JP Brown stated that his biggest problem is that they talk and talk, and never get anything done. He said he believes in accountability, and we are fortunate enough to have a County Judge with a

background and understanding of construction, and he is the one who will be responsible, and get the criticism or the praise. He said in the case of Judge Schrantz's courtroom, this County Judge is smart enough to know that you don't pay \$8,000 for a front door. He said it is time to move forward, because for almost two and a half years, we've done nothing but talk.

JP Winscott stated that he does not think there is any action to be taken at this point. Judge Bisbee stated that they are working on cutting \$2.8 million from the budget, so they are not going to have to touch the reserves. He said if they want to take some action, it would be to say that this is the general direction we want to go, get a planner started, and get proposals from three or four firms, along with his recommendation. He added that they could get started in 30 days.

JP Sandlin made motion to give the County Judge the authority to bring someone in to start the planning, and to forward to the July 14, 2009 Committee of Thirteen agenda, seconded by JP Brown.

JP Hubbard stated that they needed to narrow the scope, and asked if they are just talking about planning.

Judge Bisbee stated that they can look at their growth, and they know for sure they need two more courtrooms, and a sally port to unload prisoners, and they have already paid for the JDC study, so he would like to find out specifically what it will take to turn the Health Department building into a juvenile court and probation office facility, and what it will take to move the County Road barn. He said that will be a huge step, and once it is done, they can start planning what to do with the vacated space next door.

There was discussion regarding the possible existence of plans for a second tower adjacent to the existing tower that were developed prior to construction.

Judge Bisbee stated that the first thing they will need to do is determine what it will cost to move the Health Department into another building, because he wants to be sure that they are in a building they can function in, and then they will need to determine what it will cost to add on to the Health Department building and reorganize the County Road Department buildings.

The committee discussed the County Judge's next step. JP Sandlin stated that he could begin talking to people, but cannot get any funds until the Quorum Court approves it. JP Brown stated he did not want to waste the County Judge's time, and they need to at least give him the authority to act from the Committee of Thirteen.

Judge Bisbee stated that he had plenty of preliminary work to do before the next Committee of Thirteen meeting, and could bring them more information.

JP Winscott stated that the County Judge could begin interviewing people and come back to the committee with a recommendation. JP Brown stated that the Committee of Thirteen would have to authorize that. JP Winscott stated that if they throw it open to the Committee of Thirteen, then they will be doing this committee's work. JP Brown stated that this committee can make a recommendation to the Committee of Thirteen, but does not have the authority to make the call. JP Winscott stated that they cannot make a recommendation without more detailed information.

County Attorney George Spence stated that the County Judge has the authority to go out and talk to anybody, but cannot spend any money without Quorum Court approval.

Judge Bisbee stated that he would like to just see a motion to start the planning process, and he can bring more information to the Committee of Thirteen, and then later on perhaps \$100,000 to \$150,000 authorized from Capital Improvements for planning purposes.

JP Hubbard stated that he feels it is too early to send anything to the Committee of Thirteen, because they still do not know what the final cost of the Health Department in Siloam Springs will be. He said they will know for sure very shortly, and he would like to see the County Judge start working on what has been discussed, and bring them more information and they can perhaps streamline it. He said if they are just looking at this piece of property, then they are committing the

Road Department to remaining on Highway 102. He said if they do that, he feels they need another satellite office, because the entire southern section of the county is a long way from Bentonville. He asked if there had been any progress on the satellite office in the western area of the county. Judge Bisbee stated that they have the land, and the building will be in the 2010 budget. He added that none of these proposals address the problem of maintaining leases, because everything they are shuffling around are facilities that the county already owns. He said that those properties are in the downtown area, and they are talking about spending all of the money out at the Highway 102 site. Judge Bisbee stated that he can only give them a concept, and although he could develop a site plan, he does not feel it is his job to do that. He said that might be the planning person they have been discussing, but he would rather do it on a contract basis than hire someone full time. JP Hubbard stated that the reason he would be against a contract is that he sees this as a daily need, and even if they're not building something, they need to be forecasting, like the Road Department satellite office in the southern part of the county, and they still haven't talked about the lease properties. Judge Bisbee stated that they have to start removing the obstacles that are in the way of dealing with the leases downtown.

JP Brown stated that he is ready to get something done. Judge Bisbee stated that if he receives the go ahead and a planner, he could be in the ground by fall.

County Attorney George Spence stated that it sounds like the committee is wanting the County Judge to begin some type of planning process, and he can begin talking to people and report to the committee.

JP Winscott asked Judge Bisbee if he can take the information from these conversations and come back next month with firm numbers. Judge Bisbee stated that he thought he could do that very easily. He said he was basically looking for approval of the concept, and he believes he is going down the right road, so they will begin investing more time and energy on it.

Judge Bisbee stated that he believes that the first step is getting the Health Department moved, and then they can begin seriously planning the rest.

The original motion was withdrawn. JP Sandlin made motion to encourage the County Judge to begin gathering information, seconded by JP Hubbard.

Motion passed by unanimous voice vote.

Judge Bisbee stated that he appreciates the experience on this committee, and whether he is here 2 years or 20, he does not want to be just a caretaker, nor does he want to build an edifice to anyone. He said he wants to spend the taxpayer's money wisely, and at this point, the best way to spend wisely is to build.

5. Public Comments

None

6. Announcements

None

7. Adjournment

After motion and second the meeting adjourned at 7:05 p.m.