

March 27, 2008

ENVIRONMENTAL COMMITTEE REPORT

An Environmental Committee meeting was held on Thursday, March 27 at 5:00 p.m. in the County Administration Building, Quorum Court Meeting Room, 215 East Central, Bentonville, Arkansas

Committee Members Present: Brown, *Glass, Hubbard, Moore, Stephenson, Winscott, Wozniak

Others Present: JP Harrison, JP Stephenson, JP Wolf, County Judge Gary Black, Jim Ecker

Media: Eleanor Evans, Daily Record; Scarlet Simms, Morning News

JP Jim Wozniak called the meeting to order at 4:00 p.m.

PUBLIC COMMENTS:

Don Day commented on the arrogance of environmental officers and said that the Beaver Water District will somehow try to get their agenda in through the back door since paying a PR firm \$100,000 to promote the watershed ordinance did not work. He said that the Planning Department should be concentrating on streamlining the permit process, improving the Blue Book, and coordinating planning with the cities in the county instead of promoting zoning for Beaver Lake, since the half million dollar study of Beaver Lake is just beginning and is estimated to take 2 years, so they should get their priorities straight.

OLD BUSINESS:

1. Environmental Regulation Enforcement

The Environmental Committee discussed the circumstances surrounding a complaint reported to JP Hubbard by a third party against an environmental officer. Environmental Services Director Jim Ecker explained that the woman involved suffers from an anxiety disorder which causes her to be emotional, and in fact had cried when he spoke with her on the phone, and she has no complaints with the way her situation was handled. He said she was not issued a citation, only a notice of violation, and has since received notice from the Environmental Office that the situation on her property has been corrected. *(Statement from the environmental officer and the woman involved are attached to this report)*

JP Hubbard questioned why Benton County is enforcing state ADEQ regulations regarding concrete washouts at construction sites, and stated that he does not believe it is illegal because he spoke with an employee at the ADEQ who told him that they are only concerned with large-scale projects. He added that he had received a complaint from a Mid-Continent Concrete truck driver about an environmental officer being “aggressive” and “unprofessional”.

Jim Ecker explained the environmental impact of the runoff from concrete wash, and went over the requirements for its correct disposal. He said they have met with the Arkansas Association of Concrete Producers to make them aware that these regulations will be enforced in Benton County beginning June 1. He noted that it was not much of a problem when there were 5,000 people in the west side of the county, but now there are 50,000 to 60,000 people and it has to be addressed. He

said it is a state law and an Environmental Protection Agency mandate, so they are obligated to enforce it, even if it was not done that way in the past.

JP Moore noted several common practices which were once thought to be harmless, such as the disposal of engine oil, which are now prohibited because of the impact on the environment.

JP Moore asked who filed the complaint against the woman in Gravette. Jim Ecker explained that complaints are handled anonymously to prevent retaliation, because any communications by his office are public records

JP Hubbard asked if they are going to require builders of single homes to gravel their driveways before they start construction. Jim Ecker explained that if there is a problem with excessive mud and sediment being deposited on county or city property, then apparently a gravel drive is needed at the construction site. He noted that most single-family homes can have concrete delivered from the street, and most contractors cancel the concrete pour if the conditions are excessively wet. JP Hubbard stated that some sites in the county may be 400 yards from the road, and it seems "awful piddle-ante" to require a gravel driveway before beginning construction. Jim Ecker stated that everyone has experienced the problems that arise from a 6-inch layer of dirt being deposited on county and city streets, and if someone can get heavy trucks in and out of a site without causing that to occur then there is not a problem. JP Moore asked if the Environmental Office is going to begin enforcement of these regulations around the red dirt pits throughout the county. Jim Ecker stated that is part of the enforcement that will begin on June 1, because it has been mandated by the ADEQ. Jim Ecker noted that in his experience with communicating with the ADEQ, it is quite possible to get a different answer from each different employee that you speak to, but state law requires him to enforce these regulations, so that is what he intends to do.

JP Wozniak stated that, as with many things, any time something new is started there is resistance to change. He said that anyone who has a problem with the enforcement of the environmental regulations has the option of pursuing it through the court system.

JP Hubbard returned to the issue of the woman from Gravette, adding that he does not believe that the woman cries simply from being spoken to. He asked how the warning notices are worded, because it is his understanding that people are being told that if they do not comply they will receive a \$25,000 fine. He asked if the environmental officers are arriving at a scene packing guns, being intimidating, and threatening people with a \$25,000 fine if they do not comply with the warning.

JP Wozniak stated that sounds like any other enforcement issue, where there are two sides to the story. JP Hubbard stated that he is asking how the situations are normally handled. JP Wozniak stated that there is an environmental officer present, so perhaps they should let him explain. JP Hubbard stated that Jim Ecker is his boss, so he would rather hear from him.

JP Stephenson stated that they should look at one of the notices, because it simply states that the maximum fine is \$25,000. JP Hubbard said that everyone he has talked to has told him that they were threatened with a \$25,000 fine. A copy of a citation was distributed to the committee. JP Stephenson stated that an environmental officer with a weapon is no more intimidating than a Sheriff's deputy. JP Hubbard stated that Sheriff's deputies are intimidating, and asked if that is what the environmental officers are intending.

Jim Ecker explained that several years ago they realized that some of the same locations where they were investigating environmental complaints later turned out to be the same locations where methamphetamine manufacturers were arrested. He said his officers travel alone all over the county, and just like Sheriff's deputies, do not carry weapons for the purposes of intimidation, but for their own protection. He noted that unless it is a 9-1-1 call, they may have to wait 4 to 5 hours for a Sheriff's deputy to assist them in an investigation. He noted that they have all attended Police

Academy training, are all certified in handling the weapons, and maintain that certification through qualifying at the firing range.

JP Hubbard asked why they are getting so many complaints about the officers' attitudes, and asked Jim Ecker to address that. Jim Ecker stated that when you go onto someone else's property, people are very defensive about what they can do on their own property, and those are the people they are getting complaints from. He said they try to explain the problem and what needs to be done to correct it, and 99% of the time they do not issue a citation the first time they visit a location. He said that people who receive citations are the ones who refuse to cooperate in any way after 4 or 5 months from the initial visit. He said one reason for complaints may also be that they are doing their job, which is to try to clean up the environment. He noted that one way to avoid any complaints would be to stay in their office and not do their job.

*JP Glass entered the meeting.

JP Hubbard said that the driver from Mid-Continent Concrete told him that the officer had a general bad attitude. Jim Ecker stated that when they visited with the Arkansas Association of Concrete Producers, they had been happy that they were being informed of the rules. He said it was possible that the driver does not like rules any more than anyone else does.

JP Brown stated that the enforcement is not the problem, but the general rude, crude, and unacceptable behavior of the environmental officers. He said that they know that is part of the job, and they should rise above it and maintain their composure. He said if people have the regulations explained to them, they do not have a problem with it, but as for him personally, if someone comes up to him and threatens him, someone is going down.

JP Brown also addressed the practice of taking anonymous complaints. He said if someone files a false report, they should be billed for the cost of the investigation. Jim Ecker repeated that if they take the person's name, it is public record, and anyone could find out who filed the complaint. JP Brown said so what, why are taxpayers footing the bill for false complaints? Jim Ecker stated that they received a false complaint today, and it only took 45 minutes to determine that it was unfounded. He noted that out of 900 complaints, only 15 to 20 were unfounded, and they can usually tell by the aerial photos that the property is clean. Donna Phillips, an attorney from Fayetteville, was recognized, and pointed out that the Environmental Office enforces state statutes, and there is no legislation authorizing a penalty for unfounded calls or false environmental complaints.

JP Brown repeated that he does not think the people are irritated from laws being enforced, but by the conduct and attitude of the officers. Jim Ecker stated that if he receives any complaints about the conduct of his officers, he calls the person to get to the bottom of it, and it is not acceptable to him to receive even one complaint that anyone from his office is rude or discourteous or unprofessional. He said that of 900 complaints investigated last year, 10 to 15 were false, and there were only four or five complaints about any of the officers' conduct. He said he agreed that if someone confronts him, it might cause him to be more assertive. JP Brown stated that they should rise above that and not get in a shouting match with residents.

JP Glass stated that the issue appears to be the discretion used by the officers when they arrive at the scene. He suggested that they should be able to make a pretty fast appraisal of the situation to determine if the gun can be left in the glove compartment or worn on the scene. He said they are continuing to hear that the "stick" is brought out before the "carrot" is offered with the other hand, or any attempt is made to work with the person. He said some of these people lack funding and lack education, so one of the things that would be good, which they asked for several months ago, are some guidelines. He said he does not see how it would harm anyone to be approached with the

attitude that they have some things that need to be taken care of, and to be offered some resources for where they can take stuff that needs to be cleaned up, and then offer to come back in 30 days. He said that way, no one has been threatened, and no one has been told that they are going to get a \$25,000 fine in 30 days. He said then they can go back in 30 days, and if nothing has been done, at that point the person can be told that they have 30 days to make some progress or they will be fined. He added that he did not mean to micro-manage the department, because Jim Ecker is the director, but they keep getting complaints from some of the citizens' groups and from others.

Jim Ecker stated that all of the officers carry recycling brochures with information on where items can be taken, such as cardboard and metal. He said that if they determine that someone has dumped trash on public property or someone else's property, they will issue a citation. He repeated that out of 900 cases last year, he only received four or five complaints. JP Glass suggested that perhaps Jim Ecker is not hearing all of the complaints.

JP Wozniak stated that Jim Ecker knows for sure now how they feel, and what action they would like to see taken, and encouraged the other JPs to find the time to accompany the environmental officers on some of their calls to see what they are doing. He said that it might help them to see the other side. He said if the same problems continue, they may need to meet again in three months or so.

PUBLIC COMMENTS:

Don Day stated that he is sure that if any of the JPs ride along with the environmental officers they will be on their best behavior, and that a lot of the people that get the notices do not know the difference in a notice of violation and a citation, and all they see is the \$25,000 fine and the threat of one year in jail because they have an old fender or some lumber on their property that they are not ready to dispose of.

Meeting adjourned at 4:59 p.m.