

## MINUTES OF BENTON COUNTY QUORUM COURT

July 23, 2009

A regular meeting of the Benton County Quorum Court was held on Thursday, July 23, 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 County Clerk Janet Reaves called roll as follows:

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

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Prayer was led by Bill Rogers of Word of Life Church.

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

### **CHANGES TO AGENDA**

County Judge David Bisbee asked if there were any additions, corrections or deletions to the agenda.

Approval of the agenda passed by unanimous voice vote.

### **MINUTES**

County Judge David Bisbee asked if there were any additions or corrections to the Minutes of the June 25, 2009 Quorum Court meeting. Seeing none, Judge Bisbee stated that the minutes would be filed as presented.

### **ELECTED OFFICIALS' REPORT:**

None

## **DISCUSSION: REVERSE 9-1-1**

County Judge Dave Bisbee stated that after reviewing statements he made at a previous Finance Committee meeting regarding a reverse 9-1-1 system, he has realized that he was misinterpreted. He said he had first stated that D.E.M. Coordinator Marshal Watson was only doing his job as he understood it. He said he followed that statement by saying that anytime an employee makes policy decisions which should be made by policy makers, then that is bad government. He stated that when those two statements are tied together, it certainly sounded like he was talking about the previous administration. He said that he would like to publicly apologize to former County Judge Gary Black; he believed Gary Black was a very good County Judge, and in no way did he mean to disparage Judge Black's administration.

County Judge David Bisbee explained that he first became aware of reverse 9-1-1 shortly before the Intergovernmental Council Meeting in May, at which time the mayors in attendance asked for an update on it. Coordinator Marshal Watson informed the Council that the current administration had decided against pursuing the system. Judge Bisbee added that none of the mayors questioned the decision at that time, nor has he heard from any of the mayors regarding reverse 9-1-1 since then. He said that he had not thought that it was a big issue, but that obviously it has become one. He said after he had posed the question in a newspaper interview about why the county had not instituted a reverse 9-1-1 system, 9-1-1 Administration

Coordinator Mary Sullivan informed him that the previous County Attorney had advised against signing the contract. He stated that County Attorney George Spence has confirmed that with the previous County Attorney, who advised against signing the contract with AT&T to provide the data base because it would have required the county to waive sovereign immunity. County Attorney George Spence stated that it is fairly common for a contract to have a "hold harmless" clause and explained that to "hold harmless" means that if AT&T were to get sued, then the county would agree to be liable for any legal fees or settlements that AT&T incurred.

County Judge David Bisbee stated that he would like for reverse 9-1-1 to be referred to the appropriate committee, to see if it is something the county is interested in.

JP Stephenson expressed concern that money was moved without the Quorum Court's knowledge.

County Judge David Bisbee stated that by the time he first heard of reverse 9-1-1 at the end of May, they were facing a June 30, 2009 deadline for the funds to be expended. He added that the money was expended without Quorum Court approval because of time constraints, but that if the situation occurs again, he would rather lose the money than spend it without approval from the Quorum Court.

JP Wolf asked if any other counties using a reverse 9-1-1 system have ever been sued. JP Wozniak stated that of the six companies he has spoken to while researching the system for the City of Bella Vista, none have ever been sued.

JP Moore stated that he was having a problem with the reallocating of grant money for some other expenditure without it going through the Quorum Court.

Judge David Bisbee asked the Quorum Court members if they would prefer that he call a special meeting in the event of a time constraint, to which the Justices of the Peace nodded in agreement.

Judge Bisbee stated that he understood some comments had been made to the effect that the special meeting called in February to address the appropriation for ice storm damage had been unnecessary, so he had been reluctant to call another special meeting. He added that he will not hesitate again to call a special meeting.

JP Stephenson stated that he was overwhelmed to think that money would be moved without the Quorum Court knowing. Judge David Bisbee stated that the \$65,000 was appropriated as it was intended – for homeland security, in the form of upgrades to security in the administration building. He said the transaction was approved by the Arkansas Department of Emergency Management, and was one of the most thoroughly reviewed transactions that has ever taken place in Benton County government. He added that it was done legally and properly, but sometimes doing it legally is not enough.

JP Allen stated that he would like to make a motion to forward reverse 9-1-1 to the appropriate committee for further discussion.

Judge David Bisbee recognized JP Wozniak. JP Wozniak reported that he had talked with six different companies regarding reverse 9-1-1, and that a representative from a Florida-based company, Code RED, which specializes in reverse 9-1-1 systems, will be giving a public demonstration in the Quorum Court meeting room Monday, August 10, 2009 at 10:00 a.m. He added that a second demonstration will be given at 1:00 p.m. at the Bella Vista police station the same day.

JP Allen withdrew his previous motion.

Judge David Bisbee stated that the county has been awarded three Homeland Security Grants—the 2006 grant for \$174,000, the 2007 grant for \$147,000, and the 2008 grant for \$120,000. He explained that each of the grants has to be spent within three years of being awarded, and they are required to spend all of the funds from the earliest grant before they can start spending the grants from the following year. He said the 2007 and 2008 grant paperwork is being completed, and the two grants should total approximately \$250,000. He said they will be speaking to the appropriate committees concerning how to spend the grant funds.

### **COUNTY JUDGE’S REPORT:**

County Judge David Bisbee stated that his office and the Sheriff’s Office have come to an agreement concerning a unified Benton County Dive Team; an ordinance has been drafted, and it will be presented to the appropriate committee. He said that the dive team will be under a governing panel which will be created by appointing one person from the Fireman’s Association, one from the Sheriff’s office, and one from the 9-1-1 Administration Board. He added that the board will draft the dive team policy and establish the requirements and training.

Judge David Bisbee reported that after sharing his vision for the future building needs of the county with the Long Range Planning – Buildings and Real Estate Committee, they urged him to begin preliminary work on putting that vision in place. He said he has begun negotiations on behalf of Benton County to buy some property that is being sold as a distressed sale, and that any offers, counter-offers, or real estate contracts are contingent on the absolute approval of the Quorum Court.

Judge David Bisbee stated that the last thing remaining for ice storm cleanup is to hydro-seed the burn sites. Comptroller Richard McComas reported that payment from FEMA for \$159,000 in invoices submitted for labor and equipment has not been received, and that Waste Management has submitted invoices totaling \$145,000 to the county for hauling away ashes from the clean-up sites. He said they expect FEMA to reimburse both of those amounts.

**DISPOSAL OF NON-USEABLE SURPLUS ITEMS**

Judge David Bisbee stated that Chief Don Townsend was available for any questions on the disposal of the non-useable surplus items from the Sheriff's Department.

There were no questions.

**COMMITTEE REPORTS:**

JP Wolf stated that discussion from the July 22, 2009 JESAP meeting was tabled to the next JESAP meeting, which will be held prior to the July 29, 2009 Personnel Committee meeting scheduled for 3:00 p.m.

**PUBLIC COMMENTS:**

Diane Gately spoke in favor of a reverse 9-1-1 system.

Sue Elverston commented on the condition of Blue Jay Road, stating that the graders are not being operated properly.

James Simpson, President of Benton County Farm Bureau, stated that he supports the proposed Burn Ordinance, and he appreciated the support of the ordinance by the Quorum Court.

Jimmy Thompson, President of Benton County Fire Protection Association, stated that he would like to be on the August 11, 2009 Committee of Thirteen agenda to make a presentation to show what they have accomplished, what condition their trucks are in, and what they are going to lose if they don't at least try to purchase new fire trucks.

Jim Hazelwood commented on his support for reverse 9-1-1, and reported on an illegal dumping site west of Posey Mountain Road.

JP Wolf made motion to suspend the rules and read all ordinances and resolutions by title only, seconded by JP Allen.

Motion passed by unanimous voice vote.

**OLD BUSINESS:**

- (A) Third Reading of Proposed Ordinance to Allow Burning of Certain Structures to Prevent or Eliminate Fire Hazards; Sponsor: JP Jim Wozniak

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Wozniak stated that this is the third and final reading for the ordinance, and they need to pass it so that county residents can start using it as soon as it becomes effective.

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

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

Ordinance duly adopted and assigned **No. O-2009-19** on third and final reading.

- (B) Third Reading of Proposed Ordinance Amending Ordinance No. O-2007-11 Related To Additional Fines to Support Jail Construction Maintenance, Operation, and Other Purposes As Allowed By Law; Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Moore stated that this ordinance is to allow an increase in jail fines, and was enabled by Act 209 of 2009, and that this is the third and final reading.

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

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

Ordinance duly adopted and assigned **No. O-2009-20** on third and final reading.

- (C) An Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (**2009** Benton County Budget) Creating a New Line Item #5875 - Illinois River Conservation Reserve Enhancement Program (CREP), and Appropriating Additional Monies and Authorizing Additional Expenditures in Department 01, County Judge, Fund 010; Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Moore stated that this appropriation is for the Illinois River Conservation Reserve Enhancement Program in the amount of \$2,500 with an additional \$2,500 in "like-kind" services.

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

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

County Attorney George Spence noted that the proposed appropriation ordinance received the nine votes required for adoption on its second reading, so it will not require a third reading.

Appropriation Ordinance duly adopted and assigned **No. O-2009-21**.

- (D) An Ordinance Amending Section 58-33 of *The Code of Ordinances of Benton, County, Arkansas*, Related to the County Judge's Quarterly Road Report to Change the Timing of the County Judge's Summary Report;  
Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed ordinance by title only.

JP Jay Harrison stated that this is the second reading of an ordinance to change the timing of the Quarterly Road Report from January to April.

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

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

Second reading passed.

JP Stephenson made motion to suspend the rules and place the proposed ordinance on third and final reading, seconded by JP Harrison.

Motion to place the proposed ordinance on third and final reading passed by unanimous voice vote.

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

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

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

Ordinance duly adopted and assigned **No. O-2009-22** on third and final reading.

**NEW BUSINESS:**

- (A) Proposed Resolution Confirming the County Judge's Appointment of James A. Cole to the Benton County Planning Board; Sponsor: JP Frank Winscott

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

JP Winscott stated that James A. Cole was appointed to the Benton County Planning Board to fill an expired term which expires July 31, 2009, and the County Judge is re-appointing him to that position for a four-year term ending in 2013.

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

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

Appointment of James A. Cole to Benton County Planning Board confirmed.

Resolution duly adopted and assigned **No. R-2009-15.**

- (B) An Appropriation Ordinance Amending Appropriation Ordinance No. R-2008-33 (**2009** Benton County Budget) by Appropriating Additional Monies and Authorizing Addition Expenditures in Department 63, 9-1-1 Administration, Fund 130: JP Marge Wolf

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Wolf stated that this appropriation ordinance is for the 2009-2010 (Public Safety Answering Point) PSAP equipment upgrade for four 9-1-1 dispatch centers, and involves no county funds. She added with the reimbursement of 86% from the Emergency Telephone System (ETS) the total cost out of the 9-1-1 Fund will be approximately \$63,000.

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

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

Appropriation Ordinance duly adopted and assigned **No. O-2009-23.**

- (C) An Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (**2009** Benton County Budget) to Appropriate Monies and Authorize Expenditures in Department 30, State Homeland Security Grant Fund, Fund 285; Sponsor; JP Marge Wolf

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Wolf stated this appropriation ordinance is to expend grant funds to hire a consultant to develop a plan for standardized interoperable communications procedures.

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

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

Appropriation Ordinance duly adopted and assigned No. **O-2009-24**.

- (D) An Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (**2009 Benton** County Budget) to Appropriated Additional Monies and Authorize Additional Expenditures in Department 01, NEBCO Fire Department Rural Services Grant Fund, Fund 478; Sponsor: JP Marge Wolf.

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Wolf stated this appropriation ordinance is a pass-through grant for the NEBCO Volunteer Fire Department which requires no county funds.

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

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

Appropriation Ordinance duly adopted and assigned No. **O-2009-25**.

- (E) An Appropriation Ordinance Amending Appropriation Ordinance No. O-2008-33 (**2009 Benton** County Budget) to Amend *Schedule 4 - Personnel and Compensation Authorization* by Adding Positions and Deleting Positions in Various Funds and Departments; Sponsor: JP Marge Wolf

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Wolf stated this appropriation ordinance is to amend Schedule 4 to reflect reorganizations in the County Judge's Office, Election Commission, and Accounting/Human Resources Department, and to add a Deputy Public Defender position in the Public Defender's Office.

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

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

Judge David Bisbee stated that since the proposed appropriation ordinance failed to receive nine votes, it will be placed on the August 27, 2009 Quorum Court agenda for second reading.

- (F) An Appropriation Ordinance Amending Appropriation Ordinance No. 0-2008-33 (2009 Benton County Budget) Authorizing a Transfer of Funds Between Categories and Line Items; Appropriating Additional Monies and Authorizing Additional Expenditures; and Decreasing Existing Appropriations in Various Funds and Departments;  
Sponsor: JP Kurt Moore

Deputy County Clerk Janet Reaves read the proposed appropriation ordinance by title only.

JP Wolf stated that the Elected Officials were asked to take a look at their budgets to see if they could make any changes or decreases, and she would like to commend them for the decreases they have made. She said that this ordinance reflects those changes.

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

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

Appropriation Ordinance duly adopted and assigned **No. O-2009-26.**

Judge David Bisbee stated that he believes that this appropriation ordinance is historic in the State of Arkansas, that the Benton County Quorum Court just cut \$1 million out of this year's budget while there is money in the bank. He said that we are getting ahead of the short fall that will happen in 2011 and properly managing the budget. He said that he would like to sincerely thank the Elected Officials for their responsiveness.

**OTHER BUSINESS:**

JP Douglas stated that several members of the court feel that the legislature failed to properly address the financing of Public Defenders after the reorganization of the District Court system. He said that JP Hubbard asked him to request JP Wozniak to carry this concern to the Arkansas Association of Counties, so that joining with other counties in the same situation would give us a better voice in the legislature. He stated that he would like to see a resolution passed that JP Wozniak could take to the next Arkansas Association of Counties meeting, asking the legislature to again look at the funding of Public Defenders.

JP Stephenson stated that was a fine idea, and asked for the court's approval for the County Attorney to draw up a resolution to support their position. County Judge David Bisbee stated that the court certainly has his approval.

JP Stephenson made a motion for the County Attorney to draw up a resolution to support the Quorum Court's position on funding of the Public Defenders for JP Wozniak to present to the Arkansas Association of Counties and to have ready for the Committee of Thirteen August 11,

2009 meeting, seconded by JP Sandlin. JP Wozniak stated that the next Arkansas Association of Counties meeting will occur prior to the August Committee of Thirteen meeting.

Judge David Bisbee stated that since it is just a resolution and non-binding, they could vote to approve a verbal resolution, then have the County Attorney draft the resolution and give it to JP Wozniak to take to the Arkansas Association of Counties.

JP Stephenson amended his motion to be in the form of a verbal resolution, seconded by JP Sandlin.

Motion passed by unanimous voice vote.

Resolution duly adopted and assigned **No. R-2009-16.**

**ANNOUNCEMENTS:**

County Judge David Bisbee announced that if any Justices of the Peace would like to schedule a town hall meeting in their district, that he and his staff would be available.

JP Moore announced that the next Finance Committee meeting will be held Monday, August 3, 2009 at 2:30 p.m.

There being no further business to come before the court, upon motion and second the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Tena O'Brien,  
County Clerk

Prepared by: Janet Reaves