

September 1, 2015

TRANSPORTATION COMMITTEE REPORT

A Transportation Committee meeting was held on Tuesday, September 1, at 6:00 p.m. in the County Administration Building, Quorum Court Meeting Room, 215 East Central, Bentonville, Arkansas

Committee Members Present: Adams, Anglin, K. Harrison, Slinkard, Meyers, Moore

Others Present: JPs Moehring, Sandlin, County Judge Robert Clinard, Comptroller Brenda Guenther, County Attorney George Spence, Administrator of Public Services Jeff Clark, County Clerk Tena O'Brien, Benton County Sheriff's Department Chief Richard Connor and Major Shawn Holloway.

JP Adams called the meeting to order.

Public Comments

None

Discussion: Proposal to Repeal Ordinance No. O-2000-20, to be Replaced by New Ordinance Drafted by County Attorney George Spence

JP Adams stated that this is the ordinance that made an exception for the Spavinaw Creek Bridge near Gravette. He feels there is language in this ordinance that does not serve the county well.

County Attorney George Spence said that he has been asked to find the constitutional way to change this ordinance. He stated that they had a discussion about this and other road issues and he thought they were going to fold this into another discussion on road ordinances and the road plan. He did not prepare for this ordinance to be discussed separately. He said that basically they want to make it so that it gives the County Judge more flexibility while still preserving safety.

Administrator of Public Services Jeff Clark further explained that newly constructed roads will be engineer-designed. With the recommendation of the engineer, they might then be able to waive the Q25 and then that would go to the County Judge for his approval. He was asked to clarify what Q25 means and he explained that the Q25 is the 25-year floodplain. The county builds all their bridges two-feet higher than the historical water levels for the last twenty-five years to make sure that they don't ever get topped.

George Spence said that the exception they would write into this is for the County Judge to be able to authorize a project to go forward if he has had an engineer look at it and the engineer's opinion is consistent with safety, rather than have to come to the court for an exception.

JP Slinkard asked if they are saying that these revisions would then take care of the O-2000-20 ordinance.

George Spence said that the error is that he didn't separate them out. He said the attachment to the O-2000-20 is standards and the County Judge would have the authority to waive those standards if an engineer has designed it and given it the seal of approval.

JP Meyers asked for clarification if this is to modify the ordinance or to repeal it.

George Spence said that any ordinance passed repeals anything contrary from the past, but he is not sure yet how he will rewrite it. He will likely just stick the new language onto the existing ordinance, striking the language they are deleting.

JP Adams said that further discussion of this ordinance will be moved to another Transportation meeting at a later date.

Discussion: Road Designation Signage (Blue, Green, White Signs)

Administrator of Public Services Jeff Clark stated that every year they submit a road plan on what they are planning to do for the following year. As they do the revisions, they like to rename them to avoid confusion. He stated that in Benton County there are approximately 167 miles of blue sign roads. Blue sign roads create a unique set of problems. Benton County Code of Ordinance Section 58.83 defines a blue sign road as follows: 'Limited public access road, must have a minimum of three houses, and will be graded twice a year by the county road department.' He said that there are about 37 miles of these blue sign roads that are paved. The question at hand is, according to this section, if there is a paved blue sign road, how will the county go about doing maintenance on pot holes and repair on this road. They are working with County Attorney George Spence and the County Judge on either rewriting that portion of the ordinance so that the work can be done, or doing away with blue sign roads all together. That way, if it is a county road, it will be maintained and, if it is not a county road, the county will not maintain it. He stated there needs to be something included in the verbiage of the ordinance that the county is allowed to work on pot holes and do necessary maintenance beyond the two times a year that the current ordinance calls for.

JP Adams stated that, with the 167 miles of limited access roads, a lot of them are paved. He suggested that going to the GIS system and the county system and finding out which roads have right-of-ways designated out of the 167 miles. He believes that the quick fix would be to change these to green, county-maintained roads. If there is no county access, then it is up to the property owners to grant the county access, otherwise they would have to become white sign roads.

JP Moore stated that the paved blue sign roads got paved because the people who lived on them paid for the materials to have them paved. He feels that, if they want them repaved, it should be the same situation.

Jeff Clark stated that it needs to be fair across the board, not just about who can get enough money together to pay for improvements. Some of the roads were paved back in the 1970's and 1980's, and some don't even show in the records as ever having been paved even though they are obviously paved now, and there needs to be an ordinance stating whether or not the county can come in and work on these roads.

JP K. Harrison stated that he agrees with JP Moore. As he understands it, it would be cost-shared for the future maintenance, too. The property owners furnish the materials, the county furnishes the labor, and the county does the repairs. If the property owners don't want to pay for the materials, it is their road; it is not a county access road. He believes it doesn't make sense to take on 100% of the cost if it is not a county access road. He questioned if they really want these roads to become county access roads.

Jeff Clark stated that the problem is that it would add an additional 37 miles to the paving schedule which would be a considerable increase in cost to the county. The people who live on these roads are calling the County Judge asking if their roads will be fixed and they need something tangible to tell these residents as to whether the county will fix these roads or not.

JP K. Harrison believes the standard answer should be that it is a community road. If they want to pay to have the road fixed, they can do it, but they are responsible for having it fixed. He stated that this should be the standard protocol because it is much cheaper to grade a road twice a year than to pave it and repair pot holes.

Jeff Clark stated that this supports what the ordinance currently says.

JP Sandlin asked if there are records of all of the roads that were deeded.

Jeff Clark stated that some of the records are obscure but, from back in the 1960's all the way up, they can look back and see the dedication of those roads.

JP Sandlin stated that they were once doing research about the roads, how the roads were transferred, and whether they were paved or graded. Every one is a little different.

Jeff Clark stated that anything they have looked up that has a blue sign rating on it has something on it about right-of-way.

JP Sandlin asked how to explain to the voting public that, even though they pay taxes, the county does not want to have any ownership of these roads.

Jeff Clark said that they deal with this on a daily basis and it has to be addressed. Per the ordinance, they are not doing it, but this is not a satisfactory answer and he would like to have something more definitive to be able to tell these property owners.

JP Moore says this comes up about every six years and, every time they talk about it, they come to the conclusion to eliminate blue sign roads but no one really wants to have to do that. He does not think it is a big deal to do grading twice a year but road paving is a different issue all together. He suggests, as a compromise, they just do patchwork on these roads.

Jeff Clark said they will have to change the ordinance if they do this. He says that he could live with this solution. If it is a public access road, the residents are either entitled to something or nothing but the county needs to make this very clear and this is what he is asking for.

JP K. Harrison stated that he does not disagree but they need to look at the right-of-ways and, if they don't meet what the standards are, they may have to look at making them white sign roads. If they want the county to do this, there needs to be proper right-of-ways.

Jeff Clark stated that he agrees.

JP Anglin said that if someone is legally looking at this, they would need to know exactly what determines a county road.

Jeff Clark stated that right-of-way is not mentioned in the ordinance, only that the road has to have three homes on it to be a blue sign road. If it doesn't meet this criterion, the road doesn't meet the requirements for a county road.

JP Slinkard asked if this is the only place where the blue, green and white signs are defined. She stated that she believes there may have been a definition of what those were at a different place. This was discussed and it was determined that this was in the "Blue Book," which has since been replaced.

JP K. Harrison said that the new ordinance states that all roads are built to fire code standards. They have to meet the Arkansas Fire Code, which is the International Fire Code. It is not specifically mentioned by sign colors but it says that any road, from the time it is adopted on, has to meet fire code.

JP Slinkard inquired as to when a road is designated a county road.

Jeff Clark stated that, if it is accepted as a blue sign road, the process is that the residents have to petition for that, the road department determines whether that is something they want to do and then it goes to the County Judge and the Judge makes the decision. If it is currently a blue sign road, then it has been accepted but it is a limited road.

County Attorney George Spence said that he doesn't know if blue sign roads are actually county roads. Green sign roads are definitely county roads. They become this way through imminent domain, some have just been there for a long time and have been traditionally used that way, or if a property owner says it is a county road and the County Judge accepts it into the county road system. Right now there is no definitive way to become a county road and they are trying to get a handle on that.

JP K. Harrison asked if someone petitions to make a blue sign road into a green sign road, will the County Judge require the right-of-way to be brought up to today's standards for fire code and things like that.

County Judge Robert Clinard stated that there is no such thing in state law as a "public access road" that he knows of. It is either a private road or a county road. The County Judge's responsibility on a county road says that, if it is a county road, the County Judge will determine the amount of maintenance on a county road. He speculates that this was adopted in the past because county residents said they weren't getting enough attention on their roads and the County Judge at that time,

said that the county would do limited maintenance of twice a year grading and so they developed the current ordinance. Judge Clinard's thoughts are that, since there is no description of blue sign and green sign roads, there is no such thing as a public access road; it is either a private road or a county road. If it is a private road, there can't be an ordinance to say that the County Judge or any other county equipment can maintain a county road. He stated that this is illegal. As he sees it, the county has three choices: they can leave it like it is; which will continue to confuse everyone (he believes this is also illegal), they can make the blue sign roads, county roads, or they can make them private. Making blue sign roads into county roads will require more money. If they are asking them to be changed from something that he does not believe was legal to start with, the residents have to petition to change them from blue roads to green roads. There is no simple solution. He states that they are possibly doing something that is unintentionally illegal and they need to decide definitively if they are county roads or not. He has not personally looked into the easements on these roads because they are technically not currently county roads.

Judge Clinard has renamed this to the Benton County Road and Bridge Specifications to avoid confusion. These are a set of specifications that they will set forth and, after much discussion, adopt into an ordinance. If it needs to be changed in the future then they will make the changes and adopt the ordinance. They also have the Benton County Road and Bridge Maintenance Plan (or Improvement Plan) which is what they are planning to do in 2015, 2016, 2017 for the repair and maintenance of certain roads in the districts. He stressed that, whatever decision is made, it must be legal. If there is a process to change a blue sign road into a green sign road, he would be sure that it gets the proper easements and meets the proper construction criteria but this could mean a lot of work on some of these roads.

JP Sandlin asked if someone lived on a blue sign road and it was to be changed, what is the process and would they receive letters.

Judge Clinard said there would be a process. Since a blue sign road is a private road, the process to change it to a full county road would require a petition from ten land owners and then they would get a hearing in front of the county court. It would be determined what easements would be needed and they would be given forms to be signed. If some of them sign and some don't, and the ones that don't sign want to be paid for their easements, there will be issues. He reiterated that there are no easy answers.

JP Meyers says that where he lives, there are two blue sign roads, one has never been maintained and the other one was paved by the residents which doesn't meet any standards and has no business being a blue road. His opinion is that they should all either be county roads or private roads.

Judge Clinard said that is what the law says. In addition, he stated that there is a whole section in the ordinance that says how the asphalt has to be made. He said that the only thing they need to do is buy asphalt that meets the Arkansas Highway Department's standards from the asphalt companies. There are many things like this in the "Road Plan" that need to be clarified and updated.

JP Meyers stated that the Blue Book was re-written and suggested that Judge Clinard and the Road Department write a new plan and submit it to the Court for review, public opinion, and approval.

Judge Clinard said that is what they are going to do; they are just explaining why they are doing it. He said that this plan can either be in the County Development Plan accepted by the court by ordinance, or it can be a stand-alone document accepted by the court.

JP Sandlin stated, whether it was legal or not legal, a lot of the roads were accepted by a county judge in the past, some with the county assuming the responsibility of maintenance of the roads and some that the county was not accepting the responsibility of maintenance, and each of these would have be reviewed individually.

Judge Clinard said that, if the plan is to accept so many miles of roads, it will affect the county budget. Also, the condition of the roads is unknown, but historically the blue sign roads are not in very good condition.

JP Adams said that the road plan could possibly have to go back to the Planning Commission, other than just being approved by the court.

County Attorney George Spence said that if there is going to be a road plan, it has to go through the Planning Board process and then it will eventually come to the court. He does not know if what they currently have went through that process or if it just went straight to the court. He stated that usually, when there is any kind of change to a plan, it has to go through the Planning Board. Any changes made now will have to be initiated this way.

JP Adams said this will need to be addressed before the next meeting.

JP K. Harrison said he does not believe it went through the Planning Board because it was likely passed before the Planning Board was established.

County Attorney George Spence said that the provision of the code states that the Quorum Court can take on the responsibilities of the Planning Board by ordinance so they may have done that. Whether or not they did that, he does not know, but whatever they go forward with now, they are going to make sure to follow the proper process.

Update: Progress Report on War Eagle Bridge Project

Judge Clinard stated that the latest report from Great River was on the dashboard. They are going to begin on September 9th to do the onsite inspection. All of the proper people have already received notification that the bridge will be completely closed that day. He said that, to his knowledge, they are on schedule.

Road Department – Capital Needs

Administrator of Public Services Jeff Clark gave a brief overview of the old equipment that needs to be replaced. The only new thing that they will be adding and not replacing is an Asphalt Crackfill Machine. The pickups that need to be replaced are worn out and way over on the mileage. The D5 is replacing a 2001 machine.

JP Sandlin asked if they ever go through the Federal Surplus.

Jeff Clark said that, if they buy something from the Federal Surplus, they buy it with the idea that they will have to do maintenance on it.

JP Meyers asked why they need a new 50-ton lowboy trailer.

Jeff Clark said that it is completely worn out and he does not think they can patch it up anymore.

JP Moore made a prediction that this will be tough to get through Finance.

Jeff Clark said that they are projecting about \$500,000 for trade-in value which will put them at the \$3,000,000 mark. He stated that there is a priority list on the dashboard. Road graders are currently their top priority.

JP K. Harrison said that the lowboy and tractor should be the top priority since it is a safety issue.

Jeff Clark said that they can always move it up on the list. He was prioritizing based on what they use on a daily basis. He stated that they wouldn't be using the lowboy if they felt it was a safety issue, but it has certainly become a maintenance money pit.

JP Anglin thanked Jeff Clark for itemizing the needs and listing them so they could see it before the budget meetings.

JP Sandlin requested figures on how much maintenance money is currently going out to keep this equipment running.

JP Adams asked the JPs to review the information presented in preparation for the upcoming budget meetings.

Sheriff's Department – Vehicle Needs

Chief Richard Connor from the Benton County Sheriff's Department presented the capital request for the Sheriff's department. He stated that this is currently a floating number because of the request for five new positions in personnel. As far as vehicle needs go, they have been working on a fleet management plan and they are pretty close to a set rotation to determine the expectations for what the number will be for vehicles for their department. Some of the unknowns are due to the Chevy Tahoe, which is a fairly new vehicle for police. One thing they are doing differently this year, to give a better estimate as to what a vehicle actually costs, is that, in the past, the price estimate given has been for the car only, but now they are including the cost of every piece of equipment that has to go into a car as well. They realize that this number is high. They try to rotate and reuse the equipment they get but the models of the vehicles keep changing, which makes it impossible to reuse the current equipment. For example, the cages in the Dodge Chargers will not fit in the new units, and it is the same for the Chevy Tahoes. They will not always need all the equipment for every vehicle, but it is a case-by-case basis. If it still fits and they can reuse it, they will.

JP Moore stated that the old Ford Crown Victorias were hardly changed at all so almost everything could retrofit into them.

Chief Connor believes that was intentional so equipment could be reused. He went on to say that they need five Chevy Tahoes right now to replace the ones with high mileage. If they add the additional five field deputies (this need projection is based on the population of the county and the number of the calls they are getting), the number for just the Chevy Tahoes is \$237,000 less than the current number including the new deputies. He stressed that this is a wish list. He said he realizes that they probably won't get five but they would like five. This was discussed.

JP K. Harrison asked how the maintenance has been on the Tahoes.

Chief Connor said they are doing much better than vehicles they have had in the past. He thinks they will have a better estimate on how they are doing when the vehicles reach the five-year mark. The high mileage CID cars number is flexible. He is not for sure that they need Tahoes; they could use a Charger which would be about \$8,000 per car cheaper than a Tahoe. In addition, they are asking for an additional two Chargers, one for the K9 unit and one for the Street Crimes unit, to replace high mileage cars. They also need a vehicle for the Animal Control position that was approved last year. An additional request is a pick-up for the Narcotics Unit.

Benton County Sheriff's Department Major Shawn Holloway stated that, for the jail side, they need three vehicles for the Transport Division. They are requesting two Dodge Chargers and one Chevy Van. They are replacing a van that has 216,000 miles and is on its last legs. They are also replacing a 2006 Chevy Impala with over 100,000 miles and a 2009 Dodge Charger with 207,000 miles. These cars are used for prisoner transport either out-of-state or to the prisons in Southern Arkansas. If they get the Chargers, they can use most of the old equipment and put it into the new cars. The total will be \$26,059 for the van. They will need decals but can reuse the cage inserts they currently have in this new van. In the Chargers, they will have to have decals and inside cages, everything else can be reused. They also need three V-6 Chargers for the Lieutenants. Right now one is driving a patrol truck on loan because his car is dead. The other is driving a Honda Ridgeline truck and the other is driving a Hummer H2. These two cars are on loan from the Narcotics Department. Because of this, these vehicles are being used more than they were ever intended to be. The total amount needed is \$139,284 for five cars and a van.

JP Moore asked if this comes out of the Jail Maintenance Fund.

Major Holloway stated that they purchased five Tahoes out of the Jail Maintenance Fund last year.

Chief Connor reiterated that they are being more straightforward about the expenses this year and including everything that they need for the vehicles.

JP K. Harrison wants to make sure this does not come out of the Communication Fund. He stated that this fund can be used for the radios but should only be used for communications.

Comptroller Brenda Guenther said they will do their best to keep it as simple as possible.

Chief Connor stated that they will need a digital radio system soon. They would like to start putting \$55,000 per year to build the Communication Fund in anticipation of this future need.

JP Anglin asked if the Animal Control vehicle will be used for any other purpose. This was discussed and it was stated that, if there is a 9-1-1 call, it will respond like any other vehicle; however, its primary function is for Animal Control.

JP K. Harrison asked how much money goes into the Communication Fund and how much should be building up each year.

Comptroller Brenda Guenther said that it is \$52,000 under Sheriff's Fees.

JP Adams said that this is more of a Public Safety Committee discussion and should be directed to that committee.

Road Department – Progress Report on Paving Completed to Date

Administrator of Public Services Jeff Clark stated that he got a progress report in from the Asphalt Superintendent Bundy as an email that has been added to the dashboard. As of Monday, Guthrie Road, Miser Road, Patton Road and Dogwood Valley Road are under construction. Guthrie and Miser should be through in the next week and the next one, the week after that, so that they are ending a week apart. The Kincheloe Road and Chamber Springs Road project is going on right now, most of the base is down on this road, and it looks really good. This is about seven and a half miles that was not included on the email list, so he is adding it, and if the weather holds, they should be able to start chip and seal mid-next week. He stated that they are setting up on Looney and Common Wealth right now. They have the base down, they are tight-blading on Looney road and both will be done by the end of next week. Right now, as far as asphalt, they have 7.25 miles of hot mix and 7.8 miles of chip and seal. The chip and seal will go very quickly. They are making sure they have the construction ahead of those. They just finished up Lee Town Road. He has not done a complete walkthrough, but so far it looks really nice.

JP Moore asked if they will get to Fisher Ford this year.

Jeff Clark said it is the next thing on the list and it needs to be done. He said they are doing everything they can to make their 53 miles.

JP Adams gave kudos to Jeff Clark for coming in \$25,000 under budget on the Peach Orchard Project.

Judge Robert Clinard said that Arkansas Code 14-298-120 is the state law that references opening, changing and classifying roads by order of the county court. He stated that it requires five land owners to petition for the change and, if it is accepted as a county road, it must have a 50 ft. right-of-way. He further read that, 'if the owner of the land over which the road shall hereafter be so laid out by the court shall refuse to give a right-of-way therefor, then the owner shall have the right to present his or her verified claim to the county court for damages the owner may claim by reason of

the road's being laid out on his or her land.' Judge Clinard said that the 50-foot easements will be an issue that they will have to deal with. He said that he will have a copy of the law sent out for everyone to read over.

JP Adams thanked the committee and moved to adjourn.

Adjournment at 7:30pm.