

Committee of Thirteen Report

April 8, 2008

The Committee of Thirteen of the Benton County Quorum Court met Tuesday, April 8, 2008 at 6:30 P.M. in the Quorum Court Room, County Administration Building, Third Floor, 215 East Central, Bentonville, Arkansas.

13 JPs Present: Brown, Glass, Harrison, Hobbs, Hill, Hubbard, Moore, Stephenson, Summers, Williams, Winscott, Wolf, Wozniak

Others Present: County Judge Gary Black, County Attorney Robin Green, Richard McComas

Media: Tracy Neal– Daily Record, Scarlett Simms– Morning News

Chair Tim Summers called the meeting to order.

PUBLIC COMMENTS:

James Gately asked the Quorum Court to stop wasting taxpayer money on unnecessary meetings, for JPs to come to a better understanding of county government and stop trying to micromanage various departments.

NEW BUSINESS:

JP Moore stated that the Road Department is not ready to provide the figures which support the need for the proposed Heavy Operator Bonding Ordinance listed as Item 3 on tonight's agenda, and made motion to table it to the May 13 Committee of Thirteen meeting, seconded by JP Wolf. Motion passed by unanimous show of hands vote.

1. Ordinance Requests: Items Forwarded From Finance

A. Appropriation of Grant Money – Slaughter Pen Road

JP Wolf made motion to forward an appropriation ordinance to the April 24, 2008 Quorum Court agenda, seconded by JP Wozniak. JP Summers stated that this is a grant to help pay for repairs to the bridge on Slaughter Pen Road that were already planned for 2008.

Motion passed by unanimous show of hands vote.

B. Appropriation of Loan Proceeds – County Road

JP Stephenson made motion to forward an appropriation ordinance to the April 24, 2008 Quorum Court agenda, seconded by JP Hobbs. JP Summers stated that this is to appropriate the proceeds of the loan for the Road Department equipment and satellite building which has been discussed since the 2008 budget meetings last October. He noted that they were able to get a very favorable rate of 3.1%.

Motion passed by unanimous show of hands vote.

C. Unemployment Taxes

JP Stephenson made motion to forward an appropriation ordinance to the April 24, 2008 Quorum Court agenda, seconded by JP Williams. JP Summers stated that the county pays unemployment taxes by the reimbursement method, which means the actual cost is paid for the previous year. JP Summers stated that in years past, they simply paid 1.9% of the payroll, but Comptroller Richard McComas advised them to switch to this method several years ago. JP Stephenson noted that this method saves the county between \$150,000 to \$200,000 per year. JP Summers commended Richard McComas for making the change.

Motion passed by unanimous show of hands vote.

4. Discussion: Juvenile Detention Center

JP Winscott distributed an activity report detailing the work of the Juvenile Detention Center Subcommittee, and said that the committee is recommending Johnson-Troillet Architects for architectural services and Crossland Construction for construction management services.

County Attorney Robin Green explained that in order to comply with A.C.A. 19-11-802, the proposed resolution will need to be modified to include three recommendations for the construction management firm and three recommendations architectural firm. She explained that the law does not require competitive bidding for architectural services or construction management services, but if the county chooses to use a contractor, those services will have to go through the bid process. She said that any work overseen by the construction manager will have to be bid out, unless the Quorum Court votes by a 2/3 majority to waive competitive bidding. She read the requirements listed in the law that should be considered when choosing a firm. She said that the law requires that negotiations are to be entered into with the top choice, and if an agreement cannot be reached, negotiations with that firm are to cease, and be entered into with the next choice.

JP Winscott stated that the committee will have to meet again to rank the number two and three firms in each group. He said the top choices that the committee is recommending are prepared to make presentations this evening and then take questions. He added that the 4-member committee of County Judge Gary Black, Jim Ecker, Dennis Cottrell and himself were unanimous in their top choices.

JP Stephenson stated that he is uncomfortable proceeding with the presentations of the top choices without numbers two and three present. JP Moore stated that if he understood the County Attorney correctly, they could hear the presentations from the top choices, enter into negotiations, and if an agreement cannot be reached, have the second choice make their presentation. County Attorney Robin Green stated whether or not they hear a presentation is strictly at the pleasure of the Quorum Court, but they may not enter negotiations with any firm until they are ranked one through three in the resolution.

JP Glass asked the County Attorney if the statute allows for a design/build type firm because it could offer significant savings. County Attorney Robin Green stated that a design/build firm would be an option, and she will look into the requirements for competitive bidding associated with that type of construction. JP Glass asked JP Winscott if the committee had considered this type of firm. JP Winscott stated that the committee interviewed one firm of that type, but is recommending Crossland Construction and Johnson-Troillet Architects.

JP Hobbs stated that since they have to consider the three top choices anyway, she would like the subcommittee to meet again, choose the top three, and then have all of them make presentations and let the Committee of Thirteen vote to rank them one through three. JP Winscott stated hearing presentations from all three firms in each group would be recycling months of the subcommittee's

work, and would take several hours. JP Hobbs stated that they could put time limits on the presentations, but there are 13 members of the Quorum Court, and the subcommittee is asking for a “yes” or “no” on their recommendation. She said that she needs more information, and that is the process that they need to go through, and suggested limiting the presentations to 10 minutes or so, and it could be accomplished in one meeting. JP Winscott stated that the subcommittee simply followed the direction given it by the Long Range Planning/Properties & Equipment Committee. JP Hobbs stated that she is not on that committee.

JP Wolf stated that she appreciates the work of the subcommittee, but it seems like they could recommend three choices and the entire Quorum Court could come to a consensus on the top choice. She added that as far as the procedure tonight, they can withdraw the item, or table it to the next meeting.

JP Summers stated that he is personally comfortable with the recommendations of the subcommittee, with the exception being that he prefers to do business with firms from within Benton County. He added that he still has questions about how the project will be funded, and said that they have to consider what it would cost to add beds to the present facility.

JP Stephenson questioned where the funding is coming from, and stated that the figure quoted in past discussions was approximately \$13 to \$14 million.

JP Williams asked what the next step will be once the two firms are selected, and asked how much that next step will cost. JP Winscott stated that there is currently \$3.5 million in reserve, with another \$625,000 added annually, and the County can borrow money for up to 5 years. He said that \$600,000 per year for 5 years adds up to another \$3 million, and he personally feels that they can build the facility for between \$5 million and \$6 million. He added that he has shared this figure with each of the firms that were interviewed. He said they cannot put together any budgetary figures until there is a design, and the negotiations with the architect and construction management company will include a fixed cost to bring back to the Quorum Court at some point in the process. He said that at that point, they will know for sure if they cannot proceed, and he will be the first to vote against it if it is a \$10 million project. He repeated that it is his opinion that the project can be done for between \$5 million and \$6 million.

JP Williams asked what exactly will be negotiated after the resolution is passed—is it the design phase only, with additional negotiations for construction? or will they be negotiating the cost for the entire project? She said at some point the firms involved will need to be paid for their services, because they cannot be expected to design a building and its footprint free of charge.

JP Winscott stated that the resolution is not asking for any money at this time; they will enter negotiations for the project cost. He said architectural services are usually around 6%, but that percentage will also be part of the negotiations.

JP Williams stated that when the firms make their presentations, she would like to see the committee’s recommendation for ranking them one through three, because it will help them make their decision since the subcommittee has spent a lot of time talking to each of them.

JP Moore asked if the subcommittee’s recommendation of the top three positions could be ready by the April 24th Quorum Court meeting. JP Winscott stated that they could.

JP Brown stated that the Long Range Planning/Properties & Equipment Committee put their trust in JP Winscott and Dennis Cottrell, and he did not think that a 10-minute presentation would tell the rest of the Quorum Court members something that the subcommittee did not already know. He added that there are not very many people in the room who know much about construction, and you cannot determine how good an architect is if you do not work with them everyday. He said he does not know why anyone would question the work of the subcommittee, and noted that their position in recommending Crossland Construction was that all of the firms were excellent and they did not want to offend anyone by ranking them past their first choice. He said he does not

think anyone on the subcommittee who has worked so many hours would try to mislead the Quorum Court or the county.

JP Hobbs stated that she does not want to take anything away from the subcommittee or their work, but she needs more information before she votes to obligate the county to anything. She said that she heard the report at the Long Range Planning/Properties & Equipment Committee, and the County Judge said that they were all excellent firms and they would have been happy with any one of them, so she does not see asking for a short presentation as second-guessing, but as justifying her vote to the citizens she represents.

JP Stephenson stated that he did not want to be misunderstood as being critical of the subcommittee's work, but he does want to comply with all aspects of the law.

JP Summers asked JP Winscott to meet with the subcommittee and rank their recommendations in both groups from one to three, and the Committee of Thirteen should decide how much information they want to hear from the other firms.

JP Winscott stated that there are two firms present who are ready to make their presentations, and he felt they should go ahead with their presentations along with time for a questions and answers.

JP Wolf stated that no one on the Quorum Court thinks that the subcommittee did not do a good job, but she thinks why they reached their decision is a fair question, and that information would probably answer any questions she has.

JP Summers asked for a show of hands indicating how many JPs want to hear the presentations of the two firms who are present tonight, keeping in mind that they may have make the presentation again. JP Summers stated that a majority of the JPs want to hear the presentation.

Committee recessed.

Committee back in session.

JP Winscott stated that the two firms present would rather make one presentation, and would be willing to come back at another scheduled time. He said that he is not prepared to make any comments tonight on how the selections were made, but that the committee will prepare a list of reasons which they will provide when the presentations are made.

JP Hubbard asked why they are looking for a construction manager at this time, because they could just negotiate a contract with an architect to provide an overall budget number without a construction manager being involved. JP Winscott stated that the Long Range Planning/Properties & Equipment Committee wanted to involve a construction manager at the beginning of the project in order to form a team that can work together, and a construction manager knows the skills and crafts that are available and is up to date on construction costs. He added that they feel the input of the construction manager will be very valuable in the long run.

JP Glass stated that no one doubts the subcommittee's work, but he would like for them to provide some information on how they arrived at their decision.

JP Stephenson stated that since they are a public body subject to Freedom of Information laws, there are certain niceties that they do not have the luxury of observing, so they are entitled to know why Company A was chosen over Company B, because the public is entitled to know.

JP Summers asked how much square footage they are looking at, because he feels sure that if they can do it for between \$5 million and \$6 million, then it would be a real possibility. JP Winscott stated that they are looking at between 25,000 to 30,000 square feet, which includes the JDC, Juvenile Court, and Juvenile Probation offices.

JP Winscott stated that the subcommittee will meet to rank the second and third architect and construction manager, list them on the resolution, have it reviewed by the County Attorney, and

then bring that resolution back to the Committee of Thirteen. He added that secondly, the subcommittee will prepare a list of the positive reasons why Johnson-Troillet and Crossland Construction were the top choices of the committee, but he does feel they should list negatives. JP Summers asked if that is a requirement of the state statute. County Attorney Robin Green stated that it is not.

JP Summers asked what the Committee of Thirteen's preference is concerning presentations. JP Moore stated that he is not interested in hearing presentations from the second- and third-ranked companies, unless for some reason negotiations fail with the first choice. JP Stephenson agreed. JP Winscott stated that he would contact JP Summers to let him know when the subcommittee is ready with the information. County Attorney Robin Green encouraged the JPs to review the Statements, Qualifications, and Performance Data in the statute, because it is listed as something that "shall" be done, and that Dennis Cottrell has copies available.

JDC Director Dennis Cottrell stated that in no way will the negotiations obligate the county to spend any funds. He said that decision will come back to through the proper channels before any money is spent, and the purpose of the resolution is simply to begin the negotiations.

JP Summers stated that he did not think a special Committee of Thirteen meeting would be necessary before the April 24th Quorum Court meeting.

OTHER BUSINESS:

Deputy Clerk Betsy Deaton asked the JPs to distribute voter registration deadline posters in their districts.

JP Brown stated that he did not want to be misunderstood as being rough on anybody, but he knows almost all of the construction firms in the area, and understands why the subcommittee made the choices they made.

ANNOUNCEMENTS:

County Attorney Robin Green announced that oral arguments before the Arkansas Supreme Court in the Road Tax Lawsuit will be held April 24, 2008 at 9:00 a.m. at the Shumaker Center at NWACC.

JP Moore announced that the Long Range Planning/Properties & Equipment Committee will meet Tuesday, April 15, 2008 at 5:30 p.m.

JP Williams announced that the Pyromeds Safe Pharmaceutical Disposal Program will be available at the Courthouse this Saturday, April 12, in conjunction with the public shredding event. JP Wozniak stated that since the program was kicked off on March 8, over 150 pounds of pharmaceuticals have been collected.

PUBLIC COMMENTS:

None

After motion and second the meeting was adjourned at 7:26 p.m.