

MINUTES OF BENTON COUNTY QUORUM COURT

March 19, 2009

A regular meeting of the Benton County Quorum Court was held on Thursday, March 19, 2009 at 6:00 p.m. at the Benton County Administration Building, 215 East Central Avenue, Bentonville, Arkansas, pursuant to proper call and notice.

County Judge David Bisbee called the meeting to order.

Deputy Clerk Janet Reaves called roll as follows:

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

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Prayer was led by Terry Baker of the Christian Life Cathedral.

A moment of silence was held in support of the men and women serving in the United States Armed Forces.

County Judge David Bisbee asked if there were any additions, corrections, or deletions to the agenda, and stated that this will be a new item on the agenda in the future. JP Moore made motion to approve the agenda, seconded by JP Winscott. Motion passed by unanimous voice vote.

MINUTES:

County Judge David Bisbee asked if there were any additions or corrections to be made to the minutes of the February 26, 2009 regular meeting. Seeing none, Judge Bisbee stated that the minutes would be filed as presented.

PRESENTATION TO SHERIFF KETH FERGUSON:

County Judge David Bisbee presented an obsolete Sheriff's badge encased in acrylic to Sheriff Keith Ferguson, stating that it is representative of the 155 badges that he is turning over to Sheriff Ferguson to distribute to his former deputies and others as he sees fit.

Sheriff Keith Ferguson stated that he will be presenting the badges to as many of his former deputies as he can, and made the first presentation to Greg Hines, a former investigator in the Sheriff's Office.

CONFIRMATION OF APPOINTMENT OF DON WARDEN TO THE BENTON COUNTY HISTORICAL PRESERVATION COMMISSION

County Judge David Bisbee stated that he is aware that a request has been made that all appointments come through the Committee of Thirteen, but that request was made after the appointment of Don Warden, and several Justices of the Peace recommended that this appointment come straight to the Quorum Court.

Don Warden was recognized and stated that he has been the Director of the Siloam Springs Museum since 1991, and has been a member of the Board of the Benton County Historical Society for the past several years. He said that the Historical Commission seems to be a good way of putting some tools together to help protect the historic properties of Benton County.

JP Stephenson stated that he is personally aware of Mr. Warden's success in operating the municipally-owned Siloam Springs Museum, and of his involvement in several programs to help educate young people.

JP Stephenson made motion to approve the appointment of Don Warden to the Benton County Historical Preservation Commission, seconded by JP Hubbard.

There being no further discussion, a roll call vote was recorded as follows:

12 yeas:	Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen, Douglas, Winscott, Harrison, Stephenson
1 absent:	Blaty

Appointment confirmed.

COUNTY JUDGE'S REPORT:

Judge Bisbee stated that as of March 18, 2009, 200,000 cubic yards of debris has been collected at a cost of \$2,300,000. He said that boom trucks cutting hangers and leaners have logged 423 truck days at a cost of \$1,900,000, and that as of Saturday, March 21, they will be cutting back to one boom truck per contractor for the three contractors that are working on the clean up. He said that the clean up of the hangers and leaners is 95% complete, but they need to keep one truck from each crew to handle calls from citizens.

He said the total cleanup as far as the county's part in gathering debris should be completed by April 10, although there are still some heavily devastated areas to be cleaned up in the southeastern part of the county. He added that once the county has completed the debris removal, they intend to keep at least two of the debris sites open so that county citizens will have a place to take debris for at least another 60 days.

JP Stephenson asked if the \$4.2 million figure includes the amount that is being contested by the contractor who dropped out. Judge Bisbee stated that the \$4.2 million includes the amount that they feel they owe the contractor who is contesting the amount, and the maximum liability in that situation is less than \$1 million, but he is confident that we do not have any liability. JP Stephenson asked if they have received an opinion from counsel. Judge Bisbee stated that they have.

Judge Bisbee recognized Comptroller Richard McComas. Richard McComas stated that to cut, load, and haul, it was running about \$80 to \$90 thousand per day and we are looking at about 18

days left. Discussion was had regarding the debris clean-up with the amount of time left to finish and dollar amount involved. Judge Bisbee stated that the maximum for the debris clean-up will be \$6 million. He said that FEMA has called and has asked for further documentation and that to the best of his knowledge we are complying with what they want.

ELECTED OFFICIALS REPORT:

Sheriff Keith Ferguson stated that he wanted to thank the County for the use of the property on Mt Olive road for a sub-station. He said we currently have sub-stations in Gravette, Avoca and Siloam Springs.

COMMITTEE REPORTS:

JP Wozniak stated the Environmental Committee is looking at a possible ordinance for the regulation of burning which is being prepared by County Attorney George Spence. He announced that the next meeting will be Tuesday April 7, 2009 at 4:30 p.m. He said that he has also been working with Coroner Daniel Oxford on an ordinance to set procedures with regard to the disposition of unclaimed corpses.

JP Wolf announced the JESAP Committee will meet Friday, March 20, 2009 at 9: a.m. and the next Personnel Committee meeting will be Wednesday, March 25, 2009 at 3:30 p.m.

PUBLIC COMMENTS:

None

OLD BUSINESS:

None

JP Wolf moved to suspend the rules to read all resolutions and ordinances by title only, seconded by JP Moore.

Roll call vote was recorded as follows:

11 yeas:	Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen, Douglas, Winscott, Harrison
1 nay:	Stephenson
1 absent:	Blaty

Motion passed.

Judge Bisbee explained the procedures prepared by County Attorney George Spence for resolutions and ordinances which will be followed at future Quorum Court meetings.

1. There should be a recorded vote (which is done by roll call) on a motion to suspend the rules.

2. Resolutions and ordinances do not need a motion to be placed on the floor, but will be introduced as follows:
 - a. County Judge will announce the item from the agenda (ordinance or resolution).
 - b. The Clerk will read it by title only (if a motion to suspend the rules and read by title only was passed by a two-thirds majority).
 - c. A Justice of the Peace will move to approve, or adopt, or do pass, all of which mean the same thing.
 - d. Assuming the motion is seconded, discussion will follow, then a vote will be taken.
 - e.
 - 1) For resolutions, a simple majority vote (seven) of the whole number of JPs is sufficient, and the County Judge will announce the resolution approved. A roll call is not required for resolutions, but is probably a better practice.
 - 2) For appropriation or emergency ordinances, a two-thirds (nine) vote of the whole number of JPs is required to adopt the ordinance in one reading.
3. If the ordinance is of a general nature, only a simple majority (seven) of the whole number of JP's is required, but the approval is for the first reading only. If there is no suspension of the rules to place the ordinance on second reading, the County Judge will announce the ordinance approved on first reading, and that it will be placed on the agenda of the next regular meeting. Note: Although the statutes state that a vote is not required for each reading, but only on the third, it is a good practice to approve it on first, second, and third reading. If it does not pass on first or second reading, the ordinance would die.

NEW BUSINESS:

- (A) Proposed Resolution Authorizing the County Judge of Benton County to Apply for an Arkansas Community and Economic Development Grant from The State of Arkansas; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed resolution by title only. JP Moore made motion to adopt, seconded by JP Stephenson.

There being no discussion, a roll call vote was recorded as follows:

12 yeas:	Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen, Douglas, Winscott, Harrison, Stephenson
1 absent:	Blaty

Resolution duly adopted and assigned **No. R-2009-04.**

- (B) Proposed Resolution Stating an Anti-Displacement Plan for Low/Moderate Income Housing in Benton County; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed resolution by title only. JP Stephenson made motion to adopt, seconded by JP Wolf.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin Brown, Lewis Hubbard, Moore, Allen,
Douglas, Winscott, Harrison, Stephenson
1 absent: Blaty.

Resolution duly adopted and assigned **No. R-2009-05.**

- (C) Proposed Resolution Establishing a Policy Prohibiting the Use of Excessive Force by Law Enforcement Agencies Within the Applicant's Jurisdiction Against Individuals Engaged in Non-Violent Civil Rights Demonstrations; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed resolution by title only.

JP Lewis questioned the reasoning of HUD requirements for the proposed resolution to be able to apply for an Arkansas Community and Economic Development Grant from The State of Arkansas. Grants Administrator Kathy Bannister stated that they require it to protect citizens involved in a non-violent protest from excessive force, and the county has adopted this type of resolution before. JP Lewis asked if they could get clarification on why HUD requires this resolution. Kathy Bannister stated that they could, but it would cause them to miss the deadline for this application. JP Lewis asked how many times this type of resolution has been passed. Kathy Bannister stated that it has been several years, because Benton County qualifies for very few HUD grants due to the average income level.

JP Stephenson made motion to adopt, seconded by JP Winscott.

There being no further discussion, a roll call vote was recorded as follows:

11 yeas: Wozniak, Wolf, Sandlin, Brown, Hubbard, Moore, Allen, Douglas,
Winscott, Harrison, Stephenson
1 abstain: Lewis
1 absent: Blaty

Resolution duly adopted and assigned **No. R-2009-06.**

- (D) Proposed Resolution Authorizing the County Judge of Benton County to Apply for a Grant on Behalf of the Gallatin Fire Department; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed resolution by title only. JP Stephenson made motion to adopt, seconded by JP Sandlin.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen,
Douglas, Winscott, Harrison, Stephenson
1 absent: Blaty

Resolution duly adopted and assigned **No. R-2009-07.**

- (E) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 06, Collector, Fund 065; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed appropriation ordinance by title only. JP Stephenson made motion to adopt, seconded by JP Sandlin.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen
Douglas, Winscott, Harrison, Stephenson
1 absent: Blaty

Appropriation ordinance duly adopted and assigned **No. O-2009-06.**

- (F) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 02, County Clerk's Automation, Fund 430; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed appropriation ordinance by title only. JP Stephenson made motion to adopt, seconded by JP Harrison

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen,
 Douglas, Winscott, Harrison, Stephenson
1 absent Blaty

Appropriation ordinance duly adopted and assigned **No. O-2009-07.**

(G) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) to Authorize the Transfer of Funds Between Categories to Decrease the Total Appropriation in Department 05, Sex Offender and Violent Crimes Task Force, Fund 245; Sponsor: JP Kurt Moore.

Deputy Clerk Janet Reaves read the proposed appropriation ordinance by title only. JP Winscott made motion to adopt, seconded by JP Stephenson

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen,
 Douglas, Winscott, Harrison, Stephenson
1 absent: Blaty

Appropriation ordinance duly adopted and assigned **No. O-2009-08.**

(H) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) Appropriating Additional Expenditures in Department 44, County Road, Fund 020; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed appropriation ordinance by title only. JP Stephenson made motion to adopt, seconded by JP Winscott.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf Sandlin, Brown, Lewis, Hubbard, Moore, Allen,
 Douglas, Winscott, Harrison, Stephenson
1 absent: Blaty

Appropriation ordinance duly adopted and assigned **No. O-2009-09.**

- (I) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2007-30 (2008 Benton County Budget) Authorizing a Transfer of Funds Between Categories and Line Items; Appropriating Additional Monies and Authorizing Additional Expenditures in Various Funds and Departments; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed appropriation ordinance by title only. JP Stephenson made motion to adopt, seconded by JP Winscott.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen,
Douglas, Winscott, Harrison, Stephenson.
1 absent Blaty

Appropriation ordinance duly adopted and assigned **No. O-2009-10.**

- (J) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Various Funds and Departments; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed appropriation ordinance by title only. JP Stephenson made motion to adopt, seconded by JP Winscott.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen,
Douglas, Winscott, Harrison, Stephenson.
1 absent: Blaty

Appropriation ordinance duly adopted and assigned **No. O-2009-11.**

- (K) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (2009 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 44, County Road, Fund 020, and Amending *Schedule 1 – Revenues by Fund* in the 2009 Benton County Budget by Decreasing the Amount of Transfer to the County Road Fund and to Reflect an Increase in Revenue From Ice Storm Damage Reimbursements; Sponsor: JP Kurt Moore

Deputy Clerk Janet Reaves read the proposed appropriation ordinance by title only. JP Stephenson made motion to adopt, seconded by JP Winscott.

Lengthy discussion was held regarding the additional appropriation to County Road, amending the Budget to reflect a \$1,250,000 decrease in the transfer from County General to County Road, and reflecting the increase in revenue from the ice storm damage reimbursements. Comptroller Richard McComas explained that there are no new monies involved, and that the appropriation is needed to authorize the County Judge to pay bills received for storm debris clean-up from.

There being no further discussion a roll call vote was recorded as follows:

12 yeas:	Wozniak, Wolf, Sandlin, Brown, Hubbard, Moore, Allen, Douglas, Winscott, Harrison, Stephenson
1 nay:	Lewis
1 absent:	Blaty

Appropriation ordinance duly adopted and assigned **No. O-2009-12.**

OTHER BUSINESS:

Discussion was held on changing the Committee of 13 meeting day to the Tuesday (9) calendar days prior to the Quorum Court meeting on the fourth Thursday of the month. Judge Bisbee explained that moving the Committee of Thirteen meeting closer to the Quorum Court meeting would allow the committees to meet prior to the Committee of Thirteen, and allow time to get all of the items forwarded from committees onto the Committee of Thirteen agenda. JP Stephenson stated that they would discuss the change at the next Committee of 13 meeting that will be held at the regular scheduled time.

Sheriff Keith Ferguson was recognized and stated that there is money available through stimulus grants, and he would be able to get three employees fully funded for three years. He said that he will need to apply by April 10, 2009.

He added that at the end of three years, the county would have to pick up the three employees for one year, and at the end of that year they could be terminated. Richard McComas stated the grant does not require any county money, and they could go ahead and apply for the grant without Quorum Court approval. Discussion was held on the stimulus grant, what it would cost the county, procedures for applying for grants, and whether or not Sheriff Ferguson needed a resolution before making the application.

County Attorney George Spence suggested that a motion be made authorizing Sheriff Ferguson to apply for the stimulus grant, the vote will be reflected in the minutes, perhaps satisfying any requirements for the application, and a formal resolution can be adopted at a later date if it is determined that one is required.

JP Wolf made motion to authorize Sheriff Ferguson to apply for a stimulus grant, seconded by JP Hubbard.

There being no further discussion, a roll call vote was recorded as follows:

12 yeas: Wozniak, Wolf, Sandlin, Brown, Lewis, Hubbard, Moore, Allen,
 Douglas, Winscott, Harrison, Stephenson

1 absent: Blaty

Motion passed to authorize Sheriff Ferguson to apply for a stimulus grant.

ANNOUNCEMENTS:

JP Winscott announced that the Long Range Planning/Buildings and Real Estate Committee will meet April 16, 2009 at 5:30 p.m.

JPs Hubbard and Wolf announced that the Personnel Committee will meet March 25, 2009 at 3:30 p.m.

JP Moore announced that the Finance Committee will meet April 7, 2009 at 5:30 p.m.

There being no further business to come before the court, upon motion and second the meeting adjourned at 8:30 p.m.

Respectfully submitted,

Tena O'Brien,
County Clerk

Prepared by: Janet Reaves