

## Committee of Thirteen Report

February 14, 2006

The Committee of Thirteen of the Benton County Quorum Court met Tuesday, February 14, 2006 at 5:00 P.M. in the Quorum Court Room, County Administration Building, Third Floor, 215 East Central, Bentonville, Arkansas.

11 JPs Present: Adams, Harrison, Hill, Moore, Schindler, Sheridan,  
Stephenson, Summers, Tharp, Wolf, Wozniak  
2 Absent: Allen, Sampier  
Others Present: County Judge Gary Black, Sheriff Keith Ferguson, Gene Drake,  
Comptroller Richard McComas, County Attorney Ed Gartin,  
Jim Ecker, Marshal Watson,  
Media: Jennifer Turner – Daily Record, Joe Askins – Morning News

JP Tim Summers called the meeting to order at 5:00 p.m.

### **PUBLIC COMMENTS:**

Hickory Fire and Rescue Chief Robert Benton spoke in support of the Benton County Water Rescue Dive Team, saying that going to a water accident scene without them would be the same as going to a car accident scene without the jaws of life. He also recalled an incident in which an aircraft went into the lake, and the dive team was successful in rescuing the two occupants and securing the airplane for the FAA.

Spencer Offenbacher spoke in support of the Benton County Water Rescue Dive Team, and said that the Dive Team practiced the Golden Hour rule of rescue, and felt that anyone who did not believe in that rule should not be in the business of rescue.

Robert Kossieck stated that it was unusual to have public comments before the meeting, and that they should come after the meeting so the public could comment on what the meeting was about.

### **NEW BUSINESS:**

#### **1. Discussion – Dive Team Power Point Presentation**

JP Summers stated that during the 2005 budget meetings, the question was raised as to why there were two different dive teams, and this was an attempt to answer it. He said that the Sheriff had not been involved in the discussion, but the Quorum Court wanted to know if they would be better served administratively if both dive teams were under the same department. Training Officer Joshua Billis presented the Power Point presentation which outlined the Benton County Search and Rescue Dive Team's history, organization, and responsibilities. JP Summers asked what happened when someone calls 9-1-1. Joshua Billis stated that the Search and Rescue team responded along with the Fire Department. JP Stephenson asked to

whom this organization was accountable. Joshua Billis stated that the Water Rescue Team was under the direction of the Department of Emergency Management. JP Stephenson asked to what degree they were subject to Director Marshal Watson's oversight. Joshua Billis stated that Marshal Watson had final say over all decisions. JP Stephenson asked what type of background check was performed on their members. Joshua Billis said that they are working with the County Attorney on an expanded form for background checks. Marshal Watson stated that up until now they have not had a means to run some types of background checks, and they are developing a new volunteer application that will allow them to run a limited background check for criminal history and driver's license history. JP Stephenson asked if the process had been ongoing for several months. Marshal Watson stated that the issue had just come up in the last couple of months, and that he has taken the application to County Attorney Ed Gartin for review. Joshua Billis stated that in the past the application had been pretty basic, and that members signed a medical waiver and took the constitutional oath. JP Stephenson asked what the county's liability was in the case of injury or death of one of the volunteers. Joshua Billis stated they are covered under Workmen's Compensation through the Department of Emergency Management.

JP Moore asked Joshua Billis to tell them the difference in the missions of the Water Rescue Team and the Sheriff's Office Dive team, and why he felt the two should remain separate. Joshua Billis stated that he felt the Water Rescue Team's main focus was on timely rescue, and while he could not answer for the Sheriff's Office Dive Team, he felt they were more focused on crime scene recovery. JP Adams asked what percentage of rescue scenes are also crime scenes. Joshua Billis stated that technically everything is a crime scene. JP Adams asked at what point command of the scene is relinquished to the Sheriff's Office. Joshua Billis stated that once the hour has passed and it is no longer a rescue operation, control is relinquished to the Sheriff's Office. JP Adams asked where the Water Rescue Team does their training. Joshua Billis stated that they go to Springdale for their Diver Certifications, but that some training is done in Benton County. He said that they sometimes go outside the county when training through Dive Rescue International. JP Adams asked why they had to go outside Benton County. Joshua Billis stated that to avoid philosophical conflicts, they have opted to train outside the county.

JP Stephenson asked why the two operations cannot be combined. Joshua Billis stated that there were differences in views of how the team should be run, along with safety issues dating from when the team shut down in 1996. He said that the members of the old team are now on the Sheriff's Office Dive Team. JP Wolf stated that it appeared to her that there are more turf issues than anything else, and that either team would be concerned with rescue. She said that she still did not understand the problem other than turf, and if it had been a problem since 1996 she wondered if they had tried to sit down and discuss the issue or just let it continue. Joshua Billis stated that for a long time it had been a turf issue, but that at the present they do not have any disagreements. The Water Rescue Team performs their jobs, and the Sheriff's Office Dive Team performs theirs. He said that they have recently had some joint training exercises. JP Wolf asked if they had sat down together and talked about how they could work together. Tactical Operations Leader Troy Banz stated that they had sat down and attempted to create a meaningful dialogue in regards to joint operations involving both teams. He said that each time it was attempted they came to the clear conclusion that joint operations were

not going to be a satisfactory option. He said that it still went back to the basic belief that the Water Rescue Team operates towards, which is that time is of the essence when an incident takes place in the water. He said that although there are a number of factors that contribute to a victim's chances of being rescued successfully, they believe that there is always a chance. JP Wolf asked if they were suggesting that the Sheriff's Department is not on the scene to save someone, but is only there to collect evidence. Troy Banz said that was a question that he could not answer. JP Wolf said that it was an insinuation that he seemed to be making, so she would like him to answer. He said that quite frankly that was the exact impression that they had been given on more than one occasion—that the interest was not in a rapid attempt to get to the scene in a timely manner. JP Wolf said that it would seem they need to speak to the Sheriff's Department. JP Wozniak said that it sounded like kids fighting over whose ball it is, and that perhaps they should put everybody in a room and not let them out until they get it squared away. Troy Banz stated that they have an agreement in place that allows both teams to operate, which states that Water Rescue makes the first response, follows the golden hour protocol in the attempt to make a save, and after that hour expires and the operation becomes only recovery, then the scene is turned over to the Sheriff's Department. JP Wozniak asked why they are here today, if there is a workable agreement in place. Troy Banz stated that they were under the impression that their team was about to be discontinued. Several JPs asked from whom they were given that impression. Troy Banz stated that they wanted to make a presentation to the Quorum Court because over the years there had been continuing questions about their capability. DEM Director Marshal Watson stated that it had been communicated to him by Judge Black that the Committee of Thirteen wanted more information on the Water Rescue Dive Team—what they did, how they did it, and that was why they made the presentation. JP Wozniak stated that they had done a good job on the presentation, but then it seemed like there was a lot of disagreement, although now Troy Banz has told them that there is a working agreement. Marshal Watson stated that they do have a good working agreement, and the intent of the presentation was simply to share information on the team. He said that there had been a question of redundancy between the two teams, and the answer to that question is that they are not performing the same function as the Sheriff's Office Dive Team. He added that it is his opinion that there is no conflict between the two teams at this time. JP Adams stated that he believed the question was raised during the Budget Committee Meetings as to how they could save money, and was there a redundancy of function between the two teams. He said that he is concerned that money is being spent outside Benton County because there is a disagreement in training. He said that any diver trained in CPR will save a life if they can, and he has to take issue with saying that the Sheriff's Department divers would not do that. JP Adams asked if evidence had ever been compromised by the Water Rescue Team. Troy Banz replied that it had not.

JP Stephenson said that he was more frustrated and disappointed now than he was initially. He said that he thought they had some very small-minded turf issues going on, and that at the last budget session there had been two requests for training facilities that in his opinion were duplicates. He said that the organization had received a black eye in the press recently when it was discovered that a registered sex offender had been a part of it, and that even after that bad publicity he is told that they have taken several months to get a background check process in place. He said you can do a background check on anyone who wants to be a part of your

organization, and he does not understand why it is not being given priority treatment. He said that he believes both organizations perform a valuable service, and he does not see a difference in goals and the argument for keeping them separate is very weak.

JP Tharp stated that he did not know there was a problem, but it sure looks like it to him now that there is a problem. He said that they are all on one team, and the goal is to make the county safe and perform rescues when needed, and do due diligence to crime scenes. He says there is a terrible disjointedness which is very evident. He says that it appears to him that although they currently work for different elected officials, they need to get together and be one team. He said that when the Sheriff arrives, there should not be anything to give up, because the Sheriff should take over the scene because he is the law enforcement in the county. He said that he is uncomfortable that they still have not heard the Sheriff's Department's side, but he thinks they all need to get together and have a group hug.

JP Schindler asked for someone from the Sheriff's Office to answer how many members they have and how many locations. Sheriff's Office Dive Team Captain Danny Dickey stated that they have 15 volunteers, and they are housed at one location. JP Schindler asked how they were funded. JP Summers stated that the Water Rescue Dive Team is funded separately, and the Sheriff's Office Dive Team is funded through the Sheriff's Department. JP Schindler asked if the members of the Sheriff's Dive Team were sworn deputies. Danny Dickey stated that 6 of the volunteers are sworn deputies, and everyone on the team goes through a background check because they are employed by the Sheriff's Office.

JP Moore asked if surrounding counties have a Water Rescue Dive Team. Troy Banz stated that they do not, that they request mutual aid from Benton County. JP Moore asked if the facility they had requested was modeled after the one that Washington County has. DEM Director Marshal Watson stated that what they had envisioned was housing both the Search and Rescue Team, which performs high angle and confined spaces rescue and locates lost persons, and the Water Rescue Team in the same facility. He said he believed that is where the confusion surrounding the budget arose, because they had requested half the amount in the Search and Rescue budget, and half in the Water Rescue budget. JP Moore asked if the Water Rescue unit was a part of Marshal Watson's department. Marshal Watson said it was a subsidiary of it, just like Fire Service, Search and Rescue, and LEPC which are all government agencies that the Department of Emergency Management represents for the county. JP Moore stated that perhaps they should fold the Water Rescue budget into his department at some point. JP Summers said it was already in his department.

JP Summers stated that this had all come about during budget discussions, and they had questioned for several years why there were two separate teams. He said they had decided this year to find out why and make a decision as to whether they would continue to fund two separate teams. He said they appreciate the job that they do, but the Quorum Court's goal is to spend the dollars in the most efficient way possible. He suggested that they sit down with the Sheriff's Department and try to figure out the best way to work together. He said it appears to him that they are trying to maintain two separate divisions when they are basically doing the same thing, and he does not see why they cannot work together. He said they would revisit the issue in two or three months and make a decision then.

Sheriff Keith Ferguson was recognized and stated that he and Judge Black had inherited the situation of two separate dive teams and that they did have some disagreements. He said the

county does not fund the Sheriff's Department Dive Team, and he will not do without it. He said they come out of his budget and fall under his supervision. He said they provide service to the community in search and rescue as well as protection of the crime scene. He said his team has gone to law enforcement school and are taught search and rescue as well as how to preserve the evidence at the scene. He said that most of them have been trained in CPR, and are EMTs. He said he does not want to take anybody's organization away from them, and his team is there to serve the people in the proper way that they should be served. He noted that it becomes a traffic problem when 30 people on the Search and Rescue Team and 15 people on the dive team are headed down to the lake with red lights and sirens and blue lights. He said that might be necessary in a major disaster. He said that even if the Water Rescue Dive Team has 15 locations and the Sheriff's Dive Team only has one, that if something happens by that 112 bridge, he did not know if anyone could get there within that golden hour, even his team. He said that the Water Rescue team gets called first because they are under the direction of the same Elected Official as CenCom, and CenCom directs the 9-1-1 calls. He said that they have two different elected officials running two different organizations, trying to accomplish the same thing except the Sheriff's Office is law enforcement, and the majority of the time a law enforcement function is what is needed. He said that although the Sheriff's Office Dive Team wants to save whoever's out there, he had been here 35 years and could count on one hand the number of people who have been saved. He said if they can save one, then they've accomplished everything they've set out to do. He repeated that he would continue to fund his dive team, and that it would continue under his command as a law enforcement function. He said they would continue to take charge of any crime scene. He said his department has to preserve evidence that may have floated out into the water in order to make a case in court, and the officers that work for his dive team know how to testify in court, and how to preserve a scene until CID gets there. He concluded by saying that it was fine if they continued to fund the Water Rescue Dive Team, but he is still going to have his dive team under his command because they're trained in the Sheriff's Office and in the law enforcement side. He asked if there were any questions.

JP Tharp spoke and again encouraged the two teams to work together, and noted that there was no contention between the Fire Chief and the Chief of Police in Decatur because they both understand their roles. He added that he wanted to applaud both organizations and to make it clear that he was glad they were there. Sheriff Ferguson said that the current arrangement was working fine for him, and whatever they decided to do with the budget was fine. He said he just wanted to get his point across that they have a little bit different function than the Search and Rescue team has, and no organization can work with two bosses.

JP Wozniak stated that they may have two functions, but they need to have one head, and asked if the Search and Rescue Team had ever been offered or asked for training in the law enforcement side. Sheriff Ferguson stated that he and Judge Black had met sometime last year and asked the teams to train together, but that since they were volunteers, they could quit if they were asked to do something they did not want to do. He said he did not know if it was followed through with after that.

JP Adams stated that he wanted to echo JP Tharp's comments, and that they simply wanted to save money for the taxpayers. He said they have to make sure that all services are done correctly and fairly, and while both departments are doing that, they should try to find a way

to do it together. JP Summers stated that he did not know when the issue would come back up on the agenda, but that hopefully in the meantime the two department heads could have some conversations. He asked the volunteers from the two dive teams to stand and be recognized, and thanked them for their service.

## **2. Discussion – Road Department Equipment Purchase Policy**

JP Moore stated that Assistant County Administrator Travis Harp had requested permission to spend surplus money in the Road Department Budget without prior approval in order to expedite equipment purchases and to allow them to take advantage of prices that were sometimes in effect for only short periods of time. He said that in talking with Comptroller Richard McComas, they had decided that it was not necessary to take any action, since smaller purchases could be made without Court approval anyway. He withdrew the item from the agenda.

## **3. Resolution Request – Acceptance of 2003 Legislative Audit Report**

JP Stephenson made motion to forward the proposed Resolution to the February 23, 2006 Quorum Court meeting, seconded by JP Tharp. Motion passed by unanimous show of hands vote.

## **4. Ordinance Request – Appropriations for Maysville, 9-1-1, and District Courts**

JP Adams made motion to forward the proposed Appropriation Ordinance to the February 23, 2006 Quorum Court meeting, seconded by JP Hill. Motion passed by unanimous show of hands vote.

### **OTHER BUSINESS:**

County Judge Gary Black addressed the Committee concerning the proposed Watershed Protection Ordinance. He said that he did not want to take sides or slant the issue, but wanted to address several concerns. He stated that they did not have enough scientific information on the water quality in Beaver Lake, either presently or in the future, and they must decide on how best to protect the water quality while protecting the rights of property owners. He said that they need more information on current regulations and who is responsible for enforcing them, and they need to get expert and objective advice. He proposed using thermal imaging to examine any contamination in Beaver Lake. JP Wozniak said that that would need to be done quickly before the weather warms up. County Judge Gary Black proposed hiring a Watershed Monitor who would be a county employee, or possibly contracting with an engineering firm to monitor the water quality in Benton County.

JP Stephenson commended County Judge Gary Black for his comments and said he felt they were headed in the right direction. JP Tharp expressed his support for the County Judge and his leadership in this area. JP Moore asked what the duties of the Watershed Monitor would be. County Judge Gary Black said it would be an expert on water quality who could be hired for \$60,000 to \$100,000 a year.

JP Sheridan stated that he had received a draft of an ordinance to form a committee to study the Watershed Protection Ordinance in his box, and made motion to forward it to the February 23, 2006 Quorum Court meeting, seconded by JP Tharp. JP Stephenson commented that it

perturbed him that officials from Beaver Lake were asking for a protection ordinance but had not yet cleaned up the mess that they created in Monte Ne Cove. JP Adams stated that now would be a good time to take some soil samples, and perhaps they could get Environmental Services Director Jim Ecker to do it. County Judge Gary Black stated that he was not sure Jim Ecker had the credentials. JP Adams stated that he did not have a copy of the proposed ordinance, and while it may be a good one, he could not vote for it without reading it. Several JPs stated that they did not have copies either. JP Schindler suggested adding the Corps of Engineers to the Committee. The Committee discussed the make-up of the advisory committee. JP Stephenson brought up a point of order, and asked that the discussion be limited to the proposed ordinance only. JP Sheridan suggested sending the proposed ordinance on to the Quorum Court and making changes later if necessary. JP Summers asked County Attorney Ed Gartin if he thought the ordinance was in its final form. County Attorney Ed Gartin said he did not think it could be ready before the February 23, 2006 Quorum Court meeting, but that it would be ready for discussion at the March Committee of Thirteen meeting. JP Sheridan withdrew his motion, and JP Tharp withdrew his second. JP Sheridan made motion to forward the proposed advisory committee ordinance to the March 14, 2006 Committee of Thirteen meeting, seconded by JP Stephenson. JP Tharp stated that he felt it should go to the Environmental Committee first, and they would be meeting February 21<sup>st</sup>. County Attorney Ed Gartin stated that there were several obstacles in the way of having the final version of the ordinance ready. He said that they had decided to give the various citizens' groups time to notify Environmental Committee Chair Bob Tharp that they wanted representation on the advisory committee. He said they then have to nominate their representative and that person has to be contacted by the County Judge to confirm that they are willing to serve. JP Stephenson stated that they needed to use this draft as a vehicle to get the process started. JP Sheridan asked County Attorney Ed Gartin if it was necessary to specify who would serve on the committee within the ordinance itself. County Attorney Ed Gartin stated that those had been his instructions from the Environmental Committee. JP Stephenson asked if the Environmental Committee would be able to have the blanks filled in by their February 21, 2006 meeting. JP Tharp stated that he had every confidence that they could have the various organizations filled in, if not the specific people who would represent them. JP Stephenson suggested pulling the motion to forward the ordinance to the March 14 Committee of Thirteen meeting and sending it back to the Environmental Committee. JP Sheridan withdrew his motion and JP Stephenson withdrew his second.

Chief Building Inspector Glen Tracy reported that the Planning Department has issued 39 permits at an average of \$326 each, and have collected a total of approximately \$12,700. He said they have two full-time inspectors on board, and a permit specialist who is handling the phones and paperwork. He added that the State of Arkansas and local cities have been very encouraging and cooperative, and they have received positive comments from area contractors.

County Judge Gary Black stated that a new directory of County departments and services is available, and urged the JPs to take some to distribute.

JP Adams commended JP Tharp for his work as Chair of the most recent Planning Board Appeal Hearing, and stated the county is basically in its teenage years of growth, and as it continues to grow, more of these issues will come up. He noted that over the last 30 years there have been 5 appeals, and three of them have occurred in the last two months. He suggested that the county seriously look at a written procedural plan for handling various appeals.

**ANNOUNCEMENTS:**

JP Tharp stated that he had given “Call Before You Burn” cards to each JP before the meeting, which were courtesy of the Decatur Fire Department. He added that two weeks ago, the Decatur Fire Department had distributed smoke detectors throughout the entire district and he had been privileged to spend the day assisting them.

JP Moore asked if a recycling container could be placed in the Quorum Court room to dispose of papers that they do not wish to keep after meetings.

JP Moore announced that the Long Range Planning/Properties and Equipment Committee would be meeting on February 28, 2006 at 5:30 p.m.

JP Tharp announced that the Environmental Committee would be meeting on February 21, 2006 at 5:00 p.m.

The meeting was adjourned at 6:47 p.m.