

MINUTES OF BENTON COUNTY QUORUM COURT

June 25, 2009

A regular meeting of the Benton County Quorum Court was held on Thursday, June 25, 2009 at 6:00 p.m. at the Benton County Administration Building, 215 East Central Avenue, Bentonville, Arkansas, pursuant to proper call and notice.

County Judge David Bisbee called the meeting to order.

Deputy County Clerk Janet Reaves called roll as follows:

10 JP's Present:	Wozniak, Sandlin, Brown, Lewis, Moore, Douglas, Blaty, Winscott, Harrison, Stephenson
3 JP's absent:	Wolf, Hubbard, Allen

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Prayer was led by Jim Laudell of Life Church.

A moment of silence was held in support of the men and women serving in the United States Armed Forces.

CHANGES TO AGENDA

County Judge David Bisbee asked if there were any additions or deletions to the agenda. Judge Bisbee stated that he would like to add discussion of the bids on the Siloam Springs Health Clinic to the agenda as "Old Business-Item E".

Approval of the agenda passed by unanimous voice vote.

County Judge David Bisbee asked if there were any additions or corrections to the Minutes of the May 28, 2009 Quorum Court meeting.

JP Stephenson made motion to approve the Minutes of the May 28, 2009 Quorum Court meeting as submitted, seconded by JP Harrison.

Minutes approved by unanimous voice vote.

ELECTED OFFICIALS' REPORT:

None

COUNTY JUDGE'S REPORT:

County Judge Dave Bisbee reported that 100% of the FEMA money that has been applied for has been received, and there will be an additional request submitted to FEMA once clean up of the disposal sites is complete. He said that after the county has been paid in full by FEMA, the state will reimburse 12.5%. He said he is very pleased with the work that the county employees have done.

Judge David Bisbee stated that the Long Range Planning: Real Estate and Buildings Committee has urged him to go ahead with planning a building program. He added that they need to have a utilization study done on the current Health Department building, to see how well it would convert to offices for the Juvenile Probation Offices and Juvenile Detention Center. He said they also need a utilization study done on a building that could possibly be purchased for use as a new Health Department building. He stated that two firms have agreed to do those utilization studies, which will include a single line drawing, and they will charge by the hour, up to a maximum of \$5,000, so the total expenditure will not be more than \$10,000. He added that he could possibly take it out of his maintenance fund, and would like to speak to each Justice of the Peace individually about it.

JP Winscott requested an update on the re-organization of the dive team, as his district contains approximately three-fourths of Beaver Lake, and the 4th of July holiday weekend is coming up. Judge David Bisbee stated that at the current time both the Search and Rescue Dive Team and the Sheriff's Dive Team are up and running, and have agreed to a protocol. He added that in the next 60 days, they will be drafting an ordinance to create one Benton County dive team, and it will outline operating procedures, structure, membership, and funding.

a) Presentation to Mike Dixon and Ethan Beckcom

Department of Emergency Management Coordinator Marshall Watson was recognized and stated that the Department of Emergency Management has made great strides over the last several years, and that is due in no small part to the two people that will be recognized tonight. He said that over the last five years, the department has successfully managed four Presidential Declarations of disaster and two State declared disasters, resulting not only in successful responses to the needs of the public, but also in bringing in tens of millions of dollars into the county, area municipalities, and local response agencies in the form of Federal aid and relief. He recognized Mike Dixon, who has been the Deputy Director since 2004, serving as operations manager for disasters, administrating the severe weather program, and who had a great deal of involvement in the design and procurement of the Mobile Command Unit which now serves Benton County and all of Northwest Arkansas.

He recognized Ethan Beckcom, who has been the Project Manager since 2005, administering the Homeland Security Grant Program, which has brought several million dollars into the county, developing mitigation preparedness plans, and who also had huge roles both in the preparedness programs that have been developed and in the outreach to our public safety partners in Northwest Arkansas. He added that he would like to thank both of them for the hard work they have done

for the county, and presented each a plaque of appreciation from the county. County Judge David Bisbee stated that he got to know the Emergency Management team during the ice storm, and that both of them have done a wonderful job for the county. He added that both are leaving the county for better job opportunities.

COMMITTEE REPORTS:

JP Stephenson stated that he would like to meet with Judge Bisbee to establish a procedure for agendas. Judge Bisbee stated that he would like to have a procedure in place by which an ordinance will be filed with the County Clerks office with someone's signature on it, so that they will know whose ordinance it is, and the sponsor can track it to the various committee and Quorum Court agendas. He asked JP Stephenson to talk to him after the meeting so they could get started on the process.

JP Winscott reported that the Long Range Planning committee met on June 11, 2009 and had charged Judge David Bisbee with going ahead with a plan for a building program. He reported that work on the disposition of the American Legion building is still ongoing, and hopefully will be brought to closure within the next 60 days.

Judge David Bisbee stated that he feels comfortable that it can be brought to closure in the next 60 days, and that he has asked County Attorney George Spence to do some research and to prepare whatever paperwork will be needed to declare the American Legion property as surplus property. He added that he has talked with representatives from the American Legion and that they are in agreement.

JP Stephenson stated that he realizes that county property is in the County Judge's control and custody and not that of a Justice of the Peace, but he was wondering if they have thought this through, because the property is under lease until 2052, and will do nothing but increase in value. He asked what would be gained by doing this, adding that that he still does not understand why the county has to pay property taxes on the property.

Judge David Bisbee stated that if the government owns property that is not used solely for government purposes, then the government is obligated to pay property taxes on the property. He said that clearly when a private citizen is living in a government building, it is no longer being used for public purpose, so therefore, the taxes must be paid. He stated that the county signed the lease that said that the county would pay the property taxes, and it is against the law for the county to pay bills for the benefit of a private individual.

Judge David Bisbee stated that what makes the property fit the definition of surplus property is that the county will not be able to get any benefit from the property for nearly 43 years, and in that time the county will face hundreds of thousands of dollars in liabilities. He stated that they are responsible for maintenance, the heating and cooling systems, and since the building houses the old county jail, by the time the county gets it back in 2052, it will be of historic significance and we would not be able to do anything with it. He said having property with huge liability and no benefit, that is the definition of surplus.

JP Winscott stated that the committee has discussed keeping the building and remodeling it for county use, either now or in 2052, but the building is old and it will take a lot of money to keep it maintained until 2052. He added that all parties have agreed that it would best serve the county to allow the County Judge to call it surplus property.

PUBLIC COMMENTS:

JoAnn Hoffman commented on practices and conditions at the County Jail.

JP Harrison made motion to suspend the rules and read all ordinances and resolutions by title only, seconded by JP Sandlin.

Motion passed by unanimous voice vote.

OLD BUSINESS:

- (A) Third Reading of Proposed Ordinance Creating Procedures With Regard to the Disposition of Unclaimed Corpses; Sponsor: JP Jim Wozniak

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Wozniak stated that this is the third and final reading for this Ordinance and it gives the coroner options when he encounters a problem with locating a deceased person's next of kin to claim the corpse.

There being no further discussion, a roll call vote was recorded as follows:

- 10 yeas: Wozniak, Sandlin, Brown, Lewis, Moore, Douglas, Blaty, Winscott,
Harrison, Stephenson
3 absent: Wolf, Hubbard, Allen

Ordinance duly adopted and assigned **No. O-2009-17** on third and final reading.

- (B) Second Reading of Proposed Ordinance to Allow Burning of Certain Structures to Prevent or Eliminate Fire Hazards; Sponsor: JP Wozniak

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Wozniak stated that this ordinance gives county residents in rural areas a chance to eliminate potential fire hazards at a minimal cost, and made motion that it be forwarded to the July 23, 2009 Quorum Court agenda for third and final reading, seconded by JP Winscott.

Director of Public Services Chris Glass stated that Fire Marshal Will Hanna has received his asbestos certification, and they will be ready to implement the process by the time the ordinance takes effect.

There being no further discussion, a roll call vote was recorded as follows:

10 yeas: Wozniak, Sandlin, Brown, Lewis, Moore, Douglas, Blaty, Winscott,
Harrison, Stephenson
3 absent: Wolf, Hubbard, Allen

County Judge David Bisbee stated that the proposed ordinance would be placed on the July 23, 2009, Quorum Court agenda for third and final reading.

- (C) Second Reading of Proposed Ordinance Amending Ordinance No. O-2007-11 Related to Additional Fines to Support Jail Construction, Maintenance, Operation and Other Purposes as Allowed by Law:
Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Moore stated that the proposed ordinance is to allow an increase from \$5.00 to \$20.00 for fines collected for misdemeanors, and was enabled by Act 209 of 2009. He added that the money will go toward jail operating costs.

JP Moore made motion for approval, seconded by JP Sandlin.

9 yeas: Wozniak, Sandlin, Brown, Moore, Douglas, Blaty, Winscott,
Harrison, Stephenson
1 nay: Lewis
3 absent: Wolf, Hubbard, Allen

Second reading passed.

County Judge David Bisbee stated that the proposed ordinance will be placed on the July 23, 2009 Quorum Court agenda for third and final reading.

- (D) Second Reading of Proposed Ordinance Amending Section 2-137 of *The Code of Ordinances of Benton County* Regarding Reimbursement of Allowable Expenses to Allow Reimbursement of Tips in Accordance With State Law; Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Kurt Moore explained that state law was amended to allow the addition of tips to be reimbursed as part of an employee's reimbursement report, whereas it had not been allowed before. He said this ordinance will amend Benton County's ordinance to reflect state law.

JP Moore made motion to for approval, seconded by JP Winscott.

JP Wozniak asked if the reimbursement for tips would still be allowed if the employee had exceeded their per diem. Judge David Bisbee stated that the county does not have a daily per diem, but pays expenses only.

JP Brown stated that this is an abuse of public trust and public money and that he favored voting no on this and establishing a travel policy with a per diem allowance.

JP Moore stated that this ordinance may still have to be adopted, because the current ordinance does not allow the paying of tips, regardless if the county pays per diem amount or reimburses expenses.

County Attorney George Spence stated that a per diem is a fixed amount that employees receive and how they want to spend it, including tips, is up to the employee.

JP Stephenson stated that most travel is for education, and that if the county benefits from the employee's attendance, it is not fair to the employee to pay the expenses, and added that he is in favor of the ordinance.

JP Sandlin stated that if employees are required to travel for continuing education, tips for meals are part of the travel expense and that the county should adsorb the expense.

JP Douglas stated that he agreed that it is a travel expense, but his objection is the lack of a travel policy. County Judge David Bisbee stated that Comptroller Richard McComas is developing a travel policy.

JP Brown stated that the county does not pay for anything, the taxpayers do, and tipping is a personal choice so he is opposed to the ordinance.

JP Harrison stated that he favored tabling the ordinance and establishing a travel policy which would limit expenditures.

JP Winscott stated that he does not think that an employee who travels on county business should ever have to pay for expenses. He added that he supports the ordinance, and would also be in favor of a travel policy.

There being no further discussion, a roll call vote was recorded as follows:

5 yeas: Wozniak, Sandlin, Moore, Winscott, Stephenson
5 nays: Brown, Lewis, Douglas, Blaty, Harrison
3 absent: Wolf, Hubbard, Allen

Proposed ordinance failed on second reading.

JP Moore made motion to refer the proposed ordinance back to the Finance Committee meeting for further study and development of a travel policy, seconded by JP Winscott.

Motion carried by unanimous voice vote.

(E) Report on Bids Received for Remodeling of Siloam Springs Health Clinic

Director of Public Services Chris Glass distributed copies of proposed bids for the Siloam Springs Health Clinic and reported that seven licensed general contractors attended a pre-bid conference held June 11, 2009 at the Siloam Springs Health Clinic, where they were provided bid documents, plans, specifications, and descriptions of work with Scope A and Scope B, and a copy of a contract setting forth bonding and insurance requirements. He said the bid opening date was June 22, 2009, and that three contractors submitted bids—Sumrall Construction Company; Danny Robinson Construction Company, LLC; and Milestone Construction Company, LLC, and that Sumrall Construction Company was the low bidder.

He said that the intent of Scope A was to bring everything up to compliance, (i.e.) electrical, HVAC, structural components, dropping the ceiling, proper ventilation, carpeting, and other interior finishes. He said that Scope B was similar, but left out some of the structural components and finishes, and was the least amount of alterations they could do and get the clinic open for business. He stated that Sumrall Construction Company turned in bids of \$58,500 for Scope A and \$45,750 for Scope B; Danny Robinson Construction's bid was \$95,230 for Scope A, with no bid on Scope B; and, Milestone Construction's bids were \$137,700 on Scope A and \$114,900 on Scope B.

Chris Glass stated that they are recommending that the contract be awarded to Sumrall Construction, with an additional 10% contingency for change orders, since they have already had a request for service windows added since the bids were opened. He added that Sumrall Construction has indicated that under either Scope A or B, the HVAC system needs to be replaced, as testing showed it to be inadequate. He said the bid also includes a new 40-gallon hot water tank, but that if they choose not to include one, \$1,425 will be deducted from the price. Chris Glass stated that Sumrall Construction has talked with Advance Pest Control, and that obtaining a new termite policy on this address will involve a dig-out underneath the existing floor, at an additional cost of \$11,155. He said that cost includes the policy, which will be renewed for \$230 per year, the dig out, and repairing the floor that will need to be removed to gain access underneath the structure.

JP Stephenson stated that he is concerned that things are still being added at this time, and asked when the Health Department staff would be satisfied. Health Department Director Loy Bailey was recognized, and stated that the partitioned countertop has been part of the remodeling concept since the project first began last year, and is required due to privacy laws.

JP Stephenson stated that in order to enhance the county's ability to someday sell the building when it is no longer needed, he would like to make a motion to accept the remodeling proposal of Sumrall Construction for \$58,500 plus the 10% contingency fee, plus \$11,155 for the dig out and termite policy, for a total of \$76,620, seconded by JP Sandlin.

JP Moore spoke in favor of the motion, noting it would be better to spend the money up front than to have to go in and fix something in the floor in five or six years.

JP Sandlin asked if the width of the crawl space is specified in the contract. County Judge David Bisbee stated that a minimal crawl space is 18 inches, and he will make sure that the contract specifies that. County Attorney George Spence stated that before construction begins, they will reach an agreement on the contract, and those specifications can be included.

JP Winscott expressed concern regarding drainage problems at the rear of the building. County

Judge David Bisbee stated that can be addressed simply with a pump. Chris Glass added that part of the drainage problem stems from the neglect of the clean out. JP Winscott stated that if it has been neglected in the past, it can be neglected in the future, and a sump pump will not eliminate the problems caused by moisture underneath a wood floor, such as mold.

There being no further discussion a roll call vote was recorded as follows.

10 yeas: Wozniak, Sandlin, Brown, Lewis, Moore, Douglas, Blaty,
 Winscott, Harrison, Stephenson
3 absent: Wolf, Hubbard, Allen

Motion to accept the bid proposal of \$76,620 passed. County Judge David Bisbee stated that an appropriation ordinance will be prepared for consideration as Item "C".

NEW BUSINESS:

- (A) An Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (**2009** Benton County Budget) Creating a New Line Item #5875- Illinois River Conservation Reserve Enhancement Program (CREP), and Appropriating Additional Monies and Authorizing Additional Expenditures in Department 01, County Judge, Fund 010; Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Moore stated that this appropriation ordinance was to appropriate funds to the Illinois River Conservation Reserve Enhancement Program (CREP) for purchasing buffer land on the Illinois River, and will be for \$2,500 in cash, and \$2,500 of "in kind" services.

JP Moore made motion for approval of first reading, seconded by JP Sandlin.

JP Blaty stated that after hearing at the last Finance Committee meeting that they need to cut \$63,600 in budget expenses, she does not think that this is a necessary item that needs to be done at this time.

There being no further discussion, a roll call vote was recorded as follows:

8 yeas: Wozniak, Sandlin, Brown, Moore, Douglas, Winscott, Harrison,
 Stephenson
2 nays: Lewis, Blaty
3 absent: Wolf, Hubbard, Allen

County Judge David Bisbee stated that the appropriation ordinance would be placed on the July 23, 2009 Quorum Court agenda for second reading.

- (B) An Ordinance Amending Section 58-33 Of *The Code of Ordinances of Benton County, Arkansas*, Related To The County Judge's Quarterly Road Report To Change The Timing of The County Judge's Summary Report; Sponsor: JP Harrison

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Harrison stated that this ordinance will allow the County Judge to make the summary road report in April instead of January, allowing more time to gather the information for the report. JP Harrison made motion for approval, seconded by JP

There being no discussion, a roll call vote was recorded as follows:

10 yeas:	Wozniak, Sandlin, Brown, Lewis, Moore, Douglas, Blaty, Winscott, Harrison, Stephenson
3 absent:	Wolf, Hubbard, Allen

First reading passed.

County Judge Dave Bisbee stated that the proposed ordinance would be placed on the July 23, 2009 Quorum Court agenda for second reading.

County Judge David Bisbee asked for announcements at this time, since they are waiting for the Siloam Springs Health Clinic appropriation ordinance to be prepared.

JP Moore announced that the Finance Committee will be meeting on July 7, 2009, with the time to be announced by the substituting committee chair, as he will be out of town.

Comptroller Richard McComas was recognized, and reported that at this point, \$740,000 in budget reductions are on paper, with another \$190,000 unofficially proposed from the Sheriff. He added that he will be visiting with a few more department heads before the next Finance Committee meeting.

County Judge David Bisbee stated that it is critical to actually pass an ordinance reducing the budget by \$1 million, because shortly after the ordinance is adopted, they will begin budget meetings for the 2010 Budget, and at that time they will need to cut an additional \$1 million.

JP Stephenson proposed that the Finance Committee meeting begin at 2:30 p.m. on July 7, to allow extra time for the budget discussion. Members of the Finance Committee agreed. JP

Wozniak made motion to nominate JP Wolf to chair the Finance Committee meeting, seconded by JP Douglas.

Motion passed by unanimous voice vote.

- (C) An Appropriation Ordinance Amending Appropriation Ordinance No. 0-2008-33 (2009 Benton County Budget) by Appropriating Additional Monies and Establishing Expenditure Line Item in Department 25, County Health Department, Capitol Projects, Fund 440;
Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Moore made motion for approval, seconded by JP Harrison.

There being no discussion, a roll call vote was recorded as follows:

10 yeas: Wozniak, Sandlin, Brown, Lewis, Moore,
Douglas, Blaty, Winscott, Harrison, Stephenson
3 absent: Wolf, Hubbard, Allen

Appropriation Ordinance duly adopted and assigned **No. O-2009-18**.

OTHER BUSINESS:

County Judge David Bisbee announced that Election Coordinator James McCarthy has resigned effective July 3, 2009. He said he wants to emphasize that while technically the Election Coordinator is an employee of the County Judge, he will yield to the Election Commission's recommendation, because he does not want to be accused of manipulating the election process. He said that the county funds the position, and that should be the extent of their involvement.

ANNOUNCEMENTS:

Announcements were made prior to Item "C".

There being no further business to come before the court, upon motion and second the meeting adjourned at 7:25 p.m.

Respectfully submitted,

Tena O'Brien,
County Clerk

Prepared by: Janet Reaves