

## MINUTES OF BENTON COUNTY QUORUM COURT

**April 28, 2011**

A regular meeting of the Benton County Quorum Court was held on Thursday, April 28, 2011 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 Robert D. Clinard called the meeting to order.

Deputy Clerk Janet Reaves called roll as follows:

10 JP's Present: King, J. Harrison, Allen, Hawkins, Jones, Sandlin,  
Douglas, Curry, Carr, Moore  
3 Absent: Winscott, K. Harrison, Blaty

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Prayer was led by JP Steve Curry.

### **CHANGES TO THE AGENDA:**

None

### **MINUTES:**

JP Carr made motion to approve the minutes of the February 24, 2011 and March 24, 2011 Quorum Court meetings, seconded by JP J. Harrison.

Motion passed by unanimous voice vote.

### **ELECTED OFFICIALS REPORT:**

None

### **COUNTY JUDGE'S REPORT:**

County Judge Bob Clinard stated that Governor Mike Beebe, Arkansas Department of Emergency Management Director David Maxwell, and others have surveyed the flood damage in the Siloam Springs area where the Illinois River flooded. He stated they visited the flooded homes of the White and Mitchell families, and the Highway 59 Canoe Rental business owned by Bill Underwood. He added that the Benton County Emergency Management staff will notify everyone who suffered damage from this disaster to inform them of all possible avenues for help. He stated that he wanted to publicly commend Governor Mike Beebe for touring the area, adding that the Governor is genuinely concerned about the people of Benton County.

He stated that the recent flooding has resulted in Benton County receiving disaster declarations on the local, State, and Federal levels, which means that the county will receive up to 87.5% reimbursement from FEMA. He added that damage assessments in the county are ongoing and may reach \$750,000 in bridge replacement, repair, and road re-construction. He added that six bridges were destroyed and twenty-one roads have been closed, and that an additional bridge crew has been hired for a three- to four-week period to help get the damage repaired. Comptroller Richard McComas stated part-time and temporary help will cost approximately \$20,000 to \$25,000. He added that the County Road Fund normally has returned appropriations at the end of the year, so a budget adjustment can be made at that time to cover the cost of these employees. He said that additionally, the county is going to receive some reimbursement from FEMA.

JP Sandlin made motion to approve the hiring of temporary Road Department employees to work with the bridge crew, with the cost not to exceed \$25,000, seconded by JP King.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Motion passed.

County Judge Bob Clinard also reported that: 1) The Benton County West Road Facility plans are in development, the City of Decatur has approved the rezoning of the property to Commercial-2, and closing on the property should take place any day; 2) The Juvenile Justice Center construction is ongoing, with no major issues other than weather delays; 3) Benton County has negotiated a contract with Hight Jackson Architects for the architectural, mechanical, electrical, and structural design work for the Public Services Building; 4) Upgrades to the Courthouse HVAC system will be completed the first week of May; 5) Recent rains have exposed several leaks in the Courthouse roof, a contractor has been hired to inspect it, and they will be receiving that report when it is completed; 6) New landscaping design for the Courthouse lawn will be ready soon, and that the County is being assisted by the City of Bentonville's Parks and Recreation Department, the Master Gardeners of Benton County, and the Compton Gardens staff; 7) A "County Hall" meeting will be held May 17, 2011 at 6:00 p.m. at the Lost Bridge Village Community Center, and all elected officials are encouraged to attend; 8) The "Kiss Every County Road and Bridge" event was successful, with over 2 million volunteers participating nationwide, and that 21 volunteer groups from Benton County picked up litter, removed graffiti, and cleaned road signs along 175 miles of county roads and bridges.

Judge Clinard reported on the Countywide Spring Clean Up; stating that 38 pounds of electronics had been collected and will be recycled, 6,000 pounds of personal documents were shredded on site, 19 dumpsters filled with various household items, 6 dumpsters were filled with metal to be recycled, 1,600 pounds of paint were collected to be recycled, and many hazardous household chemicals were disposed of safely. He said he wanted to thank the many volunteers, including several city mayors, employees from the Benton County Road and Environmental Departments, and several others who are present tonight.

Judge Clinard reported that the Benton County Employee Appreciation Picnic held on April 22, 2011 was a huge success, and included the planting of three indigenous Arkansas Black Apple trees on the south lawn of the Courthouse, which were paid for by the Bentonville Noon Rotary Club.

Judge Clinard recognized Department of Emergency Management employees Josh Billis and Robert McGowan, and Administrator of Public Safety Marshal Watson, and announced that the three gentlemen, without hesitation, had risked their own lives on the evening of April 19<sup>th</sup> to save a woman who had driven off the Highway 412 Bridge into the Illinois River. He said if they had not been present, the woman most likely would have died. He presented each of them with a Certificate of Outstanding Performance, signed by Governor Mike Beebe and him, for "managing a critical event in an expert manner and going above and beyond the call of duty to prevent the loss of life during severe flooding in Benton County".

Judge Clinard recognized Administrator of Public Services Gary Black, who reported that the appropriation allowing the Road Department to purchase surplus equipment when it becomes available was recently used to purchase a road scraper. He said that a new scraper costs \$175,000 to \$200,000, and rents for \$4,000 per week, but they were able to purchase one for \$1,000. He thanked the Quorum Court for allowing the Road Department to have the line item for this type of equipment purchase, and stated that they intend to be very frugal with the money.

Judge Clinard recognized Administrator of Public Safety Marshal Watson, who announced that FEMA representatives will be in Benton County on Friday morning to perform a damage assessment for individual assistance. He explained that there are two assistance tracks – Individual Assistance for homeowners and renters, and Public Assistance, which reimburses government entities for damage to public property. He commended the county's Department of Emergency Management staff, and stated that they have worked hard throughout the entire year, on both of the State level disasters, and expects that the county will receive a Presidential Declaration for the recent flooding event. He reported that the most recent floods were the largest that anyone could

remember in Benton County, and that fire and rescue personnel were very busy, especially on the west side of the county. He said that the Siloam Springs, Highfill, and Gallatin Fire Departments rescued 23 individuals from several residences that were completely inundated with water, and that all of the responders did an incredible job and certainly deserve recognition.

**COMMITTEE REPORTS:**

JP Allen stated that the Finance Committee met on April 4, 2011, and discussed many of the items that are on tonight's agenda. He added that the anticipated reduction in the county's share of the sales tax was not as much as they had feared.

**PUBLIC COMMENTS:**

None

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

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Motion passed.

**OLD BUSINESS:**

- (A) Third and Final Reading of Proposed Ordinance to Amend Section 2-106 (c) *The Code of Ordinances of Benton County* to Provide for Automatic Cancellation of Committee Meetings When the County Judge has Closed the Courthouse; Sponsor: JP Kurt Moore

County Attorney George Spence read the proposed ordinance by title only. JP Moore made motion to adopt, seconded by JP Curry.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Ordinance duly adopted and assigned **No. O-2011-15.**

- (B) Second Reading of Proposed Ordinance Establishing a County Depository Board; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed ordinance by title only. JP Allen stated that this is an ordinance that is necessary to comply with State law.

JP Allen made motion to adopt, seconded by JP Sandlin.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Second reading passed.

- (C) Second Reading of Proposed Ordinance to Amend Portions of Chapter 26 of the *Code of Ordinances of Benton County, Arkansas* to Provide For a New Provider for Emergency Medical Services for the Northeast Benton County Emergency

Medical District, To Clarify The Financing Structure For the Services, And To Clarify What Services Are To Be Provided; Sponsor: JP Dale King

JP King made motion to suspend the rule for Item 11-C requiring three readings on separate days, seconded by JP Sandlin.

JP Allen questioned the procedure being followed. County Attorney George Spence stated that if there are nine votes in favor of suspending the rule requiring three readings, any ordinance can be read once, and then voted once.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Motion passed to suspend the rule requiring three separate readings.

County Attorney George Spence read the proposed ordinance by title only. JP King made motion to adopt, seconded by JP Douglas.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Ordinance duly adopted and assigned **No. O-2011-16.**

- (D) Second Reading of Proposed Ordinance Amending Certain Sections of Chapter 2 of the *Code of Ordinances of Benton County, Arkansas* Concerning the Hiring or Termination of the County's Director of Information Systems and Changes to the County's Computer Systems; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed ordinance by title only. JP Allen made motion to adopt, seconded by JP Sandlin.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Second reading passed.

**NEW BUSINESS:**

- (A) Proposed Resolution of the Quorum Court of Benton County Arkansas Certifying Local Government Endorsement of Business to Participate in the Tax Back Program (As Authorized by Section 15-4-2706 (d) of the Consolidated Incentive Act of 2003); Sponsor: JP Patrick Carr

County Attorney George Spence read the proposed resolution by title only. JP Carr stated that this resolution will allow Simmons Pet Foods to retain some of the sales and use tax associated with the building of their new facility and expansion in Decatur.

JP Carr made motion to adopt, seconded by JP Curry.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Resolution duly adopted and assigned **No. R-2011-06.**

- (B) Proposed Resolution Supporting the County Judge Investigating the Conversion of Benton County Vehicles to Enable Them to Run on Compressed Natural Gas (CNG) by Allowing Blue Energy Fuels, Inc. to Conduct a Study on the County's Vehicles at no Cost to Benton County; Sponsor: JP Dan Douglas

County Attorney George Spence read the proposed resolution by title only. JP Douglas stated that there is no cost or obligation to the county; it is just an informational study.

JP Douglas made motion to adopt, seconded by JP Carr.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Resolution duly adopted and assigned **No. R-2011-07.**

- (C) Proposed Resolution Confirming the County Judge's Appointment of Cindy Jones to the Benton County Planning Board

County Attorney George Spence read the proposed resolution by title only. JP Allen made motion to adopt, seconded by JP Carr.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas  
Carr, Curry, Moore  
3 absent: Winscott, K. Harrison, Blaty

Resolution duly adopted and assigned **No. R-2011-08.**

- (D) Proposed Resolution Confirming the County Judge's Appointment of Starr Glenn to the Benton County Planning Board

County Attorney George Spence read the proposed resolution by title only. JP Allen made motion to adopt, seconded by JP Sandlin.

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

9 yeas: King, J. Harrison, Allen, Hawkins, Sandlin, Douglas  
Carr, Curry, Moore  
1 nay: Jones  
3 absent: Winscott, K. Harrison, Blaty

Resolution duly adopted and assigned **No. R-2011-09.**

- (E) Proposed Resolution Regarding the Posting of the Ethanol Content of Fuel;  
Sponsor: JP Steve Curry

County Attorney George Spence read the proposed resolution by title only. JP Curry made motion to adopt, seconded by JP J. Harrison.

JP Curry stated that there is a state law which requires retailers to post the ethanol content of gasoline on the pumps where it is being sold, because the public needs to be aware that there may be up to 15%

ethanol in the fuel they are purchasing, so that they do not use it in lawnmowers, etc. He said that he asked one retailer how much ethanol was in the gas he was selling, and the retailer told him he did not know.

JP Hawkins asked if this provides any enforcement. County Attorney George Spence stated that enforcement of this regulation comes from federal and state agencies. He said that the resolution directs the County Clerk to send a copy of it to the state agency responsible for enforcement, so it is basically asking that agency to do its job.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Resolution duly adopted and assigned No. **R-2011-10**.

- (F) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (**2011** Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 25, County Health Department, **Fund 010**; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed ordinance by title only. JP Allen made motion to adopt, seconded by JP Sandlin.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Appropriation Ordinance duly adopted and assigned No. **O-2011-17**.

- (G) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (**2011** Benton County Budget) Appropriating Additional Monies And Authorizing Additional Expenditures in **Fund 440**, Capital Projects, Department 35; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed ordinance by title only. JP Allen stated that the Committee of Thirteen discussed some cost increases associated with the Juvenile Justice Center project, and they felt that \$150,000 would be adequate to cover the additional costs.

JP Allen made motion to adopt, seconded by JP Sandlin.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Appropriation Ordinance duly adopted and assigned No. **O-2011-18**.

- (H) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (2011 Benton County Budget) By Authorizing Transfers Between Funds and Appropriating Additional Funds To Various Funds and Departments For the Purpose of Giving a Nonrecurring Salary Adjustment to Benton County Employees; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed appropriation ordinance by title only. JP Allen stated that this has been discussed extensively in the Finance Committee and Committee of Thirteen, the funds are available, and the employees are much deserving of this one-time salary adjustment.

JP Allen made motion to adopt, seconded by JP Hawkins.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Appropriation Ordinance duly adopted and assigned No. **O-2011-14**.

- (I) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (2010 Benton County Budget) To Appropriate Additional Monies and Authorizing Additional Expenditures in Fund **440**, Capital Projects, Department 23; and to Remove an Appropriation from County General, Fund **010**

County Attorney George Spence read the proposed appropriation ordinance by title only. JP Allen stated that this appropriation to pay architectural fees to remodel the Public Services Building has not been through the committee process. He stated that he was contacted by the County Judge earlier today, and that he has agreed to bypass the Finance Committee if no members of the committee object. He said the money is available, they know how it is being spent, and this is not a new project.

JP Allen made motion to adopt, seconded by JP Sandlin.

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

10 yeas: King, J. Harrison, Allen, Hawkins, Jones, Sandlin, Douglas,  
Curry, Carr, Moore  
3 absent: Winscott, K. Harrison, Blaty

Appropriation ordinance duly adopted and assigned No. **O-2011-19**.

**OTHER BUSINESS:**

None

**ANNOUNCEMENTS:**

JP Allen announced that the Finance Committee will be meeting Tuesday, May 3, 2011 at 5:30 p.m.

There being no further business to come before the court, upon motion and second the meeting adjourned at 6:48 p.m.

Respectfully submitted,

Tena O'Brien,  
County Clerk

Prepared by: Betsy Harrell