

## MINUTES OF BENTON COUNTY QUORUM COURT

**March 22, 2007**

A regular meeting of the Benton County Quorum Court was held on Thursday, March 22, 2007 at 5:00 p.m. at the Benton County Administration Building, 215 East Central Avenue, Bentonville, Arkansas, pursuant to proper call and notice.

County Judge Gary Black called the meeting to order.

Deputy Clerk Betsy Deaton called roll as follows:

13 JP's Present:       Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

The presiding officer led the pledge of allegiance to the flag, and Terry Baker of the Christian Life Cathedral led the prayer.

JP Summers made motion to amend the Agenda to add a moment of silence in recognition of our troops, and asked that it be included on the agenda at all future meetings, seconded by JP Stephenson. Motion carried by unanimous voice vote. A moment of silence was held in honor of the troops.

### **MINUTES:**

JP Stephenson made motion to approve the Minutes of the regular meeting of January 25, 2007 as distributed, seconded by JP Wolf. Motion to approve the minutes carried by unanimous voice vote.

### **COUNTY JUDGE'S REPORT:**

County Judge Gary Black announced the appointment of Jerry Sheridan to the 9-1-1 Administration Board. JP Summers made motion to affirm the appointment, seconded by JP Stephenson. Motion passed by unanimous show of hands vote.

County Judge Gary Black announced that a County Wide Clean Up will be held on April 14, 2007, and he would like for some JPs to come to the Road Department and help out for a couple of hours. He also announced that all new JPs are invited to attend a tour of the Washington County Road Department facility on April 2, 2007 at 2:00 p.m.

### **ELECTED OFFICIALS REPORT:**

None

**COMMITTEE REPORTS:**

JP Wozniak reported that the Environmental Committee met with members of the Benton County Planning Board and agreed on revisions to the proposed Nuisance Abatement Ordinance. He said that the revised ordinance has been sent to County Attorney Robin Green, and they hope to be able to bring it to the Committee of Thirteen in April.

**PUBLIC COMMENTS:**

Jeff Wyant stated that the roads in the Pine Top Community are in need of improvement. He said that there are 50 families which live in the area, with only one access road to a \$9 million water treatment plant which is about to undergo expansion. He said the road is a regular route for 18-wheelers, and that State aid is available for repairs.

Ethel Peters stated that she is 92 years old and has lived on Pine Top Road for 31 years, and has had many near-accidents due to the loose gravel. She said that when storms come through they may go 3 days without mail or newspaper delivery, and they are very lucky that there have been no serious accidents on the road.

Jeff Wyant stated that approximately 40 more members of the community would have attended the meeting if not for the inconvenient time.

Bill Millager stated that he has read the report of the March 6, 2007 Environmental Committee/Planning Board meeting, and it seems that they were able to accomplish a lot in less than 2 hours. He listed the steps that the proposed Nuisance Ordinance will have to go through before it is adopted, and he said who knows what might happen in between. He said that he would like for Benton County to endorse a "Plan B", which would be to enforce existing regulations, because that would only take a few more ADEQ inspectors, a few more septic tank inspectors, and a few more Environmental Officers. He said that rather than jump into something new, they should codify the existing regulations and try to work from there.

Kurt Clark stated that he lives on Angel Road in the Pine Top Community, and that twice before after he has complained about the road conditions to the Quorum Court, the road grader was there the next day and he is hopeful that it will happen again. He said that the Piney Point Volunteer Fire Department is getting ready to build a Fire Station in the area, which will improve everyone's insurance rates and property values, so the road needs some repairs. He said there are guardrails missing from where people ran off the road during the snow and ice, and children in the area were still unable to attend school for several days after they reopened. He said that Madison County is willing to work with Benton County, so hopefully they can all work together.

Bob Taylor stated that the roads are so bad that grading them only makes them passable for a couple of days, the conditions in the ravines keep getting worse and worse, and they need to do something different. He said that Mule Lot Road has been abandoned by the County and is

totally impassable near the lake, and he is concerned about safety.

Milton Poteet stated that when he bought property on Mule Lot Road in 1965 the road was passable. He said today it is wider but rougher, and urged the County to do something to improve it.

James Bailey stated that the Pine Top area is a situation of imminent danger, and 4 times in the last 3 years he has almost died when 18-wheelers nearly ran him off the completely washed out road. He said that Madison County has agreed to use their state allocated funds to help pave the road and questioned why the funds are not being used. He said that it takes an ambulance 1 hour from the time it leaves blacktop to reach the area. He said he is not asking for blacktop, only chip and seal. He said it will save wear and tear on the equipment and time now being used to repair it, and the imminent danger belongs to the county.

Jim Linkous stated that he owns land in the Pine Top community, and that people would like to build out there but it is not advisable under the current road conditions. He said that 8 years ago he was told that funds were appropriated to blacktop the road, primarily due to the water treatment plant, and he did not know why the improvements have not happened yet. He said that the roads are dangerous, and he spent one night last winter stuck in his pickup truck. He said that where there's a will, there's a way, and if this body wills something to be done about the roads out there, they will find a way. He said that the answer may be grants or cost-share, but whatever it is, something needs to be done about the roads, and he is willing to do anything he can to help.

Patsy Angel stated that she lives on Angel Road in the Pine Top area, and was almost run over by two cars on the trip here tonight. She said that the roads are so bad that cars are forced to take the best route possible, which may be in the middle coming up a hill where they cannot be seen.

Mark Edwards stated that when construction starts on the water treatment plant expansion, the trucks will not be able to pull their equipment to the site, and in the past the plant has had to hire dozers to move equipment down the road. He said the treatment plant transports hazardous chemicals, and he would hate to see one of the trucks slide off the road and cause a spill.

Edith Gage stated that she has lived on Angel Road for almost 9 years, and there are guardrails that need repair, and holes that are bigger than just potholes. She said it is very dangerous out there and they would like to see something done.

Jeff Wyant asked the Quorum Court if anyone would make a motion to relax the rules and allow the County Judge to offer something positive to the citizens who have spoken tonight.

County Judge Gary Black stated that this time is set aside for public comments only and there will be no response.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

- (A) Proposed Resolution Authorizing the County Judge to Apply for a County Courthouse Restoration Grant available From the Arkansas Historic Preservation Program; Sponsor: JP Tim Summers

Deputy Clerk Betsy Deaton read the proposed Resolution in full. JP Wolf made motion for approval, seconded by JP Harrison. JP Summers stated that this grant will allow them to continue the restoration work on the Courthouse.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Resolution duly adopted and assigned No. **R-2007-04.**

County Judge Gary Black stated that the proposed ordinances will be read in full. JP Summers stated that they have voted to suspend the rules and read ordinances by title only for several years. County Attorney Robin Green read Arkansas Code Annotated 14-14-905, and stated that although it could be interpreted either way, they should err on the side of caution and read the ordinances in full. JP Moore asked if there are any Attorney General opinions on the subject. Robin Green stated that the question was raised just before the meeting started, so all that she has available is the State Statute. JP Glass stated that there is usually a separate legal description that does not include the metes and bounds as they are written in this ordinance. JP Wolf stated that she believes that a two-thirds vote to suspend the rules applies to reading by title only, but the information she received just prior to tonight's meeting states it a different way. JP Summers asked County Attorney Robin Green what her recommendation is. Robin Green stated that the most conservative legal opinion is to err on the side of caution for tonight's purposes and read the ordinances in their entirety. JP Stephenson stated that he personally agrees with JP Summers that the ordinance may be read by title only if there is a two-thirds vote in favor, and he would like to get an Attorney General's opinion as soon as possible. JP Wolf stated that they have set a precedent of reading by title only, and if it was in error, it would have shown up in an audit. She added that the ordinances could have been read in the time they have spent discussing it. JP Hill stated that another option would be to set the ordinances aside for the next Quorum Court meeting, to give the County Attorney time to develop a shorter legal description. JP Stephenson stated they should move ahead and get it over with. JP Winscott stated that the election has been set for August 14, 2007 and delaying the vote might affect the timetable.

- (B) Proposed Ordinance Establishing the *Pleasure Heights Volunteer Fire Department* for Benton County and Designating the Geographical Service Area Therefor; Sponsor: JP Frank Winscott

Deputy Clerk Betsy Deaton read the proposed Ordinance in full. JP Winscott stated that the boundaries were printed on a map which was signed by the Fire Chiefs of each adjacent fire department in order to verify the accuracy of the boundaries. He said the purpose of the ordinance is to establish the residents within the district.

JP Winscott made motion to suspend the rules and place the Ordinance on second reading by title only, seconded by JP Stephenson.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion to suspend the rules and place the ordinance on third and final reading by title only, seconded by JP Stephenson.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion for approval, seconded by JP Hill.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Ordinance duly adopted and assigned **No. O-2007-02.**

- (C) Proposed Ordinance Calling a Special Election on the Question of the Levy of the Annual Dues of the *Pleasure Heights Volunteer Fire Department*; Designating the County Official Who Will Collect and Remit the Annual Dues Charged By the Department; and Prescribing Other Matters Pertaining Thereto; Sponsor: JP Frank Winscott

Deputy Clerk Betsy Deaton read the proposed Ordinance in full. JP Winscott stated that he wanted to emphasize that there will be no cost to the County for the election; the Volunteer Fire Department will pay the total cost.

JP Winscott made motion to suspend the rules and place the Ordinance on second reading by title only, seconded by JP Hill.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion to suspend the rules and place the ordinance on third and final reading by title only, seconded by JP Hill.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion for approval, seconded by JP Hobbs.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Ordinance duly adopted and assigned No. **O-2007-03**.

- (D) Proposed Ordinance Establishing the *Hickory Creek Volunteer Fire Department* for Benton County and Designating the Geographical Service Area Therefor; Sponsor: JP Frank Winscott

Deputy Clerk Betsy Deaton read the proposed Ordinance in full. JP Winscott stated each Fire Chief has signed off on the map verifying the accuracy of the boundaries.

JP Winscott made motion to suspend the rules and place the Ordinance on second reading by title only, seconded by JP Hill.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion to suspend the rules and place the ordinance on third and final reading by title only, seconded by JP Hill. JP Stephenson noted that although he is normally opposed to enacting ordinances by three readings in a single meeting, this ordinance concerns a specific geographic area of the county and is for the voluntary assumption of an obligation, and they are not inflicting or exacting anything from the residents.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion for approval, seconded by JP Hill.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Ordinance duly adopted and assigned No. **O-2007-04**.

- (E) Proposed Ordinance Calling a Special Election on the Question of the Levy of the Annual Dues of the *Hickory Creek Volunteer Fire Department*; Designating the County Official Who Will Collect and Remit the Annual Dues Charged By the Department; and Prescribing Other Matters Pertaining Thereto; Sponsor: JP Frank Winscott

Deputy Clerk Betsy Deaton read the proposed Ordinance in full. JP Winscott stated that this election will be held on the same day as the Pleasant Heights election.

JP Winscott made motion to suspend the rules and place the Ordinance on second reading by title only, seconded by JP Hill.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion to suspend the rules and place the ordinance on third and final reading by title only, seconded by JP Hill.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

Deputy Clerk Betsy Deaton read the proposed Ordinance by title only. JP Winscott made motion for approval, seconded by JP Glass.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Ordinance duly adopted and assigned No. **O-2007-05**.

- (F) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2005-36 (2006 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 to Balance Out the Year 2006; Sponsor: JP Tim Summers

JP Moore made motion to read by title only, seconded by JP Wolf. Motion passed by unanimous show of hands vote.

Deputy Clerk Betsy Deaton read the proposed Appropriation Ordinance by title only. JP Summers made motion for approval, seconded by JP Stephenson. JP Summers stated that this appropriation ordinance is simply to make all of the adjustments to close out the year.

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

13 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Schindler, Stephenson, Summers, Winscott, Wolf, Wozniak

Appropriation Ordinance duly adopted and assigned No. **O-2007-06**.

**OTHER BUSINESS:**

None

**ANNOUNCEMENTS:**

JP Moore announced that the Long Range Planning/Properties and Equipment Committee will meet Tuesday, March 27, at 5:30 p.m.

JP Summers announced that the Finance Committee will meet Tuesday, April 3, 2007 at 2:30 p.m., and the Committee of Thirteen will meet Tuesday, April 10, 2007 at 5:00 p.m.

There being no further business to come before the court, upon motion and second the meeting was adjourned at 6:47 p.m.

Respectfully submitted,

Mary L. Slinkard,  
County Clerk

Prepared by: Betsy Deaton