

Committee of Thirteen Report

January 12, 2010

The Committee of Thirteen of the Benton County Quorum Court met Tuesday, January 12, 2010 at 6:00 p.m. in the Quorum Court Room, County Administration Building, Third Floor, 215 East Central, Bentonville, Arkansas.

Present: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen, Douglas, Blaty, Winscott, Harrison, Stephenson

Others Present: *County Judge David Bisbee, Comptroller Richard McComas, County Attorney George Spence, Sheriff Keith Ferguson, Coroner Daniel Oxford, Assessor Bill Moutray, Collector Gloria Peterson, Election Commission Chair Bill Williams, Juvenile Probation Director Petie Cobb

Media: Tabatha Hunter – Daily Record

JP Stephenson called the meeting to order at 6:00 p.m.

JP Douglas stated that to keep government running efficiently, and due to the fact that there is the possibility of an investigation in the future, he believes that discussion of the issue of the Rogers remodeling project is not the best thing, and made motion that there not be any discussion of the issue, seconded by JP Harrison.

Motion passed by unanimous voice vote.

PUBLIC COMMENTS:

Bob Kossieck commented on the Beaver Lake Water Watershed Protection Plan and urged the committee members to support the Resolution presented by JP Winscott.

Benton County Judge David Bisbee announced that there has been an estimated 1600-gallon gasoline spill in the city sewer system in Gravette, and that the situation is not critical, but relatively urgent. He said that the county's emergency management team and Haz-Mert are on the scene, as well as the Bentonville Fire Department. He added that they are going to evacuate at least two blocks due to concerns of explosion, and that fumes are getting into some houses. He said he did not want anyone to find out after the meeting that this situation had taken place, and stated that representatives of that area might want to go there.

*County Judge David Bisbee left the meeting.

James Gately stated as President of ABLE and the four-state, multi-base Regional Water Council that he is involved in many water issues, and commended the recognition of the resolution on the Beaver Lake Water Watershed Protection Plan. He stated that protecting the lake is crucial, and that the major threat to the lake is indeed storm water runoff. He stated that while the resolution correctly reflects the need to have all four counties involved, it is un-needed for two reasons. He said first, it is redundant of what is already being organized as the Beaver Lake Partnership, which he believes is in a much better position to reach all four counties; and secondly, creating another body which is trying to accomplish the same

thing becomes counterproductive. He stated that he would rather have the county support the efforts of Chris Glass, as the County Judge's representative, to form a true stakeholder's group to work on a county land use plan. He added that citizens have spent a great deal a time and effort on meetings to develop a vision for this county, and those efforts need to be recognized by supporting the creation of this group to develop a county land use plan to be brought before this body for consideration.

Mike Malone, Executive Director of the Northwest Arkansas Regional Council, stated that after learning of the resolution being presented by JP Winscott, he would like to clarify that the Council has been putting together a group of volunteers to come together and figure out positive projects to work on in the Beaver Lake Watershed. He said it is envisioned as a partnership, modeled much like the Illinois River Watershed Partnership, and they have been having organizational meetings. He said this group is a little different then what JP Winscott has presented, but that it is out there with a lot of the same goals. He said that they may compliment each other very well, and added that he wanted people to be aware that the Council is trying to set up this voluntary organization.

Resolution Request: Authorization to Solemnize A Marriage

JP Stephenson asked that the resolution be read in its entirety. Deputy County Clerk Janet Reaves read the proposed resolution in full.

JP Stephenson stated the resolution was prepared by County Clerk Tena O'Brien at his request, as she had received a letter asking that this courtesy be extended to Donald W. Perskinson, authorizing him to solemnize the marriage of Michael Kerr to Michelle Clement on March 20, 2010 in Bella Vista, Arkansas.

JP Stephenson made motion to approve and forward to the January 28, 2010 Quorum Court meeting, seconded by JP Harrison.

Motion approved by unanimous voice vote.

Resolution Request: Adopting a Beaver Lake Watershed Protection Plan

JP Stephenson asked that the resolution be read in its entirety. Deputy County Clerk Janet Reaves read the proposed resolution in full.

JP Winscott made motion to approve and forward to the January 28, 2010 Quorum Court meeting, seconded by JP Lewis.

JP Winscott stated that approximately two and one-half years ago he was asked to represent the county on the Beaver Lake Watershed Advisory Council. He stated that they have completed one phase, and are currently working on the second phase in trying to adopt a constitution, bylaws, etc. in which they can function and operate. He added that these bylaws and constitution are being patterned like the group established in the Illinois Watershed area, and he thinks it is a very workable and doable situation, and he supports that effort. He added that in one of the organizational meetings, there was a strong position that the membership of the board should be opened up to people and organizations outside the regional area of the Beaver Lake Watershed. He stated that he felt the board should be made up of people that are living and functioning in the Beaver Lake Watershed area, and that it should be a representation of people from that area. He added that this resolution is meant to address that issue and to indicate our intent as a county body, that this is what we desire, and what we would like. He added that this resolution is nearly identical to the one recently adopted by the Carroll County Quorum Court. He said the intent is that since this Beaver Lake watershed area is quite large, these board members should be people who are living and working in the area, and have a vested interest, instead of somebody from outside the region, area, or even the state, and that is what this resolution is trying to address.

JP Allen stated that the resolution states that the number of members on the board shall be based upon the geographical areas of the each county within the watershed and asked JP Winscott asked if the number of members on the board is going to be based on population, area of the geography, or the

property that they own. He asked how they are looking at delineating who can be on the board of directors.

JP Winscott stated that had not been determined by the constitutional committee, and added that he would hope that this would be a pro-rated board, by either land area or population in those areas, and that each area would be represented and have a seat on the board.

JP Allen stated that he was not saying whether he opposed or supported this at this moment. He added that before he votes on it, he would like to know how the members will be determined or how they will be delineated, because that would make a big impact on who is going to be on the board of directors.

JP Wozniak asked JP Winscott if he is proposing a separate group from the one being organized by the Northwest Arkansas Council, or if he is trying to change something that they are trying to put in their bylaws. He added that it sounded like JP Winscott is saying that he does not like the way the bylaws or constitution is being written, so is he trying to change that or is he trying to set up a whole separate group.

JP Winscott stated that he is not trying to set up a separate group, that they are trying to work within that group, and that was the full intent – to stay in the group, work with it, and contribute to it. He added that the way he interprets this, and the way he sees it, is that this would limit the people who could serve as board members of this newly formed organization.

JP Wozniak stated that he does not have a problem with JP Winscott trying to work within the group, but that this looks like that he is trying to set up a whole separate group, and that it looks like he want an independent group other than what is already out there.

Further lengthy discussion was held on the proposed resolution adopting a Beaver Lake Watershed Protection Plan.

JP Douglas stated that he has a little problem understanding where this is going. He stated that he is fully in favor of protecting the Watershed, but without any bylaws to look at, or knowing the whole purpose of the organization, that he is concerned that we are saying we are in favor of a protection plan when we do not know what the plan is. He added that he has a problem supporting this as it looks right now, without getting more information on how these directors will be chosen, and how they will ensure that everybody that lives and works in the watershed is equally represented.

JP Winscott stated that the intent is to copy the Illinois River Basin Water constitution and bylaws, maybe not verbatim, but a similar pattern is what they are trying to implement.

JP Douglas stated that before he could vote on or support the plan, he needs to know what all is involved in it, and how it will affect everyone there.

JP Winscott stated that the bylaws have not been written yet, and that this is only to address the geographic limitations that the board members have to come from. He added that the only intent of this whole resolution is to state that the board members have to come from the Beaver Lake Watershed.

JP Douglas stated that he still has concerns about the whole process, and that he would like a little more time to study and gather more information.

JP Douglas made motion to table the proposed resolution until the February 9, 2010 Committee of Thirteen meeting, seconded by JP Sandlin.

Motion approved by unanimous voice vote.

JP Stephenson stated with approval of the court that he would like to continue the discussion of the motion that was just passed.

JP Wolf recognized Mike Malone and asked if he would take the podium for further questioning. Mike Malone stated that the organization is still a work in progress so the bylaws have not been written. He stated they are trying to set up a program like the Illinois River Watershed Protection Plan. He added that once the bylaws and constitution are in place, the council will be charged with identifying non-

regulatory projects to benefit the Beaver Lake Watershed, such as education programs for small landowners. He added that there will be a meeting at 3:00 p.m. on January 26, 2010 at the Jones Center in Springdale, Arkansas.

JP Stephenson asked if it was the desire of the Committee of Thirteen that this resolution go to the Environmental Committee prior to coming back to the Committee of Thirteen, and added that it seems to be the appropriate thing.

Discussion was held on what committee the proposed resolution should go back to first.

JP Wincott stated that the original motion was that it be tabled and brought back to the next Committee of Thirteen meeting.

Further discussion was held concerning to which committee the proposed resolution should be forwarded, when it should be forwarded, and the procedures necessary to accomplish that. County Attorney George Spence stated that since the motion to table to the next Committee of Thirteen meeting has already passed, if they instead want to send it to the Environmental Committee, then a motion will have to be made to take it off the table immediately, and send it to the next Environmental meeting.

JP Allen made motion to take the proposed resolution off the table, and send it to the next Environmental Committee meeting, seconded by JP Sandlin. JP Wincott stated that it would be his intent to bring it before the Environmental Committee, at such time that drafts of the constitution and bylaws are available. JP Moore stated that they need to vote on JP Allen's motion. JP Stephenson stated that the motion needs to be restated to say that "JP Wincott will bring it forward to the Environmental Committee, when it is appropriate." JP Allen withdrew his motion, and the second was withdrawn.

County Attorney George Spence stated that if the item is left on the table, JP Wincott can take it to the appropriate committee at the appropriate time, so he does not think any other action is necessary. JP Allen pointed out that there is still a motion in place, to table to the next Committee of Thirteen meeting. JP Stephenson asked how to rescind the motion to table it. County Attorney George Spence asked if the committee is wanting to bring it up at this time. JP Stephenson replied "no". County Attorney George Spence stated that if they want to leave it postponed indefinitely, then they do not need any other action, adding that when JP Wincott is ready he can take the resolution to the Environmental Committee; they can take it up from there. JP Stephenson stated that he did not have any objection to that.

JP Wolf pointed out that since the motion that passed was to table to the "next" Committee of Thirteen, then the word "next" needs to be taken out of the motion.

JP Douglas stated that his motion to table originally stated "the next" Committee of Thirteen meeting, so he thinks technically they need to remove that motion from the table, and then table it indefinitely, so that whenever JP Wincott brings it back up, he can bring it to the Committee of Thirteen. JP Douglas made motion to remove the previously tabled motion from the table, seconded by JP Wolf.

Motion passed by unanimous voice vote.

JP Douglas made motion to table the proposed resolution indefinitely, seconded by JP Allen.

Motion passed by unanimous voice vote.

Resolution Request: Asking for Increase in Reimbursement for State Prisoners

JP Stephenson asked that the proposed resolution be read in its entirety. Deputy Clerk Janet Reaves read the proposed resolution in full.

JP Stephenson stated that this is an ongoing quest to receive adequate reimbursement for the costs of maintaining prisoners in our county jail. He added that this has been discussed on numerous

occasions and is an item that he feels very strongly about personally. He stated that he would urge the committee to support the resolution.

JP Moore reported that he had read in the paper, that the State was cutting another \$1.6 million out of the budget, and that a good part is coming from the Department of Corrections. He added that they have a new prison ready to open, but they do not have the funds to open it. He stated that in addition to sending this resolution to the Governor of Arkansas, the State Legislature, and the Arkansas Association of Counties, he would recommend that a copy be sent to the other seventy-four counties in the state. He said they could modify this as they would see fit, pass resolutions of their own, and send them to their own Representatives. He added that he did not think that there was anything in the resolution that any county could not support.

JP Stephenson stated that he did not have any objections to that.

JP Douglas stated that he does not see any hope of this resolution getting a bus up here to take 130 prisoners out of the Benton County Jail and down to the state facilities, or to get a big check in the mail from the state. He added that he feels like this is telling the state that they need to get their house in order; we are tired of spending county money to build jails and house prisoners that the state is supposed to take care of. He said that the State needs to take care of business, look at the problems they are having, and come up with some solutions. He stated that he supports this resolution.

Discussion was had on adding additional language to Article 3.

County Attorney George Spence stated that with the additional language, Article 3 would read that “the County Clerk is directed to send copies of this resolution to the Governor of the State of Arkansas, all members of the General Assembly representing some part of Benton County, the Arkansas Association of Counties, and the other counties in the state, who are urged to pass similar resolutions.”

JP Moore made motion to adopt the additional language to Article 3 as suggested by County Attorney George Spence, seconded by JP Sandlin

Motion passed by unanimous voice vote.

OTHER BUSINESS:

JP Douglas stated that he had received a call from Circuit Judge Xollie Duncan and that the judges are interested in putting together a committee or task force to work with all the other department heads and elected officials, to determine what they feel are the realistic needs in the future for buildings and space requirements. He said that they need to get the information from the people that are working in these departments everyday, and see what their needs are. He added that he thinks it is an excellent idea, because the court cannot say what the needs of Circuit Judges are, or what the needs are of the Public Defender, Prosecuting Attorney, Assessor, or Collector; we need their input.

He stated that he wanted to open this up for discussion and that Judge Duncan suggested having representatives from several different departments, Elected Officials, and a couple of Quorum Court members on this task force or committee. He added that he would like to hear discussion, and if the consensus is that, it is a good idea, he would like to propose a motion that we rapidly move forward on this.

JP Hubbard stated that he does not feel like this is necessary, because this is the responsibility of the County Judge and he and his staff need to address it. He added that the Long Range Planning/Real Estate & Buildings Committee has been asking for this all year. He said the County Judge’s staff needs to meet with the Elected Officials and come up with a plan, and he does not feel like this is a Quorum Court problem. He further commented that the Quorum Court members are not the executives that decide this; they are the legislators. He added that he feels like they have been let down in this area, and that if the Quorum Court wants to do something and feels like it is not getting done, then they need to go

back to the County Judge and deal with him on the issue. JP Hubbard stated that he does not want a little group of judges to sit down and present a plan with a few Quorum Court members involved, because he feels like this is something that the County Judge needs to be responsible for and to be looking at.

JP Brown stated that he agrees and that the judges should have said something three years ago, if they wanted input on what we are going to do in the future. He stated that he basically agrees with JP Hubbard that this is not the court's job, and that we have been beating our heads against the wall over this for the past three years.

JP Wolf stated that she does not see anything wrong with the Judges coming up with a recommendation to give to the County Judge, especially if they are at an Elected Officials' meeting. She added that while she does not think that the decision can be made by anybody but the County Judge, she does not see anything wrong with a recommendation from this group being given to the County Judge.

JP Winscott stated he has been Chair of the Long Range Planning/Real Estate & Buildings Committee for a year, and that he has seriously made at least three attempts to meet with one of the Circuit Judges and that he could not even get a returned telephone call. He added that he had told the Judge's secretary that he would meet with him anytime he was available, to discuss some of these long-range plans, and that he still has not had a response. He added that he had made an effort to include them and to get their input. He added that he still has not received a telephone call back even though he was promised three times that they would let him know in twenty-four hours when the appointment would be, and that he had waited a week and tried to return the call and get information. He stated that he shared the same opinion as JPs Hubbard and Brown in that we have been working on this thing for five years, it has not been done in a closet, it has been in the newspaper, it has been discussed here openly for many years, and they have had plenty of opportunity for input and to verbalize their considerations. He added now that we are ready to act and ready to start laying bricks and fund a project, they want to get in and say hold off, and he has a real problem with that.

JP Hubbard stated that he would like to respond to JP Wolf's statement. He said he believes that every Elected Official should be able to have input on their building needs anytime they want, but that communication line is with the County Judge. He added that if there is a breakdown in that communication, and the Quorum Court becomes involved, he thinks that should come from the Quorum Court and the County Judge. He said that this is part of his job, to lay these plans out and to work on the building needs, and these Elected Officials should have open communication with the County Judge on their building needs anytime that they want.

JP Wolf stated that she agreed.

JP Stephenson stated that we certainly need the input of any Elected Official in the county, but that the proper channel for that is through the County Judge. He stated that he would not personally be in favor of setting up yet another committee because he does not think that there is need for another one. He stated that it was his understanding that all of the county departments and Elected Officials meet on a regular basis anyway. He added that we need to keep the division that the County Judge is the County Judge and that we are the Quorum Court and that the County Judge is the buildings and roads guy.

JP Moore stated that if the Circuit Judges wanted to get together, have meetings, and pull other people in, then that is their right, and they can do whatever they want. He stated that the Quorum Court also has the right to take or leave whatever they come up with.

JP Douglas stated that the Circuit Judges realize that. He added that they are just trying to help get more information on what the future needs may be. He added that they would be working with the County Judge, and if he wants to set up a committee and work with them, and direct that through the Long Range Planning/Real Estate & Buildings Committee, then that would be the direction to go. He then asked if that is what everybody wants.

JP Stephenson stated that the County Judge is actually the only one with authority to set up a committee. JP Hubbard stated if elected officials are having problems with the County Judge not meeting with them or not listening to their needs, then that is when they can come directly to the Quorum Court. He said that is the breakdown he was referring to earlier. JP Allen stated that it could be the other way around if JP Winscott has been trying to get in touch with a Circuit Judge for three years.

JP Lewis stated that she was also contacted and that it was reiterated to her several times, that the Circuit Judges do not want to step on the Quorum Court's toes, but that they wanted to do this. She added that if that they want to get together with the County Judge, she felt that was fine. She added that future members of the Quorum Court should be given the plans being worked on, so that they would know what has been worked on already.

Comptroller Richard McComas stated that the County Judge has had Elected Officials' meetings the last two months and that he has meet with the Circuit Judges at least twice, maybe more, so he is meeting with them.

ANNOUNCEMENTS:

JP Winscott stated that a Long Range Planning/Real Estate & Buildings Committee meeting notice was sent out today for Thursday, February 4, 2010 at 5:30 p.m. and if any member cannot attend please let the County Clerk's office know. He stated that if that date is a problem, they could consider moving it to another day, possibly Wednesday, February 3rd.

JP Brown asked what the purpose of the meeting is. JP Winscott replied that it is to hear a plan from the County Judge on the building program.

JP Hubbard asked for an update on the on the JDC, and that he thinks that is the issue that is spurring a lot of this Circuit Judge talk. He stated that he has heard a lot of discussion about the possibility of a different building for the JDC. He stated that nothing was tied into buying the St. Mary's building but he thought that it was assumed that if we bought the Center For Nonprofits space, the existing health department building would be vacated to become the new JDC. He added that now he has heard talk about revisiting the Hwy 12 property, and not moving the JDC. He stated that nothing was tied in with moving to St. Mary's, but at the same time it seems like it was assumed that moving the JDC to the health department building was part of the process.

JP Stephenson stated that it was more than just an assumption from his point of view.

JP Hubbard stated that it is more than an assumption, but it was not written into the ordinance.

JP Sandlin stated that it had been discussed, but that she did not know if there was a motion per se.

JP Douglas addressed JP Hubbard's statement, stating that he was correct in that it was an assumption, but as far as the minutes, or the motion, nothing was definitely tied to using the old Health Department building for the JDC, but he thinks that is what everybody assumed was the intent at the time. He added that hopefully the Long Range Planning/Real Estate & Buildings meeting can shed some light on where we are.

JP Allen stated that he thought that it was tied to it, and that the court actually did specify, and he would like someone to look into that. He added that it certainly was batted around and discussed and he felt that was the intent, and thought that was also what the language said. He added that he was not concerned, and that he is not going to operate on speculation and rumors.

JP Wolf stated she believed that it should be in the minutes, and that she did recall that they were very specific. She added that she believes that the County Judge even made the statement that the court was telling him that the Highway 12 building is dead, and they as a group agreed. She added that she does not know why the Highway 12 building is even being rumored about, and that she felt that it was understood that the JDC was going to the health department building, not to say that it is, but that she does know that the Highway 12 building was dead.

JP Brown stated what he recalled was that there was a motion made and duly seconded to do the Center For Nonprofits, but there was never a motion on what to do with the old Health Department. He said it was just discussed, but there was never a motion saying what it would become. He added that the only motion that was made and voted on was to buy the Center for Nonprofits.

JP Hubbard stated that before the Quorum Court meeting, they received an email from the County Judge that broke down his two plans; one plan included purchasing space in the Center For Nonprofits, and the other plan included the purchase of the Highway 12 building. He stated that is where they got this assumption about the JDC being moved to the old Health Department building, and agreed to go with the nonprofit purchase, but then in the actual motion, we basically just bought a building. He added that moving the Health Department was all that really got done, and now it sounds like the plan has changed.

Richard McComas stated that they approved the Center For Nonprofits appropriation, and approved getting together some numbers for an architect, which is what the County Judge is working on now, and is the next step that he will be bringing to them. He added that those plans included the Center For Nonprofits and the jail barracks, and as far as anything else, he did not know if they were going to bring architect plans or not.

JP Stephenson stated that they were to come with architect plans for the present Health Department facility, and that he felt it was time for them to receive some plans.

Richard McComas stated that at the February Finance Committee meeting, they may see an appropriation asking for the architect fees.

JP Winscott stated that if he understands County Judge David Bisbee correctly, he plans to come to the Long Range Planning/ Real Estate & Buildings Committee meeting on February 4, with details and plans that are more specific.

JP Hubbard requested that the plans be sent out with the agenda, adding that he would like to get them before the meeting.

PUBLIC COMMENTS:

None

ADJOURNMENT:

Upon motion and second the meeting adjourned at 7:30 p.m.