

Committee of Thirteen Report

February 8, 2011

The Committee of Thirteen of the Benton County Quorum Court met Tuesday, February 8, 2011 at 6:00 p.m. in the Quorum Court Room, County Administration Building, Third Floor, 215 East Central, Bentonville, Arkansas.

12 JPs Present: King, Winscott, J. Harrison, Allen, K. Harrison, Hawkins, Jones, Sandlin, Douglas, Blaty, Curry, Moore
1 Absent: Carr
Others Present: County Judge Robert Clinard, Comptroller Richard McComas, Grants Administrator Richard Redfearn, Administrator of Public Safety Marshal Watson, Administrator of General Services Elizabeth Bowen, Benton County Election Coordinator Amy Houston

Media: Tom Sissom – Daily Record

Chair Kurt Moore called the meeting to order.

PUBLIC COMMENTS:

William Harris of Fayetteville stated that there is a very well developed Ozark Regional Transit system in Washington County, which is very important to its base clientele, namely the elderly and disabled. He urged the committee to weave the two counties together by creating an enlarged regional transit system that will one day pay for itself.

NEW BUSINESS:

1. Resolution Request: Waiver of Policy Regarding Hire-in Rate – Department 01, County Judge

JP Sandlin stated that this is for the position of Administrator of Public Services, and the person hired to fill the position has extensive experience; therefore, the County Judge is requesting a waiver of the policy to allow a hire-in rate at the midpoint of the salary range.

JP Sandlin made motion to forward the proposed resolution to the February 24, 2011 Quorum Court agenda, seconded by JP J. Harrison.

JP Allen noted that no additional funds will be necessary, because the 2011 budget contains the same rate of pay for this position, as it was in 2010.

Motion passed by unanimous voice vote.

2. Resolution Request: Endorsing the Concept of Submitting 1/4-cent Sales Tax for Public Transit to the Voters of Benton County – Phil Pumphrey, Ozark Regional Transit

JP Douglas recognized Phil Pumphrey, Executive Director of Ozark Regional Transit, who gave a presentation detailing the need for public transit in Northwest Arkansas and the funding challenges they will be facing due to the new Census numbers. He explained that since the population of the area has exceeded 200,000, Ozark Regional Transit will no longer receive”

operational funding” from the Federal Transit Administration, which will result in the elimination of all of their fixed routes. He said the funds are intended to be used as seed money, not to support entire transit systems, and local entities make the decision at some point on how to fund local transit system. He said that in 2009 the Advocates for Public Transit, a group of 25 community leaders from Benton and Washington counties was formed to find funding solutions, and has recommended to the Board of Directors that an election be held on the question of a ¼-cent sales tax, giving the public a chance to save the public transit system.

Phil Pumphrey reviewed the history of Ozark Regional Transit from its beginning in 1978 to the present, detailing the “Kids Ride Free” program, for which they received one of nine national awards from the Federal Transit Administration, and noting that the ridership on the fixed routes has increased 3,687% over the last eight years. He added that 70% of their riders make less than \$20,000 per year, and 54% of them do not drive or have access to a vehicle.

Phil Pumphrey said a grant-funded study last year allowed them to form a “Transit Development Plan”, which is available on their website. He noted that the plan includes an increase in routes from 10 routes and 12 buses to 39 new routes with 59 buses; routes will which will become more linear and direct rather than the looped routes that are in use now; and an expanded service area with more frequent stops. He said it will also increase the percentage of the population living within one-quarter mile of an ORT bus stop from 22% to 46%; and the proximity to employment centers would increase from 46% to 68%. Phil Pumphrey noted that ORT receives requests everyday that cannot be met due to the lack of funding.

Phil Pumphrey stated that the Transit Development Plan contains a capital budget of \$54 million, which includes buses, transfer facilities, sidewalk construction, and passenger amenities; 120 new jobs, and an \$80 million dollar annual impact. He listed other economic benefits including, increased tax revenue due to construction and jobs, the enhancement of our economic competitiveness with other cities in the area of recruiting new businesses and large events; the reduction of expenses related to the use of personal vehicles; easier access to higher education; reduction of congestion and greenhouse gases; and an improvement to the overall quality of life.

Phil Pumphrey stated that a ¼-cent sales tax averages out to less than 10 cents per day per person, and would generate approximately \$7.5 million per county, or about \$15 million annually, compared to Little Rock’s \$15 million annual capital and operations budget, and Tulsa’s budget of \$20 million. He said that the Northwest Arkansas Council has prepared a Development Strategy, comparing Northwest Arkansas to three cities – Gainesville, Florida; Lexington, Kentucky; and Huntsville, Alabama which have annual transit budgets of \$20.5 million, \$19 million, and \$5.5 million respectively.

He said in looking at all of these factors, the Advocates for Public Transit have recommended a ¼-cent sales tax to the Ozark Regional Transit Board of Directors, understanding that there is never a popular time for a tax, but it has to be balanced with what the community needs are. He said if the tax is adopted, there would no longer be a need for funding from any of the cities or counties in Northwest Arkansas.

Phil Pumphrey stated that according to the University of Arkansas Research Center, 9% of the population is aware of the loss of Federal funding, but the transit system has the support of 50% of the people surveyed, while 89% think that it is very important for the well-being of the community to have a good transit system. He noted that nationally, public transit ballot measures have been approved by a 2 to 1 margin.

Phil Pumphrey stated that they need the Quorum Court's approval to put this measure on the ballot, and they are asking them to allow the public to have the opportunity to exercise democracy in its most basic form.

JP Allen stated that it looks like it will be an uphill battle, and recalled the defeat of a proposed sales tax several years ago when the economy was in better shape, and asked if there is a timing issue.

Phil Pumphrey stated that the state statutes say that the election has to be called not less than 30 days and not more than 120 days prior to the election date, and in order to solicit funds for the education of the public that will be necessary, they have to be able to tell donors that this issue is going to be on the ballot, so that is why they are asking for the resolution endorsing the concept of the election. He repeated that there will be a loss of fixed routes if the federal funding is not replaced, and that the economic impact cannot be overlooked.

The committee discussed increased usage by discretionary riders, various routes, and the length of trips, and how the federal funding is dispersed.

Northwest Aransas Regional Planning Director Jeff Hawkins explained that since the population of the urbanized area has exceeded 200,000, ORT is no longer eligible for "5307 funds", which are operational funds, but the FTA will continue to reimburse 80% of the capital costs, which by definition includes preventative maintenance, noting that the FTA will not pay for an oil change, but would pay for an engine overhaul. He said that they will not have the final number on the population density until May of 2012, and based on those numbers, the funding changes will take place in fiscal year 2013.

During discussion, several JPs voiced their opposition to the practice of calling special elections. JP Sandlin asked if ORT has a date in mind for the election. Phil Pumphrey stated that they would like to have the election on November 1, 2011, which is the first Tuesday in November. JP Allen stated that as representatives, they should know what their constituents want and not automatically vote to call an election, if it is for something that they know the voters are not in favor of.

JP Winscott stated that he does not think they should ask the voters for any more money for anything. He added that he thinks there should be a state law against special elections, because he found out two days after fact that there had been a school board election in his district, and it seems like they try to keep it secret. He added that people have gotten along for years without public transit and he did not see this as an emergency, which is the only way he would support a special election.

Phil Pumphrey stated that he would like to point out that Ozark Regional Transit has struggled along for years without ever asking for a ballot measure. He added that he has been speaking about the need for a dedicated revenue source for at least four years. He said that as a public agency, he would never want to sneak anything past anyone. He said regarding special elections, the City of Springdale held one for the ballpark, and they had an equal number of people turning out for it as those who turned out against it. He added that he believes that they are facing a crisis in the future.

JP Sandlin made motion to send the proposed resolution request to the next Transportation Committee meeting for discussion, seconded by JP Curry.

JP Hawkins asked if this is the only way to get this issue on the ballot. Phil Pumphrey stated that they could return later to fulfill the statutory requirements to request an ordinance calling the election; this resolution was an effort to help with fundraising.

JP K. Harrison asked if the ordinance calling the election could be modified to specify that the ballot measure could only go on a general election and not a special election. County Attorney George Spence stated that the ordinance could be modified at any time, even during a Quorum Court meeting, with a motion to amend.

JP Douglas stated that he felt there are enough questions about this issue, that it does need to go back to the Transportation Committee.

Motion passed by unanimous voice vote.

JP Moore asked Phil Pumphrey to bring the people who want to speak to this issue back to the Transportation Committee because there will be more opportunity for a back and forth discussion at that time.

3. Resolution Request: Authorizing Application for Grant From U.S. Election Assistance Commission

JP Moore asked that the resolution be read in its entirety. Deputy Clerk Janet Reaves read the proposed resolution in full.

JP Allen made motion to forward the proposed resolution to the February 24, 2011 Quorum Court agenda, seconded by JP Jones.

Benton County Election Coordinator Amy Houston stated that the Election Commission is required to do pre- election Logic and Accuracy testing, and also post-election auditing. She added that this grant would give the Election Commission a streamlined process to show when the audit and testing had been done, and would keep the records of the audit and testing all in one place.

JP Jones asked if this was a software program that would allow the Election Commission to do the post-election audit and accuracy testing all at one time, and would training be provided.

Amy Houston explained that we are partnering with Konnech, the company that created the software program database, and that the Election Commission staff would enter the post-audit and accuracy testing information so that the U.S. Election Assistance Commission (EAC) can track what the grant funds are used for.

JP Jones asked if there would be further costs. Amy Houston stated that this would be a one-time fee.

JP Douglas asked for an explanation of the L & A testing and auditing. Amy Houston explained that the logic and accuracy testing procedures are required to be conducted before every election on each electronic voting machine.

Lengthy discussion was held on the logic and accuracy testing, and audit procedures.

Motion passed: 8 in favor (Winscott, Allen, K. Harrison, Jones, Sandlin, Douglas, Curry, Moore)
4 opposed (King, J. Harrison, Hawkins, Blaty)
1 absent (Carr)

4. Appropriation Ordinance Request: Amending 2011 Budget Schedule 4 – Reorganization in Department 01, County Judge

JP Sandlin stated that this appropriation ordinance is for the changes to Schedule 4 to reflect the reorganization in several departments under the authority of the County Judge, and requires no additional money.

JP Sandlin made motion to forward the proposed appropriation ordinance to the February 24, 2011 Quorum Court agenda, seconded by JP J. Harrison.

Motion passed by unanimous voice vote.

5. Appropriation Ordinance Request: 2011 Budget Adjustments – Various Funds and Departments

JP Allen stated this appropriation ordinance is to adjust the 2011 Budget in several departments discussed at the Finance Committee meeting and then forwarded to the Committee of Thirteen. JP Allen made motion to forward the proposed appropriation ordinance to the February 24, 2011 Quorum Court agenda, seconded by JP Douglas.

Motion passed by unanimous voice vote.

6. Appropriation Ordinance Request: \$40,000 to Purchase 10 Acres for West Side County Road Substation, Department 44, County Road

JP Allen stated this appropriation ordinance is to adjust the 2011 Budget to include \$40,000 to purchase land for the West Side County Road Substation.

JP Allen made motion to forward the proposed appropriation ordinance to the February 24, 2011 Quorum Court agenda, seconded by JP Douglas.

JP Douglas stated that the purchase of 10 acres will allow for future expansion of the West Side Road Department if needed. He added that the property is very well located with utilities already in place, and that the City of Decatur will be working with the county. He said this is an ideal situation for the Road Department. JP Douglas stated that there will be a \$167,000 savings in fuel costs per year, and a savings in travel time for the employees, which means they spend more time onsite working.

JP Allen stated that no additional funds will be needed at this time.

Motion passed by unanimous voice vote.

7. Appropriation Ordinance Request: \$29,000 to Purchase 4-Wheel Drive Vehicle – Department 01, County Judge

JP Allen stated that this is appropriation ordinance is for \$29,000 to purchase a 4-wheel drive vehicle for the County Judge's Department.

JP Allen made motion to forward the proposed appropriation ordinance to the February 24, 2011 Quorum Court agenda, seconded by JP Jones.

Motion passed by unanimous voice vote.

8. Discussion: Cancellation of Committee Meetings When County Offices Are Closed – JP Kurt Moore

JP Moore stated because of the recent weather, and with another possible storm system on its way, questions have arisen with regard to cancelling committee meetings when county offices

are closed. He stated that the reasoning is that if the weather is bad enough for the county offices to close, it is too dangerous to travel. He added that someone would have to open up the building, turn on the heat, turn lights on, security would be needed, and that it would be less confusing if all committee meetings are automatically cancelled if county offices are closed.

JP Allen asked meeting times for Committee of Thirteen and Quorum Court are spelled out in the same ordinance.

County Attorney George Spence stated that an ordinance could be created for the cancellation of committee meetings when county offices are closed.

Further discussion was held among the members on county offices being closed and the cancellation of committee meetings.

County Attorney George Spence stated that an ordinance would have to be drafted, because it changes the *Code of Ordinances*. He stated the consensus of the committee is that the ordinance should state that if the County offices are closed by the County Judge, that any committee meeting, including the Committee of Thirteen and Quorum Court meeting, will be cancelled.

JP Jones made motion for County Attorney George Spence to draft an ordinance for discussion at the February 24, 2011 Quorum Court meeting, seconded by JP Blaty.

County Judge Bob Clinard asked County Attorney George Spence to research the Arkansas Code regarding cancellation of Quorum Court meetings.

Motion passed by unanimous show of hands vote.

9. Discussion: Draft Ordinance Allowing and Encouraging Public Participation in Committee of Thirteen Meetings – JP Joel Jones

JP Jones stated that this ordinance request is to allow and encourage the public to participate in the discussion when the committee is discussing an item of business. He stated that that he would like a separate distinction between public comments and public discussion, with public comments being defined as comments about any topic occurring before and after the meeting, just as it is now. He said what he would like to change, is to allow the public to participate in discussion of agenda items, and that they would have to follow the same debate decorum as that of the committee, (i.e. being recognized by the chair, stating their names, speaking one at a time, etc.,) basically the same Roberts' Rules of Order that the court follows, which specifically states several minimum requirements that would help move the discussion along.

JP Jones made motion to forward the discussion allowing and encouraging public participation in committee meetings to the next Quorum Court meeting, seconded by JP Blaty.

County Attorney George Spence asked JP Jones if his intent is to not only allow public comments as is done now, but to also allow them to enter the discussion along with the committee. He stated that the current rules allow a JP to recognize someone, but that a majority of the committee has to vote to allow it. He said the ordinance he is proposing eases that restriction.

County Attorney George Spence stated that one concern that has been raised is whether this is going to apply to the Quorum Court, and added that there are already different provisions about the other committees. He stated that the draft ordinance may not be as clear as it needs to be if that is JP Jones' intent. He stated if the consensus of this body is that they want to allow the public to participate in discussion of each item of business, then if he is requested to, he will go back to the Code of Ordinances and amend all of the sections that are affected and hopefully

make it clear. He added that after he completes a draft ordinance, it would be better to bring it back to the Committee of Thirteen.

JP Jones stated that he would not reject a motion to do that.

JP Allen asked if this change is intended just for the Committee of Thirteen and not for Quorum Court. JP Jones stated that he was only talking about committees, making a distinction between the Quorum Court as a legislative body and the committees, including the Committee of Thirteen, as working sessions in which to have a public discourse. JP Allen stated that except for the Committee of Thirteen, he is concerned about this in that each committee chair already has the ability to acknowledge someone other than committee members, whether it is Personnel, Finance, or Transportation. He said they already do a lot of that, and that he does not think that this has been an issue. He stated that the Committee of Thirteen has been a little more formal and mostly followed the rules of the Quorum Court. He expressed concern that if the ordinance states that the chair “must recognize anybody in the public”, the meeting could go on for three days, if the issue is a contentious one.

County Attorney George Spence stated that other committee members have also expressed concern about this, and if that language is going to stay in the ordinance, then they are going to have to have some time limitations dealing with the public comments in general.

JP Jones stated that his meaning was that the chair could recognize the person and let them actually participate in the discussion, and would not object to a change in the wording. He stated that what he was trying to bring this forward at least as a starting point to have a discussion about public participation in committee meetings.

JP Allen stated that he would not object to more participation from the public during committee meetings, but felt that there is a lot of opportunity for the public to have input, and to contact their representatives on the court through email and by telephone; he just does not want it to get to the point of interrupting the flow of government being able to make decisions and move on.

JP Moore stated that if a member of the public is present who wishes to address the committee, under the current rules, a member of the committee will need to make a motion, which will need approval of the majority in order for the person to speak.

JP Winscott made motion to allow members of the public to speak, seconded by JP Harrison.

Motion passed by unanimous show of hands.

Bob Kossieck of Rogers commented on the Draft Ordinance Amending Section 2-106 of *The Code of Ordinances of Benton County*. He stated that Washington County has an ordinance that opens up public comment after each agenda item all the way up through the Quorum Court. He added that the public should have the opportunity to be able to express themselves.

JP Winscott stated that he wanted to understand the intent here, that at the Committee of Thirteen meetings there would be a motion and second; a discussion period for the committee only, then before the vote, the floor would be open for public comments with stipulations applied.

JP Jones stated that his intent was to have the discussion so that the public could bring forward information or thoughts while the committee was in discussion, and that the committee could also continue its discussion. He added that could be changed, and that is what he was trying to do was to bring this forward and give the committee a starting point. He stated that he would not object to a motion to allow County Attorney George Spence to look at all of the Code to see

what is needed, but that it needs to come to a similar intent. He stated that the *Code of Ordinances* Chapter 2-106 (e) specifically states that “Even though the public may not participate in the discussion of business before the committee”, and that is what bothers him. He said that the Committee of Thirteen is not a legislative body, but is still a working session for the court and the public.

JP Winscott stated that after the public listens to the committee’s discussion, they can pretty well tell who is for something and who opposes it. He added that the public can take issue or ask questions at that period of time, as opposed to trying to throw it in during the discussion of the committee.

JP Jones stated that if that is the rule of the committee then he does not object to that; he was just trying to find a way to have more give and take, and that at times when he was sitting in the public and wanted to comment, he was told that it was not allowed.

JP Winscott stated that he would like to see the public afforded an opportunity to speak to the committee after the committee has discussion among themselves and before a vote, and they can address it however they want to with time restraints applied.

JP Douglas stated that he agreed with JP Winscott’s comments about public discussion and public comment time. He stated that there are issues and concerns about getting into a lot of dialog and discussion back and forth with the public, and that people tend to be passionate about certain issues and that the Quorum Court does need to hear their viewpoint. He added that at times there has been a little contention back and forth between the members of the court when discussing issues, and they do not need to be getting in arguments with the public. He stated the Court does need to hear the public viewpoints, but does not need to be in a discussion where there is contention.

JP King stated that there is a time for the different stages of what the committee is going through, and that there is a time when they should listen, and then there is a time when they should go about their business.

JP Moore stated that he is in favor of the concept of opening the meeting up for additional input from the public, but not back and forth discourses, and would personally be willing to explore the idea further.

JP K. Harrison stated that maybe one way to handle, it is to have public comment before any items that are on the agenda, but if something comes up that is not on the printed agenda, then it could be opened up for discussion at that time.

JP Jones stated that there could be times when it would be beneficial, and that the information could change their votes.

JP Allen stated that the court needs to be careful about how much interaction would take place, so that progress is not completely slowed down, and that perhaps the court should look at what Washington County’s Quorum Court does.

JP Jones stated that Washington County allows comments before the vote on the third reading of all ordinances, but not when the ordinance is on its first or second reading.

JP Allen asked if our ordinances and agenda items are posted in a timely manner on the county website. JP Jones stated that they are posted, but sometimes “timely” could be a matter of discussion.

JP Moore asked for an opinion of the committee as to what committee this issue could be referred to.

County Judge Bob Clinard stated that if they are going to have discussion following each agenda item, then they might want to consider reducing the time allowed for general comments before

and at the end of the meeting, because not as much time would be needed. He added that the Legislative Committee would probably be the appropriate committee to address this issue.

JP King stated that the public would need to have some representation, because they are allowed to speak to each other, and they should organize the points that they want to bring before the court in an orderly manner.

JP Jones made motion to amend his motion for allowing public participation in discussions at committee meetings to be forwarded to the Legislative Committee for further discussion, seconded by JP Blaty.

Motion passed by unanimous show of hands vote.

OTHER BUSINESS:

JP Douglas noted that a bill had been introduced in the State Legislature which deals with the compensation paid to Justices of the Peace and their ability to apply for county insurance.

ANNOUNCEMENTS:

JP Winscott announced that the Public Safety Committee will meet on Tuesday, February 15, 2011 at 5:30 p.m.

JP Allen announced that the Finance Committee will meet on Tuesday, March 1, 2011 at 5:30 p.m.

JP Douglas congratulated JP Jones and his wife on the birth of a new baby boy.

PUBLIC COMMENTS:

Leon Castor of Bella Vista commented in favor of public participation at committee meetings, and in opposition of the Election Commission's request to apply for a grant.

Warren Phillips of Cave Springs commented in opposition of the Ozark Regional Transit request, and the Election Commission's request.

Bob Kossieck of Rogers commented on the transportation issue, and special elections.

After motion and second the meeting was adjourned at 8:28 p.m.