

MINUTES OF BENTON COUNTY QUORUM COURT

April 24, 2008

A regular meeting of the Benton County Quorum Court was held on Thursday, April 24, 2008 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 Gary Black called the meeting to order.

In the absence of County Clerk Mary Lou Slinkard, Deputy Clerk Betsy Deaton called roll as follows:

10 JP's Present: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Stephenson,
Summers, Williams
3 Absent: Winscott, Wolf, Wozniak

JP Summers made motion to suspend the rules and read all ordinances by title only, seconded by JP Hill.

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

10 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Stephenson,
Summers, Williams
3 Absent: Winscott, Wolf, Wozniak

Motion to suspend the rules passed.

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

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

MINUTES:

JP Stephenson made motion to approve the Minutes of the regular meeting of March 27, 2008 as distributed, seconded by JP Harrison. Motion to approve the minutes carried by unanimous voice vote.

COUNTY JUDGE'S REPORT:

County Judge Gary Black reported on the storm and flood damage which occurred to several county roads and bridges. He said that officials from FEMA have toured the area, and they are very hopeful that the county will qualify for Federal assistance, which will mean a reimbursement of up to 87% of the repair costs. He distributed photos illustrating some of the damaged areas.

Judge Black read a copy of a letter that has been sent to Sheriff Keith Ferguson in regard to the distribution of outdated badges to former Sheriff's Deputies. He said they have to follow state laws concerning the disposal of county property, and has requested that the Assessor prepare an appraisal on the badges to determine their value.

County Attorney Robin Green reported that she had presented oral arguments in the Road Tax Lawsuit case before the Arkansas Supreme Court earlier in the day, and she is hopeful that they will hear a decision in two to three weeks.

ELECTED OFFICIALS REPORT:

Sheriff Keith Ferguson stated that it was not his intention to violate state laws, but he thought that the badges had no value because they are no longer in use by Benton County, and cannot be used by any other agency in the state.

Sheriff Ferguson also reported that no funds have been spent on the detention facility that is being built at the County Jail. He said they have contacted architects to get estimates, and have estimated the cost of materials and dirt work, because they do not know if the Road Department will be available to do it. He assured the court that they will not spend any money without the County Judge's knowledge.

COMMITTEE REPORTS:

None

PUBLIC COMMENTS:

Roger Gibson thanked the Quorum Court for adopting the Resolution in support of giving outdated badges to former Sheriff's deputies. He urged the court to proceed with getting the badges to the deputies, and said that once they are given a value, he would be willing to pay for them.

OLD BUSINESS:

- (A) Second Reading of Proposed Ordinance Repealing Ordinance No. O-2006-01, Adopting a Revised Fee Schedule For Building Inspections, and Exempting Agricultural Buildings From Building Inspections and Fees; Sponsor: JP Beverly Williams

JP Williams stated that this is the second reading, and she believes it has been thoroughly discussed. She added that Planning Director Ashley Pope has prepared a report showing how many homes were occupied prior to obtaining Certificates of Occupancy, and how many permits issued in 2007 are still outstanding, and it was included in the packets.

JP Glass stated that he would like to explore the question of the completion deposit one more time. He said that he discussed the matter with Planning Board member Tim Sorey, and if the goal is to provide safer homes, forfeiture of the bond does not accomplish that. He said there is no motivating

factor for scheduling the final inspection and obtaining the Certificate of Occupancy, according to some members of the Planning Department. He said in order to do that they should bring about some sort of fine for those who do not get the final inspection.

JP Stephenson asked if there is not a penalty in place for occupying a structure without a Certificate of Occupancy. County Attorney Robin Green stated that she would be happy to research that. JP Stephenson stated that he thinks there is one in place, but he thinks that having a completion bond will resolve 95% of the problem, and in addition, the Planning Department can develop a method of tracking each project to determine if it has been completed.

JP Hubbard stated that the penalty is already in place in Article 7, because moving into a house without a C of O violates the ordinance. JP Williams stated that she thinks it would be worse for the homeowners to immediately be dragged into court if they move in without the C of O than to be asked to put up a bond that is refundable. JP Williams asked how that process would work. County Attorney Robin Green stated that it would be up to the Prosecuting Attorney to enforce it, and it would certainly take some time for it to go through the courts. She said the homeowner would probably be sent a letter warning them to take the proper action or face having a warrant issued, or perhaps in this instance, a citation. JP Williams stated that 98% of the people out there intend to do the right thing, and the bond will serve as a reminder to complete the process. She said that the Planning Department is developing procedures to better track the progress of each project for which a permit has been issued.

JP Hobbs stated that deposits are required because an entity may be out money if the process is not completed, but she does not see how the county is out any money if someone moves into a house without a final inspection.

JP Hobbs made motion to place the proposed ordinance on first reading for the purpose of amending it to delete Article 4, seconded by JP Hubbard.

JP Stephenson stated that the Planning Committee has already made their recommendation. JP Hobbs stated that two of the people on the subcommittee voted against the ordinance on its first reading. JP Harrison stated that he will vote for the ordinance as it is, because the committees have put a lot of time and work into it, and he likes it the way it is.

JP Williams stated that the subcommittee had several meetings which lasted several hours, in which every one of these issues was discussed at great length. She said the amount for the completion bond was actually suggested by JP Glass. She said that all of the Planning Board members who were on the committee consistently voted for all parts of the ordinance, and said it was what they needed. She said they have gotten down to one issue, and they should give it a try. She said in a year, if the committee feels it needs to be reviewed, they can look at it again, but this is the best compromise they can come up with. She pointed out that every day they do not get this passed is a day that costs the county money, because the Planning Department needs to implement these new fees because they are currently operating under an inefficient fee structure.

Tim Sorey stated he has discussed this issue with JP Glass and understands his point, but while this mousetrap might not be the right mousetrap, it is better than no mousetrap at all. He said that in the subcommittee discussions, he had actually favored a higher amount for the completion bond, because he feels it needs to be a percentage of the contractor's cost to build the structure and he does not know if \$300 is enough to get their attention. He pointed out that taking it through the courts would cost the county money and time that it does not need to spend. He said he would rather see it adopted and put into practice, because they may see a year from now that no penalty clause is needed. He said he has seen too many things come before the Planning Board that have

ended up in the court system, and it simply is not good county business. He said if it is possible to have any instrument in place to encourage builders to complete their jobs, without having to go through the courts, then that is what they need to do. He noted that if they should discover that the \$300 bond is not enough to keep people from walking away without their money, he would propose increasing the completion bond rather than taking the matter into the courts with some type of penalty.

JP Moore noted that the cost is actually 50% of the permit fee. JP Glass stated that he had just used \$300 as an example.

JP Hobbs stated that in light of Mr. Sorey's comments, she would like to withdraw the motion to amend.

JP Hubbard stated that he would like to move forward with the amendment, and made motion of same, seconded by JP Brown.

Following some discussion regarding procedure, County Attorney Robin Green stated that the vote will be to return the ordinance to its first reading for the purposes of amendment.

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

2 yeas: Brown, Hubbard

8 nays: Glass, Harrison, Hill, Hobbs, Moore, Stephenson, Summers, Williams

Motion to place ordinance back on first reading failed.

Proposed ordinance forwarded to May 22, 2008 Quorum Court agenda for third and final reading.

NEW BUSINESS:

- (A) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2007-30 (**2008** Benton County Budget) to Appropriate Additional Monies and Authorize Additional Expenditures in Department 44, County Road, Fund 020; Sponsor: JP Tim Summers

Deputy Clerk Betsy Deaton read the proposed appropriation ordinance by title only. JP Summers made motion to adopt, seconded by JP Hill. JP Summers stated that this is appropriating the funds from the Arvest loan for the Road Department trucks, machinery, equipment and buildings, and has been discussed thoroughly in Finance and Committee of Thirteen.

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

10 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Stephenson, Summers, Williams

3 Absent: Winscott, Wolf, Wozniak

Appropriation Ordinance duly adopted and assigned **No. O-2008-11.**

- (B) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2007-30 (**2008** Benton County Budget) to Appropriate Additional Monies and Authorize Additional Expenditures in Department 44, County Road, Fund 020; Sponsor: JP Tim Summers

Deputy Clerk Betsy Deaton read the proposed appropriation ordinance by title only. JP Summers made motion to adopt, seconded by JP Hill. JP Summers stated that this is to appropriate \$78,000 in grant funds for some repairs on Slaughter Pen Road.

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

10 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Stephenson,
Summers, Williams
3 Absent: Winscott, Wolf, Wozniak

Appropriation Ordinance duly adopted and assigned **No. O-2008-12.**

- (C) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2007-30 (2008 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Various Funds and Departments; Sponsor: JP Tim Summers

Deputy Clerk Betsy Deaton read the proposed appropriation ordinance by title only. JP Summers made motion to adopt, seconded by JP Hill. JP Summers stated that this has been through Finance and Committee of Thirteen and is to pay the 2007 unemployment taxes.

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

10 yeas: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Stephenson,
Summers, Williams
3 Absent: Winscott, Wolf, Wozniak

Appropriation Ordinance duly adopted and assigned **No. O-2008-13.**

OTHER BUSINESS:

JP Glass stated that he hoped that they would be able to work through the issue of the deputies' badges, and asked what had happened to the Quarterly Road Report that is supposed to be provided by the County Judge. County Judge Gary Black noted that the report had been delivered at the March Quorum Court meeting. There was discussion between JP Glass and Judge Black concerning the format, and Judge Black asked JP Glass to call him to discuss what information he wants included in the report.

JP Hubbard asked if the final decision regarding the deputies' badges is up to the County Judge. County Judge Gary Black stated that he has not received an appraisal from the Assessor yet, and he is not against giving out the badges, but they have to follow the law. JP Hubbard asked what the next step will be after the Assessor provides the appraisal on the value of the badges. County Attorney Robin Green stated that if the badges are deemed to be surplus, they could be put up for public auction, and if they are determined to be scrap, they may be disposed of. JP Hubbard asked if that determination will be made by the County Judge. Robin Green stated that the County Judge has authority over all county property.

JP Williams stated that she understood the resolution to mean that the Quorum Court is of the opinion that this would be a good thing, but the administration of the property is up to the County Judge, whether they agree with how he handles it or not. County Judge Gary Black stated that is correct. JP Hubbard asked that the matter be handled as soon as possible.

JP Hobbs stated the Pyromeds program and the method used by Benton County to pay unemployment taxes should be sent in to the National Association of Counties newsletter because other counties might benefit from the two programs. JP Williams stated that the Pyromeds program has now disposed of over 300 pounds of pharmaceuticals, and she will be presenting the program at the County Judges' Association meeting which will be hosted by Benton County in June.

JP Stephenson stated that JPs should not participate in the micromanagement of county departments, such as that which took place at the Environmental Committee meeting that was held on March 27 just prior to the Quorum Court meeting.

ANNOUNCEMENTS:

JP Summers announced that the Finance Committee will meet Tuesday, May 6, 2008 at 2:30 p.m., and the Committee of Thirteen will meet on May 13 at 6:00 p.m.

County Judge Gary Black stated that Lost Bridge Village is going to participate in the Pyromeds program in conjunction with Bella Vista's monthly recycling program, and announced that the County Wide Clean Up will be held Saturday, April 26, at the County Road Department from 8 a.m. to 3 p.m.

There being no further business to come before the court, upon motion and second the meeting was adjourned at 7:15 p.m.

Respectfully submitted,

Mary L. Slinkard,
County Clerk

Prepared by: Betsy Deaton