

MINUTES OF BENTON COUNTY QUORUM COURT

September 24, 2009

A regular meeting of the Benton County Quorum Court was held on Thursday, September 24, 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 Betsy Harrell called roll as follows:

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

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Prayer was led by Galen Percy of the Radiant 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, corrections, or deletions to the agenda. Agenda approved by unanimous voice vote.

MINUTES

County Judge David Bisbee asked if there were any additions or corrections to the Minutes of the September 24, 2009 Quorum Court meeting. Seeing none, Judge Bisbee stated that the minutes would be filed as presented.

ELECTED OFFICIALS' REPORT:

None

COUNTY JUDGE'S REPORT:

County Judge David Bisbee announced that he and his staff are going to begin holding brief press conferences every Friday at 12:00 noon, at alternate locations between Bentonville, Rogers, Bella Vista, and Siloam Springs. He said that if there is a fifth Friday in the month, they will try to hold it at an outlying community, and encouraged all Justices of the Peace to attend. He said they want to improve communication with the citizens and provide an easier opportunity for them to talk with the administration.

County Judge David Bisbee stated that they are almost ready to bring information on Reverse 9-1-1 to the court, and asked for direction from the court as to which committee it should be presented to. JP Wozniak stated that it would be better for the various companies to give their presentations to the Committee of Thirteen, to avoid repetition. County Judge David Bisbee stated if that was the consensus of the court, he would contact JP Stephenson to put it on the Committee of Thirteen agenda. He added that the three requirements that he has given Department of Emergency Management Coordinator Marshal Watson are: 1) That the system notify the citizens of life-threatening situations, because he is not interested in an extra communications system; 2) That the system be opt-out rather than an opt-in; and 3) That the company provides their own data base to avoid problems with sovereign immunity. He said if anyone feels differently they should let Marshal Watson know. JP Douglas asked if a Fall County Wide Clean Up is being planned. County Judge David Bisbee recognized Director of Public Safety Chris Glass, who said they are planning on several convenience centers which will be open every Saturday rather than one day during the fall and one day during the spring. He said the first one will be at the County's Road Department facility on Highway

102, and they are still finalizing details, such as whether or not to charge fees.

JP Stephenson stated that he is concerned that whatever fees are charged are not so much that someone will decide it is cheaper to dump it on the side of the road, and since the County Judge is making an effort to reach out to citizens throughout the county, perhaps they should consider making a truck available for drop off at other locations once a month.

Chris Glass stated that they budgeted \$26,000 for the two clean ups in 2009, and they are trying to stretch the remaining \$14,000 as far as it will go. County Judge David Bisbee added that eventually they would like to have four locations that are open every Saturday, and will use the first one to see how it will work.

JP Moore stated that this project should be a higher priority, because this is one of the services that residents of the county really appreciate, and it keeps the trash off the roads, which costs the county money to clean up. Chris Glass stated that they are merely looking for a place to start, and will adjust as needed. County Judge David Bisbee stated that this is his number one priority, and is a valuable service that we can provide county residents.

In response to a question from JP Douglas, Grants Administrator Kathy Bannister was recognized and reported that the "100% Plans" for the War Eagle Bridge Project have been submitted to the Arkansas Highway Department for approval. County Judge David Bisbee stated that the intention is to take bids and start construction right after the annual Arts & Crafts Fair.

Kathy Bannister stated that we have received a Safe Havens Supervised Visitation Exchange Grant in the amount of \$399,000 over three years. She said they have also received a Substance Abuse Grant that they will be administering in cooperation with Decision Point to provide Adult Drug Court services in the amount of \$300,000 per year for up to three years, if they continue to meet the requirements.

Kathy Bannister stated that they are very excited about the Benton County Septic System Installation Grant Project. She said that the grant will fund the installation of 16 septic systems throughout the county for residents who were qualified as low to moderate income.

She explained that this is the first time in the state that HUD—Community Development Block Grant funds have been used for this type of project. She stated that it was a collaborative effort between Environmental Officer Joyce Higgins and Environmental Health Specialist Piper Satterfield of the Health Department, who were working with some residents who needed help with their septic systems and were in some cases facing court action. She said that the timeline for the application was very short, and Health Department Director Loy Bailey and the rest of his staff worked very hard through a very difficult process to get the families qualified. She added that she is very proud that the two departments were able to work together to make this project a reality. Health Department Director Loy Bailey thanked Kathy Bannister for all of her hard work and stated that it was really a team effort. JP Hubbard asked if anyone could apply for the septic system grants. Kathy Bannister stated that there was a very short timeline in which to get the application completed this time, so they submitted the families that the Health Department was already working with for qualification, but the next time they may be able to look at it differently.

JP Hubbard asked for a quarterly report listing what grants are existing, when they were applied for, and when they expire. Kathy Bannister stated that if the monthly report that is provided with the Finance packet needs additional information she will add it, but she has tried to keep it from becoming too cumbersome.

COMMITTEE REPORTS:

JP Wolf announced that there will be a JESAP meeting on October 2, 2009 and the Personnel Committee will meet on October 6, 2009 at 3:30.

PUBLIC COMMENTS:

Sue Elverston announced that the Pea Ridge Mule Jump will be held at the Pea Ridge High School on Saturday, October 10, 2009 beginning at 9:00 a.m.

Don Day stated that citizens should be allowed to comment following discussion of each agenda item and spoke against the proposed resolution adopting a hazard mitigation plan for Benton County, citing the halting of development in other counties after FEMA's hazard mitigation rules were adopted.

Bob Kossieck spoke against the proposed resolution adopting a hazard mitigation plan for Benton County, calling it a land rights boondoggle that no citizen landowner in his right mind would vote for.

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

Motion passed by unanimous voice vote.

OLD BUSINESS:

- (A) Second Reading of Proposed Ordinance Amending Ordinance No. O-2008-26 Which Repealed Chapter 2, Article VII et seq. of *The Code Of Ordinances Of Benton County, Arkansas* Regarding Benton County Employment and Salary Administration Policy; Sponsor: JP Marge Wolf

Deputy County Clerk Betsy Harrell read the proposed ordinance by title only. JP Marge Wolf stated that this is the second reading of the ordinance, which establishes guidelines for variances in salary placement when hiring someone below the minimum requirements listed in the job description. JP Wolf made motion to adopt, seconded by JP Stephenson.

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

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

Second reading passed.

- (B) First Reading of Proposed Ordinance Amending Section 82 of Chapter 42 of *The Code Of Ordinances Of Benton County, Arkansas* to Increase the Daily Fee Charged to Municipalities For Housing Prisoners in the County Jail; and For Other Purposes; Sponsor: JP Bobby Hubbard

Deputy County Clerk Betsy Harrell read the proposed ordinance by title only. JP Hubbard made motion to adopt, seconded by JP Stephenson.

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

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

First reading passed.

NEW BUSINESS:

- (A) Proposed Resolution Adopting the Hazard Mitigation Plan for Benton County; Sponsor: JP Jim Wozniak

Deputy County Clerk Betsy Harrell read the proposed resolution by title only.

Department of Emergency Management Coordinator Marshal Watson was recognized, and stated that the Hazard Mitigation Plan was started approximately five years ago, and a consultant was subsequently hired to help finalize the plan based on FEMA requirements and regulations. He said the plan is nothing more than a process indicating how the team came about, with all of the municipalities and school districts in the county participating. He said several public hearings were held in 2005 to allow public input, and the plan simply identifies the hazards faced by Benton County, such as tornadoes, thunderstorms, winter weather storms, and does not involve chemical or other manmade hazards. He said the plan culminates in action items recognized by the various entities in the county as tasks that they could perform to lessen the impact of a natural disaster, such as tornado warning sirens, public education services, and tornado shelters in public schools.

Marshal Watson stated that the plan itself sets no policy on land regulation or anything of that nature; everything in it is simply action items that we could potentially perform based on the availability of grants. He said to date, every municipality and school district in the county has adopted a similar resolution, except Bella Vista, which will consider it at the next city council meeting. He said it does

not set land policy; it is simply a formality to remain eligible for hazard mitigation grant funding. JP Moore asked if Reverse 9-1-1 would fall into that category. Marshal Watson stated that pursuit of Reverse 9-1-1 is included in the list of action items. JP Hubbard asked if municipalities can apply for the grants. Marshal Watson stated that if they have adopted the resolution they are eligible to apply, such as the Pea Ridge School District has for tornado safe rooms in their buildings. JP Hubbard asked how this would affect people in the unincorporated areas, because he did not think they were going to put up sirens every quarter of a mile. Marshal Watson said the actions listed in the plan are simply recommendations, and if the money was available, he has no doubt that they would put sirens throughout the county, but the money is not there. He said it is not going to do anything to an individual's home ownership or affect them in any way; it simply says that we are eligible to apply for mitigation grant funding should it become available. JP Moore asked if this has any tie-in to the flood prevention program the county is involved in now. Marshal Watson stated that it has nothing to do with the National Flood Insurance Program. He said it is not setting any policy for land use or land management; it states that we are susceptible to natural hazards and lists some action steps that we could take to mitigate that susceptibility if the opportunity should arise through available grant funds. He mentioned that the Fort Smith School District in Sebastian County successfully applied for funding to install tornado shelters on all of their campuses, which are also available to the public during a severe weather event.

JP Allen stated that Article 2 states that the plan will be reviewed and can be revised. Marshal Watson stated that is correct, and the intent is for the county to review the plan every year, and make modifications as necessary. JP Allen stated this has nothing to do with land planning, or zoning, or how someone uses their private property. Marshal Watson stated absolutely not. He explained that each county received grant funds to develop this plan. He added that in reading the plan, it can be noted that the emphasis is not so much on the plan itself, but on the planning process, because FEMA wants to be sure that all of the entities within the county are working together, along with input from the community. JP Allen asked if other counties have adopted a similar plan. Marshal Watson stated that Sebastian County has completed theirs, along with at least 50% of the other counties in the state, but they did not all receive the grant in the same year.

JP Wozniak asked if having it or not having it affects the county's ability to receive FEMA reimbursement for storm damage. Marshal Watson stated that we would still receive reimbursement in the event of a natural disaster, but we would be ineligible to receive any mitigation funding that was a result of that disaster. He explained that each time a presidential disaster area is declared based on the dollar amount of the damages, a portion of that same dollar amount comes back to the state level to be distributed locally as grants, based on the applications they receive, and if we do not adopt this resolution, we could not apply for those funds.

JP Blaty stated that she would like some research done on exactly which other counties have adopted a similar plan, and that Polk County is just now soliciting comments from the public on a hazard mitigation plan, and she would like to see something like that happen here. She added that she would also like more time to go through the 300-page plan.

JP Douglas asked if there is any way that FEMA can come back and require Benton County to change their building codes. Marshal Watson said there is absolutely no obligation, and the only way the county could become obligated would be as part of a specific grant, such as certain structural requirements if they were applying for grant funds to build a bridge, but if it was anything they did not want to do, they just would not apply for the grant. JP Douglas asked if the county would be under any obligation in connection with the Pea Ridge School District's application for the tornado shelter grant. Marshal Watson stated that the county's only involvement will be in assisting them with the application process; the agreement and any requirements of the grant would strictly be between the Arkansas Department of Emergency Management and the Pea Ridge School District. JP Douglas asked if landowners who are not in 100-year flood plains, but who live below dams would be tied up in any way if we adopt the plan. Marshal Watson stated that they are not obligating any landowner to do anything, and in fact, FEMA considers a dam failure to be a natural disaster so the plan simply estimates what the effects of a dam failure would be upon the surrounding area. JP Douglas asked if someone could still obtain a building permit in one of those areas below a dam identified in the hazard mitigation plan, but which is not in the 100-year flood plain. Marshal Watson stated that the fact that there could be an inundation or surge due to a dam breach is totally unrelated to building a structure in a 100-year-flood plain. He said it does not change the category of that land, and flood plain management is a totally different issue.

JP Hubbard asked if it is necessary to have a Department of Emergency Management in order to implement this plan, because it is his understanding that only a few counties in Arkansas even have that department. Marshal Watson said that state law requires every county to have a Department of

Emergency Management in some form, or provide it through contractual services. He said that due to fiscal restraints, not every county has a 3-person staff like Benton County, because the size of the staff is usually relevant to the population and growth of the county. He said that even if he was not here, the Planning Department could easily have overseen the project if that had been decided five years ago. JP Hubbard asked about the timeline mentioned earlier. Marshal Watson stated that the plan and resolutions from the various entities adopting it are scheduled to be submitted next week regardless of what the county decides, and that is a firm deadline. He said if the county decides not to adopt it, the other entities would remain eligible for the funding, but the county would not.

JP Wolf stated that she received the information that was mailed out about the plan, and it needs to be made clear that this is our plan, this is what we developed, not something that FEMA forced them to develop. Marshal Watson stated that FEMA obviously has certain requirements, but the planning process is strictly inherent to Benton County. JP Wolf stated that what FEMA has done is encourage different entities to come together and have a plan for emergencies.

JP Wozniak thanked Marshal Watson for the explanation, and stated that he is glad the county has him, because he knows what he is doing.

JP Wozniak made motion for approval, seconded by JP Stephenson.

JP Blaty stated that she would appreciate more time to actually look at the 300-page plan and go through it with a fine-toothed comb.

JP Allen asked if this does not pass, could it come back at a later date. County Judge David Bisbee stated that it is going to ADEM next week, so if we are not included, then we would not be eligible for a certain group of FEMA grants. He added that all of the cities and schools that have adopted the resolution will still be eligible, because we will send their resolutions to ADEM. JP Moore stated that he would like to reiterate that we are not obligated to do anything if we do not apply for a specific grant.

JP Hubbard asked if there is any grant that we are in a hurry to apply for. Kathy Bannister was recognized and said there are none at the present time, but when there is another disaster, there will be mitigation funds distributed. JP Hubbard asked if we would have to wait another year to apply for those funds, because he feels like they are being rushed into passing something and he would like more time because he did not receive the information in the mail.

Chris Glass stated that the information was mailed out thirty days ago, and they are not trying to surprise anybody. He said the resolution is nothing more than a statement saying that they will develop plans to deal with disasters when they happen, and if they do not apply for any of the grants, then there are no strings. He said that all grants come with some expectations, usually the expectation that you will do what you said you were going to do with the money. He said if a grant becomes available that seems to make sense in terms of mitigating, or potentially eliminating the harm, then it is in the best interest of the county residents to try to do that. He said what they are being asked for is a vote to say that the county is willing to plan, or think about what happens in a future event.

JP Douglas stated that any grants that are applied for, and the strings that come along with them, will come before the Quorum Court so they can discuss whether or not they want those strings tied to us.

County Judge David Bisbee stated that the State had to follow the same process, so when the next natural disaster occurs, FEMA will look at the plan to determine if the grant matches the plan. He said the State submitted a Homeland Security plan to the Federal agency, and anything they apply for has to match what they have stated in their plan.

JP Allen stated that he understands that some members are concerned, but he does not see any of the fear being warranted as far as land use planning. He said if they find out differently, this is an ongoing study that is going to be reviewed annually, and they can totally dismantle it if they want to.

JP Hubbard stated that he cannot help but be skeptical when something says "FEMA", because they were told that the Flood Plain Ordinance had to be passed immediately, and they found out later that it did not.

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

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

Resolution duly adopted and assigned **No. R-2009-18.**

- (B) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) To Create a New Fund To Be Named “Internet Crimes Against Children Grant Fund” and Numbered No. 325 in Department 05, Sheriff’s Department; To Amend *Schedule 1-Revenues By Fund* To Increase Revenues, and To Appropriate Additional Monies and Authorize Additional Expenditures Therein; Sponsor: JP Kurt Moore

Deputy County Clerk Betsy Harrell read the proposed appropriation ordinance by title only. JP Moore made motion for approval, seconded by JP Wolf.

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

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

Appropriation Ordinance duly adopted and assigned No. **O-2009-32**.

- (C) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) To Create a New Fund To Be Named “Juvenile Assistance Grant – Juvenile Probation PAL Grant Fund” and Numbered No. 475 In Department 20, Juvenile Probation; To Amend *Schedule 1-Revenues By Fund* To Increase Revenues, and To Appropriate Additional Monies and Authorize Additional Expenditures Therein; Sponsor: JP Kurt Moore

Deputy County Clerk Betsy Harrell read the proposed appropriation ordinance by title only. JP Moore made motion for approval, seconded by JP Wolf.

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

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

Appropriation Ordinance duly adopted and assigned No. **O-2009-33**.

- (D) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) To Create a New Fund To Be Named “Energy Efficiency and Conservation Block Grant Fund” and Numbered No. 191 In Department 01, To Amend *Schedule 1-Revenues By Fund* To Increase Revenues, and To Appropriate Additional Monies and Authorize Additional Expenditures Therein; Sponsor: JP Kurt Moore

Deputy County Clerk Betsy Harrell read the proposed appropriation ordinance by title only.

JP Moore stated that this is the first part of a large government grant, and the \$15,000 expenditure is for an energy survey that will open up the possibility of an additional \$600,000 in funds. JP Moore made motion for approval, seconded by JP Stephenson.

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

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

Appropriation Ordinance duly adopted and assigned No. **O-2009-34**.

- (E) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) To Appropriate Additional Monies and Authorize Additional Expenditures in Department 66, Hazardous Materials Services, Fund 010; Sponsor: JP Kurt Moore

Deputy County Clerk Betsy Harrell read the proposed appropriation ordinance by title only. JP Moore stated that this is the county's portion of a fund to clean up hazardous spills. JP Moore made motion for approval, seconded by JP Wozniak.

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

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

Appropriation Ordinance duly adopted and assigned **No. O-2009-35**.

- (F) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) To Appropriate Additional Monies and Authorize Additional Expenditures in Department 49, Information Systems, Fund 010; Sponsor: JP Kurt Moore

Deputy County Clerk Betsy Harrell read the proposed appropriation ordinance by title only. JP Moore made motion for approval, seconded by JP Stephenson.

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

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

Appropriation Ordinance duly adopted and assigned **No. O-2009-36**.

OTHER BUSINESS:

JP Stephenson made motion to change the location of the October 22, 2009 Quorum Court meeting to the Siloam Springs City Hall, seconded by JP Moore.

Motion passed by unanimous voice vote.

ANNOUNCEMENTS:

JP Moore announced that the next Finance Committee meeting will be held Tuesday, October 6, 2009 at 5:30 p.m.

There being no further business to come before the court, upon motion and second the meeting adjourned at 7:27 p.m.

Respectfully submitted,

Tena O'Brien,
County Clerk

Prepared by: Betsy Harrell