

MINUTES OF BENTON COUNTY QUORUM COURT

August 28, 2008

A regular meeting of the Benton County Quorum Court was held on Thursday, August 28, 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 Harrell called roll as follows:

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

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

Motion passed by unanimous voice vote.

The presiding officer led the pledge of allegiance to the flag. Prayer was led by Mark Lindstrom of Bentonville First Nazarene Church.

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 July 24, 2008 and the August 12, 2008 special meeting as distributed, seconded by JP Hill. Motion to approve the minutes carried by unanimous voice vote.

COUNTY JUDGE'S REPORT:

County Judge Gary Black informed the Quorum Court that several county court orders have been issued authorizing the disposal of county property including: 1) some unusable Sheriff's Deputy uniforms; 2) a structure on the County Road Department site which had suffered extensive damage from termites and mold; and 3) a K-9 officer who has been retired and turned over to its former handler.

County Judge Gary Black then yielded to JP Tim Summers who announced that the Benton County

Agricultural Committee has been formed, and noted the considerable impact that agriculture has had on Benton County. He recalled that in the early 1970's there were over 600 dairy farms in Benton County, and today there are less than 10. He said that he is proud of the good working relationship between the Quorum Court and Benton County Farm Bureau, and introduced Farm Bureau President Susan Anglin. Susan Anglin thanked those involved in forming the committee, including Farm Bureau Vice-president James Simpson, Secretary Dan Douglas, Stanley Hill from the Arkansas Farm Bureau Environmental Affairs Office, County Judge Gary Black and JP Tim Summers. Susan Anglin stated the mission of Farm Bureau, and said that they want the County Government to be comfortable asking for advice and information on any agricultural issues. She introduced the members of the Agricultural Committee including: Josh Fortenberry from the Benton County Conservation District; Dr. Jeff Miller from the University of Arkansas College of Agriculture; Robert Seay, the University of Arkansas Staff Chair for Benton County; Dr. Gary France of the Pea Ridge Veterinary Clinic; Jim Singleton of Arvest Bank-Gravette; Justin Carter of Farm Credit Services; Ricky Stark of the Bank of Gravette; Linda Blaine, a cattle farmer; Ross Lockhart of Stockman's Pride; beef farmers Dan Douglas and James Simpson; JP Tim Summers representing the Quorum Court; Planning Director Ashley Pope; and herself, representing the dairy farmers.

Dan Douglas presented a slide show illustrating the impact of agriculture on Benton County and the changes in the agricultural landscape over the last several decades. He summarized by saying that agriculture in Benton County is not extinct, and the Quorum Court now has a source to go to when considering anything that affects agriculture.

ELECTED OFFICIALS REPORT:

Sheriff Keith Ferguson stated that he has met with County Judge Gary Black to discuss the proposed building to house overflow inmates and to explain that he thought they had followed the correct procedures for getting it built. He said that he understands that doubts have been expressed that the facility can be constructed for \$1 million, so he has asked Gary Jackson of Hight-Jackson Associates to give him an estimate of what a building would cost, either an additional pod on the existing jail or the separate building. He said he told them about the need three years ago, and they are going to have to address it and decide what the priorities are.

He also addressed the problem of the increasing number of abandoned dogs. He said housing the dogs is costing the county \$70,000 to \$80,000 per year, all of the shelters are full, and they might want to consider helping the City of Rogers add kennels to their shelter because no one wants to see the animals euthanized.

COMMITTEE REPORTS:

JP Kurt Moore stated that the Long Range Planning/Properties & Equipment Committee met on August 26, 2008 to discuss the County Vehicle Policy which is included in the proposed County Personnel Policy, and that the committee approved the policy.

PUBLIC COMMENTS:

Doug Timmons urged the approval of Mark Curtis to the Planning Board, noting that one of the purposes of the Planning Board is to protect natural resources, and it is disturbing to him that some people oppose that. He said that his membership in ABLE does not mean he is anti-development, because the organization has in fact opposed only one development, Grandview Heights.

Bill Millager spoke in support of the appointment of Mark Curtis to the Planning Board, stating that the overall composition of the Board should be a balanced cross-section of the county and several current members of the board have interests in development. He said that Beaver Lake is a large part of the assets in Benton County that need protection, but it is not the only one, because more than half of the county is not in the Beaver Lake watershed. He said that Mark Curtis is able to work within a group in order to help its efforts, and will not push a personal agenda.

Don Day spoke against the appointment of Mark Curtis to the Planning Board, stating that they should not get carried away with the fact he took some courses in Planning, because he himself has a Civil Engineering degree, but does not remember all of his courses. He added that Mr. Curtis' attendance at Planning Board meetings does not make him qualified, because he himself attends Quorum Court meetings, and he does not think the County Judge would appoint him to the Quorum Court if a vacancy occurred. He said that he had hoped that the County Judge would reconsider appointing Gary Finnegan to the Planning Board, because Mr. Finnegan helped select Planning Director Ashley Pope, serves on the Zoning Focus Committee, and owns a business which depends on Beaver Lake being clean enough for recreation. He said the appointment is a determined step to plant someone on the board to further the agenda of ABLE and the Beaver Water District.

Lane Gurel spoke in favor of the appointment of Mark Curtis to the Planning Board and stated that the appointment is being opposed by a small vocal group that is not the majority nor is it representative of their constituency. He said it is unfair to paint any group as anti-development because they opposed one development, and it is also inaccurate to say the group is liberally biased, because it is in fact made up of a diverse group of people. He added that they have no idea what Mark Curtis' political persuasion is, nor should it be part of the discussion.

Bob Kossieck spoke against the appointment of Mark Curtis to the Planning Board due to his opposition to the Grandview Heights project and his support of the Watershed Ordinance three years ago, which would have cost Benton County millions of dollars and taken land from property owners without due process. He also noted that Mr. Curtis contributed to the campaign of a Democratic Justice of the Peace candidate, along with others who are all Democrats, in an attempt by ABLE to buy a seat on the Quorum Court. He said there is no doubt that Mr. Curtis is in the pocket of ABLE and would vote the way they want him to. He said that Planning Director Ashley Pope speaks highly of Mr. Curtis, but they should keep in mind that she was a major force in implementing a draconian watershed ordinance on Lake Maumelle.

James Gately spoke in favor of the appointment of Mark Curtis to the Planning Board, noting that all of the applicants went through the interview process, and he wonders why Mr. Curtis has become a political football. He noted that the board is a 7-member board, and almost all of them earn their living through construction, so he wonders if there is any bias there.

Jeff Wyant spoke against the appointment of Mark Curtis because of his involvement with ABLE and its support of the abomination of a watershed ordinance which would have passed if some hundred or so citizens had not shown up against it. He said the interview process was not conducted before anyone other than the County Judge, and they should not vote to confirm someone that they knew nothing about other than the propaganda they have heard in public comments.

Maria Oliver spoke in favor of the appointment of Mark Curtis to the Planning Board, saying that she had been privileged to work with him, and although they are as different as day and night, they always respectfully agree to disagree. She said she favors development, but she wants to see the water source protected for the sake of her children, and does not want to have to pay for the cleanup

of Beaver Lake some time in the future.

OLD BUSINESS:

None

NEW BUSINESS:

- (A) Proposed Resolution Confirming an Appointment by the County Judge to the Benton County Planning Board; Sponsor: JP Tim Summers

Deputy Clerk Betsy Harrell read the proposed resolution in full. JP Summers made motion to adopt, seconded by JP Hill.

JP Winscott made motion to table indefinitely, seconded by JP Hubbard. JP Stephenson stated that he is totally opposed to tabling the motion, seeing no reason for it and nothing to be gained by it. JP Williams stated that she is also opposed to tabling the motion, because the Planning Board needs a new member and they need to go ahead with it. JP Glass stated that he has received a lot of calls, and he has not had the opportunity to meet with Mr. Curtis, so he would like to schedule a meeting with him. He said he feels that he previously voted against Mr. Curtis based on his own feelings and opinions, and he would like the opportunity to visit with him without the excessive background noise concerning ABLE and Democrats, etc.

County Judge Gary Black stated that his responsibility is to appoint someone, and the Quorum Court's responsibility is to confirm that appointment. He said that he has visited with the applicants and made the recommendation to the Court, they were given the opportunity at the last meeting to ask Mr. Curtis questions. He said that they also have that opportunity tonight, so they should take it if that is what they want.

JP Hubbard stated that there were 15 applicants, and one was chosen by the County Judge, brought to the Court, and the majority of the Court said no. He said apparently the County Judge seems to think that they made a bad decision, so he has brought it to the Court again. County Judge Gary Black stated that it was his prerogative. JP Hubbard stated that if the County Judge felt they made a bad decision, perhaps it was because they were not provided with enough information, and it would have helped if they had seen all of the applications and resumes. County Judge Gary Black stated that choosing the applicant was his responsibility, and they have the opportunity to question Mr. Curtis tonight if they want to.

JP Harrison stated that he thinks this is just like one of the Quorum Court committees making a recommendation to the Quorum Court; he respects the committees and the homework that they do, and he respects the homework done by the County Judge and his recommendation.

JP Summers stated that Mark Curtis is neither Superman, nor a villain—he is a person interested in serving. He said he supported the appointment at the last meeting, and he will support it tonight. He urged the Court to defeat the motion to table, and either vote to confirm the appointment or vote against it, because it is time to get it over with. He added that it is the County Judge's responsibility to make the appointment, and the Quorum Court's responsibility to either vote for it or against it, and they should vote their conscience.

JP Wozniak stated that he agreed with JP Summers; this has dragged on long enough, and if anyone wanted to find out about his qualifications, they have had plenty of time.

County Attorney Robin Green noted that the motion to table will take simple majority to pass.

There being no further discussion on the motion to table indefinitely, a roll call vote was recorded as follows:

2 yeas:	Hubbard, Winscott
10 nays:	Brown, Glass, Harrison, Hill, Hobbs, Moore, Stephenson, Summers, Williams, Wozniak
1 absent:	Wolf

Motion to table failed.

JP Moore stated that a lot of the opposition to Mark Curtis' appointment centered on his position as an officer in ABLE. He asked Mark Curtis if he would be willing to resign that position, but keep his membership, if he is appointed to the Planning Board. Mark Curtis said that he would. JP Stephenson stated that he opposed that line of questioning, and asked if it would be proper to ask him to give up his religion, or his membership in the Masonic Lodge.

JP Glass asked Mark Curtis to take the opportunity to share his thoughts relative to his support of the watershed ordinance, and asked if he still believes that it was the best remedy at that point in time. Mark Curtis stated that his perspective of the watershed ordinance has not changed a great deal—it had some things in it he liked, and some things in it that he disliked. He said that he supported it as a tool to help protect Beaver Lake, but there are other tools to accomplish the same thing that might not seem as onerous to the general public. He said that as the county grows, in order to protect the lake, and the county's very important agricultural base, and to protect the county's citizens and their way of life, there will need to be more planning. He said that sometimes planning means more regulation, sometimes it means changing regulations, and during his attendance of Planning Board meetings, he has seen some current regulations that need some attention. He said he believes that with his background and education in planning, he can help the board do that, and he is also willing to spend the time to do that. He said that concerning his membership in ABLE, he is proud to be a member, and is proud to say he was part of the lawsuit against the County on the Grandview Heights issue, because he felt the Planning Board did not follow its own rules. He said he does not believe the county needs high-rise condominiums on the shores of Beaver Lake. He apologized for costing the county money, but said that it is a citizen's right to do that when they feel something is wrong. He added that the building of the condominiums would have cost the county huge amounts of money in infrastructure, schools, fire and safety protection, and many other things that were never touched upon. He said it would not have been the win-win proposition that was presented by the developer, and currently all they have is a road that leads to nowhere, and scarred land that is dripping mud into Beaver Lake which is costing the 2-Ton Water District money to clean up, and that money is coming out of our pockets. He added that he thinks planning is important in the county, we have a very good Planning Director, he thinks he can help the Planning Board, and that is why he put in his application.

JP Summers stated that he wants Mr. Curtis to understand that JP Moore's request was not the wishes of the entire Quorum Court. Mark Curtis stated that he understood that.

JP Williams stated that one of the comments that has been made to her is that because he has strong opinions, he will not have the ability to be open-minded and see both sides of an issue. She said that the members of the Planning Board whom she has spoken with feel that he will be able to do that and fit in well, but she would like for him to take the opportunity to address it. Mark Curtis stated that he is as open-minded as anyone who has an opinion, and that if someone can prove his opinion to be wrong, he could certainly admit it. He said he thinks it is important to have opinions and to give them when they are asked for. He said different people from different backgrounds all meld together to form a society, and although he does have some biases, he feels that the Planning Board needs to be made up of people who think differently. He noted that the members of the Quorum Court do not all think alike, but they eventually come to a consensus, even though it does not always make everyone happy. He said that if he recalls his planning education correctly, good planning does not make everyone happy, because they come to an agreement that everyone can live with.

JP Hobbs stated that she previously voted against Mark Curtis because of his bias toward countywide zoning and his support of the watershed ordinance, and it is a vote she does not take lightly. She said that after considering Mr. Curtis' qualifications, and that there are seven members on the Planning Board, and that any Planning Board decision can be appealed, and that the Planning Board does not pass ordinances but they are voted on by those elected to do so, she will be voting in support of Mr. Curtis.

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

8 yeas:	Harrison, Hill, Hobbs, Moore, Stephenson, Summers, Williams, Wozniak
4 nays:	Brown, Glass, Hubbard, Winscott
1 absent:	Wolf

Resolution duly adopted and assigned **No. R-2008-15**.

JP Winscott stated that he wanted Mark Curtis to know that although he voted against his appointment, the Quorum Court has made a decision, and he will support him and the work of the Planning Board.

JPs Hubbard and Wozniak left the meeting.

- (B) Proposed Resolution Authorizing M. E. Callender, Jr. Brigadier General (Ret), USAF to Solemnize the Marriage of Michael E. Callender to Angela D. Hamilton on September 21, 2008 in Bella Vista, Arkansas; Sponsor: JP Beverly Williams

Deputy Clerk Betsy Harrell read the proposed Resolution in full. JP Williams made motion to adopt, seconded by JP Summers. JP Williams stated that this is a wonderful opportunity to do something nice for a family, and that she has had the opportunity to speak to the couple and specifically ask them if they want Mr. Callender to perform the ceremony. She said they have both told her that they would.

JP Winscott stated that he fully supports the resolution, and asked if it would be appropriate to amend it to express gratitude to Mr. Callender for his service to his country. JP Williams stated that she is sure he understands that we are grateful, and doing this resolution for him to perform his son's wedding will express that.

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

9 yeas: Brown, Glass, Harrison, Hobbs, Moore, Stephenson, Summers,
Williams, Winscott
1 nay: Hill
3 absent: Hubbard, Wolf, Wozniak

Resolution duly adopted and assigned **No. R-2008-16.**

- (C) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2007-30 (**2008** Benton County Budget) to Amend Schedule 4 Personnel And Compensation Authorization By Adding a Position and Deleting a Position in Department 67, County Jail, Fund 010; Sponsor: JP Tim Summers

Deputy Clerk Betsy Harrell read the proposed ordinance by title only. JP Summers made motion to adopt, seconded by JP Williams. JP Summers stated that this has been through the Finance Committee and the Committee of Thirteen.

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

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

Ordinance duly adopted and assigned **No. O-2008-19.**

- (D) Proposed Emergency Ordinance Establishing the *Pea Ridge Volunteer Fire Department* for Fire Protection Services for Benton County and Designating the Geographical Service Area Therefor; Sponsors: JPs Wozniak and Glass

Deputy Clerk Betsy Harrell read the proposed ordinance by title only. JP Glass made motion to adopt, seconded by JP Williams. JP Glass stated that the ordinance is being treated as an emergency in order to have the time to get it on the November ballot, and it is similar to the ordinances that other Volunteer Fire Departments have done in order to place the dues on the Property Tax statements, which the next ordinance will address. He noted that it is also similar to Avoca's situation in that the Fire Department serves a city and also acts as a Volunteer Fire Department for the unincorporated area.

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

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

Emergency ordinance duly adopted and assigned **No. O-2008-22.**

- (G) Proposed Emergency Ordinance Calling a Special Election On The Question of the Levy of the Annual Dues of the *Highfill Volunteer Fire Department* For Fire Protection Services; Designating the County Official Who Will Collect and Remit the Annual Dues Charged By the Department; And Prescribing Other Matters Pertaining Thereto; Sponsors: JPs Moore, Hubbard, and Hill

Deputy Clerk Betsy Harrell read the proposed ordinance by title only. JP Williams made motion to adopt, seconded by JP Hill.

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

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

Emergency ordinance duly adopted and assigned **No. O-2008-23.**

- (H) Proposed Ordinance Amending Certain Sections Of Chapter 2, Article VII et seq. of the *Code of Ordinances of Benton County, Arkansas* Regarding Benton County Employment and Salary Administration Policy; Sponsor: JP Robert Stephenson

Deputy Clerk Betsy Harrell read the proposed ordinance by title only. JP Stephenson made motion to adopt, seconded by JP Williams. JP Stephenson stated that the ordinance has been through all committees and approved by every Elected Official, and has been a work in progress for nearly 3 years.

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

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

Proposed ordinance placed on September 25, 2008 agenda for second reading.

OTHER BUSINESS:

Deputy Clerk Betsy Harrell stated that County Clerk Mary L. Slinkard has requested to be informed of the November and December meeting dates, since the regularly scheduled meeting dates fall on holidays and the County Clerk will need time to calculate the rollback before the resolution setting the millage rate is passed.

JP Summers made motion to change the November Quorum Court meeting date to November 20, 2008, at which time the Court will recess, and reconvene on December 18, 2008 to set the millage rate, seconded by JP Glass.

Motion passed by unanimous voice vote.

ANNOUNCEMENTS:

JP Summers announced that the next Finance Committee meeting will be Tuesday, September 2, 2008 at 2:30 p.m., and the next Committee of Thirteen meeting will be Tuesday, September 9, 2008 at 6:00 p.m.

County Judge Gary Black announced that the Fall Countywide Cleanup will be held on Saturday, October 4, 2008, and he will be holding a Town Hall Meeting at Lost Bridge Village on October 6, 2008.

There being no further business to come before the court, upon motion and second the meeting was adjourned at 7:38 p.m.

Respectfully submitted,

Mary L. Slinkard,
County Clerk

Prepared by: Betsy Harrell