July 24, 2008

PERSONNEL COMMITTEE REPORT

The Personnel Committee met Thursday, July 24, 2008 at 3:00 p.m., in the QC Meeting Room, Third Floor, County Administration Building, 215 East Central, Bentonville

Committee Members Present: Hill, Hobbs, Stephenson, Williams, Winscott, Wolf

Others Present: Barbara Ludwig, Assessor Bill Moutray, County Clerk Mary L. Slinkard, Treasurer Deanna Ratcliffe, Circuit Clerk Brenda DeShields

Media: Scarlett Simms – Morning News, Tabatha Hunter – Benton County Daily Record

1. NEW BUSINESS:

County Personnel Policy Manual

JP Stephenson stated that the purpose of the meeting is to review proposed changes to the county's Personnel Policy Manual.

Human Resources Director Barbara Ludwig went over the revisions to the policy manual, and explained that County Clerk Mary L. Slinkard would like to arrange the ordinance to include a sample ordinance drafted by Attorney Mike Rainwater first, followed by specific Benton County policies, but there would be very little change in content. She added that Mary Slinkard will address the committee later in the meeting with some concerns that they discussed prior to the meeting.

Barbara Ludwig stated that since the policy was last discussed several months ago, they have added some additional language concerning military leave to the FMLA leave section, made some grammatical changes, and they should all have copies of an email from County Attorney Robin Green noting the changes that she has suggested.

She said that one of the changes is in the language concerning direct deposit. She said that although they would like for all county employees to use direct deposit, Arkansas law does not allow them to require it, so Robin Green has recommended a change in some language which made it sound like it was required.

She said that Robin Green has also recommended striking the word "Progressive" from the discipline guidelines and a clarification of some language in the bereavement leave section.

Other changes noted were:

<u>Page 9-Section A-#1</u> – Definition of full-time employee, corrected 36-hour workweek to read 40-hour workweek. She explained that someone can work 36 hours and be benefits-eligible, but will not be considered a full-time employee.

<u>Page 10-Section 10-Reinstatement</u> – Barbara Ludwig stated that in the past, if an employee left the county or was terminated, but returned within 30 days, they were allowed to keep the benefits they had when they left. She said the new policy will be that once someone has left employment; there is no grace period to return. She said there had been discussion with some Elected Officials who felt that if an employee left, then returned they should be treated as a

new hire. She said at least one Elected Official pointed out that every two years, employees face the possibility that they will be fired simply because the new office holder wants someone else in the position, and those employees should be given the opportunity to remain with the county and keep their benefits. Treasurer Deanna Ratcliffe stated that she had originally been in favor of the new policy, but after giving, it more thought has decided that if an employee leaves one county department for another, they should be able to keep their benefits, but if they leave for employment outside the county, they should return as a new hire. Circuit Clerk Brenda DeShields stated that she agreed that if someone left voluntarily to take other employment they should not have benefits reinstated if they returned, but if they transferred to another department within 30 days, they should be able to keep their original hire date.

County Clerk Mary L. Slinkard was recognized and stated that what they have to keep uppermost in mind is that all employees are hired for the duration of the elected official's term, and the bottom line is that it is at-will employment. She said that one of the reasons the policy was changed is that she cannot think of an employee that has been terminated that she would want back. She said that there used to be language in the policy which addressed an employee being hired by another department within 30 days, in which case they were allowed to keep their longevity. She said that they used to refer to it as transfers.

JP Wolf stated that she is aware of instances where a newly elected official cleaned house and she agreed with the policy of allowing an employee who takes another job in the county to retain their benefits and original hire date. She also stated that if someone left to take a job outside the county, they should start over as a new hire if they later decide to return.

Barbara Ludwig stated that it is her recommendation to allow employees who are rehired by another department within 30 days to keep their original hire date, sick leave balance, and not be required to re-qualify for insurance benefits.

JP Wolf made motion to adopt the language recommended by Barbara Ludwig concerning re-hiring of county employees, seconded by JP Williams. Motion passed by unanimous voice vote.

Page 11-Section 12-Standard Work Week – Barbara Ludwig stated that one sentence has been added to indicate that the hours of operation of County Buildings will be determined by the County Judge. She said that this is already under the jurisdiction of the County Judge, but the Elected Officials wanted language in the policy to address emergency closings. JP Stephenson stated that the language itself is contradictory, because if the Elected Officials determine the work schedules, how can the County Judge determine when they are open. Barbara Ludwig stated that there are occasions when Elected Officials temporarily close their offices, but the County Judge still has the rest of the building open. JP Stephenson stated that he does not see the point in including something in the policy that is already covered by law. Circuit Clerk Brenda DeShields explained that she and the County Clerk also have to comply with the hours of operation set by the state for the Circuit Judges, so she requested the language referring to the County Judge. She said that it will allow her to close her offices in the courthouse whenever county buildings are closed, such as in the event of inclement weather. JP Wolf suggested the following language: "Although the hours of operation for all county buildings are determined by the County Judge, Elected Officials will determine the work schedules in their offices." The committee agreed.

Page 12-Section 13-Compensatory Time – Barbara Ludwig stated that language has been added which will require that compensatory time be used prior to any vacation time being used.

She said this will stop the practice of banking 40 hours of comp time, and using up vacation time for time off and getting cash for additional overtime.
She also stated that they will begin automatically paying out any unused comp time when an employee transfers from one department to another, because the time was actually earned in the previous department's budget.

Page 15-Section 16-Hiring of Relatives – Barbara Ludwig stated that there have not been any changes since the policy manual was last discussed. The committee discussed various scenarios dealing with nepotism and relationships in the workplace. Mary L. Slinkard stated that she would encourage generalities rather than specifics, because otherwise there is a potential for conflict with the county's at-will employment policy, and suggested using the language contained in the state policy. JP Wolf made motion to use the state's language for this particular issue, seconded by JP Hobbs. Motion passed by unanimous voice vote.

Page 15-Section 17-Prior Approval for Outside Employment – JP Hobbs asked how the county can require approval for a second job if they cannot dictate an employee's activities outside the workplace if it is not interfering with their performance. JP Stephenson stated that it might be that the employee does not see the conflict, so a supervisor or Elected Official would need to know about the other employment to avoid being blind-sided. JP Williams asked if they could change "prior approval" to "notification".
Treasurer Deanna Ratcliffe stated that she would prefer having prior approval, because if someone is working as a bartender they might start talking about records, etc. and she would like to have approval of the second job. Circuit Clerk Brenda DeShields stated that she would not want her criminal clerks taking restitution from someone and then going and socializing at a bar and having a personal relationship with the people she is taking money from. She said in addition, if it is a nighttime job, and the person is in a position that requires a lot of concentration, such as bookkeeping, she would want to know that the second job is what is causing mistakes in her office. She said it is pretty standard policy in most places.
JP Williams stated that she still feels "notification" is a better word than "approval", because they are using the phrase "if I know about it", and notification will take care of that. She said she does not think they have the constitutional right to approve or disapprove of what they do when they are not on the county's time. She said knowing what might be causing a problem gives the supervisor the opportunity to give the employee a choice to make—either continue working for the county or at the other job. JP Stephenson questioned what would constitute notification. Would it be in writing, or would verbal notice be sufficient. JP Hobbs suggested prior written notice, but said she had a problem with "prior approval". JP Stephenson stated that if he were the elected official, he would think it was very much his business what his employees were doing after hours.
JP Hobbs made motion to change the wording to "prior written notification to the supervisor and/or elected official", seconded by JP Williams. Motion passed by unanimous voice vote.

Page 15-Section 20-Smoking - Barbara Ludwig stated that the only change in language in the smoking policy is that county employees may smoke only in areas designated for county employees. She said there have been complaints about employees smoking in front of the building, which the public is allowed to do, so they are to smoke only in the area designated behind the building. The committee discussed smoke breaks. Several elected officials stated

that they encourage breaks for all employees twice a day, and the employees may smoke if they choose.

Page 16- Section A-Vacation Accrual – Barbara Ludwig stated that they removed the vacation accrual rate, and included the language "up to" 10 days or "up to" 15 days. She said that they have also increased vacation time to 3 weeks for employees who have competed 7 years and to 4 weeks for employees who have completed 15 years of service, which is more in line with the market. She said these changes will allow the GEMS system to be used more fully, and it will also cap the amount of vacation time accrued at twice the annual amount.

Page 19-Section D-Military Leave – Barbara Ludwig stated that some changes were made to comply with Arkansas law, which allow up to 15 paid days for annual training, and carry over up to 30 days annually.

Page 20-Section E-Bereavement Leave – Barbara Ludwig noted the correction that Robin Green had recommended so that the language states that the leave is for a death in the family of the employee or his/her spouse.

Page 21-Section E Continued-#3 - Barbara Ludwig stated that this language has been added to allow the supervisor the discretion to approve the use of sick leave in certain cases for bereavement.

Page 22-Section H-FMLA -#12 Military Leave – Barbara Ludwig stated that additional language has been added to allow family members up to 12 weeks of leave for qualifying emergencies due to an immediate family members military service, and up to 26 weeks to care for a family member injured during active duty.

Page 23-Section J-Leave Without Pay – Barbara Ludwig noted that one of the options being included in the new discipline options is a three-day suspension without pay, so that language has been added to this section. She also noted that after an employee has used up all of their FMLA leave, plus 90 days unpaid leave, which can be awarded at the discretion of the elected official, the insurance underwriters will not allow the county to keep that person on the payroll.

Page 25-Section 5-Direct Deposit – Barbara Ludwig noted the correction recommended by Robin Green to change the word "should" to "are strongly encouraged". JP Hobbs noted that the language stating that "all new employees will complete a direct deposit form during orientation" should also be changed. Barbara Ludwig stated that they will change "will" to "may".

Page 27-Section 21-APERS – Barbara Ludwig stated that new language was added reflecting a new law requiring employees hired after July 1, 2006 to contribute 5% of their gross pre-tax salary to the system.

Page 27-Section 22-Medical Insurance - Barbara Ludwig stated that they have added language to reflect that employees in the Prosecuting Attorney's office who switch from the

State payroll to the county payroll do not lose medical benefits or have to re-qualify for the 90-day waiting period.

JP Hobbs noted that the Coroner should be removed from the list of part-time elected officials who are not eligible for health benefits since it is now a full time position. Barbara Ludwig stated that was correct.

JP Stephenson stated that since the last Personnel Committee meeting, Barbara Ludwig and Robin Green have provided him with the state statute which says that the county is not required to pay the County Surveyor, but may decide to do so through ordinance.

Page 30-Section 25-Progressive Discipline - Barbara Ludwig stated that this will be changed to "Discipline" per Robin Green's suggestion. She said that at-will employment is still in effect, but this can be used as a developmental tool, and having documentation will help fight unemployment claims.

County Clerk Mary L. Slinkard stated that she has a difference of opinion on this issue. She said that she wanted to remind the committee to be mindful of the fact that the county has an at-will employment policy, but when you start putting specifics into a general policy, it could lead to some problems. She said that some elected officials will choose to handle discipline in this manner, and some may not. She said it is up to the elected officials to manage their own employees according to policies, and some will want to follow all policies that are written. She said she does not have a problem with this policy; she is just concerned about including specifics in the general county policy.

The committee discussed changes to the language throughout the section. JP Hill asked if they are in conflict with the at-will policy by using a paper trail for disciplinary actions. JP Winscott stated that he thinks they are simply encouraging the supervisors to use the policy, but it is not mandatory. JP Williams stated that in her brief experience with grievance hearings, and seeing supervisors come in with no paper trail, it is very hard not to think that they are not doing a good job of taking employees from being a potential problem to the point of terminations. She said while it is the choice of the elected officials, she thinks it would be a good tool to help them avoid lawsuits.

JP Hobbs suggested using the language "Disciplinary action may be any or all of the following:" and leaving out any reference to "steps". Barbara Ludwig stated that would address some of the concerns that have been raised by Robin Green and Mary Slinkard.

JP Wolf stated that they are misunderstanding the purpose of grievance hearings – which is to determine if liberties have been violated; it is not an arbitration hearing. She added that even if the discipline process is used, because Arkansas is a right to work state, the documentation cannot even be entered as evidence.

Page 36-Grievance Committee -- Barbara Ludwig stated there is a slight difference in Mike Rainwater's policy and the language in the Benton County policy. She said the Rainwater version states that the grievance committee is chosen by the Quorum Court or its appointee, and in Benton County, the County Judge has always appointed the Grievance Committee along with the other committees of the Quorum Court. County Clerk Mary L. Slinkard stated that practice started when Judge Black took office. JP Stephenson stated that he is sure Mike Rainwater knows the law. County Clerk Mary Slinkard read Mike Rainwater's version, which stated that the Grievance Committee for employees not hired by the County Judge shall be the Quorum

Court or its appointee, and the decision of the committee shall be the decision of the county, and for employees hired by the County Judge, the committee shall be the Quorum Court and its decision is only advisory. JP Wolf asked who would select the committee. Mary Slinkard stated that at the Quorum Court's organizational meeting in January, they can appoint its own committee.
JP Hobbs made motion to follow Mike Rainwater's language, seconded by JP Hill. Motion passed by unanimous voice vote.

Barbara Ludwig stated that there were no other changes in the policy language, but they have removed the two appendices dealing with computer usage and vehicle usage, which will become letters of agreement to be signed by employees using the property.

Barbara Ludwig stated that the Salary Administration Policy will be included in the ordinance instead of a separate section. She said that they are making changes in the language so that waivers of policy will not be as frequent, and that if a wage adjustment is needed and there is money in the budget to cover it, they will not ask for a waiver. She said that if the adjustment requires additional money, it will have to wait until mid-year or end of year when other requests will be made. She said they are also including an allowance for a raise of up to 3% for new employees that have proven to be exceptional employees to encourage really good people to stay, and described changes in the salary adjustments for voluntary downward transfers which will allow elected officials to manage their payrolls in an equitable way.
Barbara Ludwig stated that they are changing the way new positions will be graded. She said that the staff will write job descriptions from questionnaires submitted to the elected official requesting the new position; they will be submitted to the elected official for approval, and then graded by the JESAP Committee, which is now made up of all elected officials instead of a rotating panel which changed every three months. She said if the elected official disagreed with the job description or assigned grade, he/she would be appealing to their fellow elected officials.

JP Stephenson asked for clarification of how the information will be presented. County Clerk Mary Slinkard stated that the first 15 pages will include the ordinance and introduction to the policy, which actually repeals the codified ordinance currently in effect. She said it will then include all of Mike Rainwater's language about the general policy, and will be followed by the specific Benton County personnel and salary administration guidelines which is what they have gone over today.
JP Stephenson asked what the anticipated timeline on the finished ordinance would be. Mary Slinkard stated that it could be ready for the Committee of Thirteen August 12, and they would send out copies to all of the Quorum Court members the week before.
JP Williams made motion to authorize Mary Slinkard and Barbara Ludwig to proceed with fine tuning the ordinance and have it ready for distribution one week prior to the August 12 Committee of Thirteen meeting, seconded by JP Hill.

Motion passed by unanimous voice vote.

Meeting adjourned at 4:35 p.m.