March 1, 2011

LEGISLATIVE COMMITTEE REPORT

A Legislative Committee meeting was held on Tuesday, March 1, 2011 at 6:30 p.m. in the County Administration Building, Quorum Court Meeting Room, 215 East Central, Bentonville, Arkansas

Committee Members Present: Douglas, Harrison, Allen, Sandlin, Blaty, Moore

Others Present: JPs Hawkins, Winscott, and Jones, County Judge Bob Clinard, County Attorney George Spence, Comptroller Richard McComas, Administrator of Public Safety Marshal Watson, Administrator of General Services Elizabeth Bowen

Media: Tom Sissom – Daily Record

JP Douglas called the meeting to order at 6:30 p.m.

1. Discussion: Public Participation/Discussion at Quorum Court and Committee Meetings

County Attorney George Spence explained that some changes could be made to the method that public comments are allowed without changing the current ordinance. He said that the committee may elect to allow more than is set out in the ordinance, but to restrict comments further, the ordinance would have to be amended. He suggested that they might want to adopt different rules as a matter of policy rather than by ordinance, which would have to be amended again anytime they want to change the rules, and they would be encumbering a future court with rules that differ from what they want to do. He stated that based on the conversations he has had with various JPs, he has developed some guidelines which he thinks reflect the changes they want to make, and they are detailed in the email distributed in the packet.

JP Allen stated that he favored staying away from adopting an ordinance and simply adopting the new guidelines as a matter of policy.

JP Jones stated that he felt that allowing the public to speak and participate should be followed by all future courts; it is not an unreasonable request. He added that the Washington County Quorum Court allows comments only after the third reading, so it would not add time to all meetings. He added that he would accept adopting the new rules as a matter of policy rather than an ordinance, so that they can move forward with the changes.

JP Moore stated that he would prefer as many comments as possible at the Committee of Thirteen level, before an ordinance is presented to the Quorum Court in its final form, because he would hate to see a lot of time and work wasted if concerns were not voiced before the Quorum Court meeting. JP Allen agreed, and stated that he would rather have more information at the front end, after the first reading rather, than waiting until the third. JP Winscott stated that he felt that the Committee of Thirteen meeting is a working meeting where the information and input should be gathered, and by the time an ordinance goes to the Quorum Court, it is usually a fait accompli. JP Douglas added that unless the item is an emergency ordinance, it has already been before the court for three readings, so people should not have to wait until the final reading to comment. JP Blaty stated that someone may not be informed of the issue before the first reading, and will have lost their opportunity to comment. JP Jones stated that it sometimes takes a while before people find out about something that concerns them, and one of the reasons he brought up this issue was to encourage more people to be involved.

County Attorney George Spence stated that if they choose to have any issue-specific comments at Quorum Court meetings, he felt it would be better to leave it open for all readings.
JP Allen asked if the ordinance is going to apply to all committee meetings, or just Quorum Court. George Spence stated that an ordinance has not been drafted; they are still discussing what changes they want to make. He added that having a sign-up sheet for specific items would help the flow of the meeting.
JP Moore agreed, and stated that currently the small committees are governed by their membership and chairs, and he would prefer to see it stay that way. He said if they prefer to open up their meetings for more discussion they can do so.

George Spence stated that nothing prevents any committee, or Committee of Thirteen, or Quorum Court, from considering a motion to allow any number of people to speak for any amount of time.

JP Moore stated that he would vote in support of item-specific comments only if the JPs were allowed to continue discussion after the public comments were over, because they might hear something that would change their minds. JP Jones stated that he did not think they had to stop discussion unless someone called for a vote. George Spence stated that they could do it anyway they want, but he would not give his opinion since he is not a member of the court. Several JPs requested his opinion. George Spence cautioned the committee that they seem to be pushing back against the idea of representative democracy by allowing members of the public to participate in direct democracy. He said he thinks what the committee is wanting is to allow members of the public to give their thoughts on specific agenda items, and the public should be prepared to do so without drawing responses based on what they hear the JPs say during discussion. He said that makes them feel like they are part of the body, and they are not – they were not elected to the offices. He added that allowing them to come in seems to blur the distinction, which concerns him as just an observer.
JP Allen asked if general comments would be limited to things that are not on the agenda, because he would like to avoid someone speaking about a specific agenda item during general comments, and then repeating themselves during the item comments. JP Jones stated that he would not oppose that. JP Douglas stated that he felt the committee chair should be allowed to make the person wait until the item discussion. JP Jones stated that general public comments should only be about items that are not on the agenda.
JP Sandlin agreed, and stated that if they are not careful, they could get an ordinance to the Quorum Court, and then have it referred back to one of the committees because of comments made, and instead of 4 to 6 months it now takes to get something through committee and adopted, they would be looking at 7 to 8 months before it works its way back through the committee structure again.
JP Moore stated that he favors using a sign-up sheet, and if they are not on the sheet to speak about an item, then they should not be allowed to comment. He said they could comment during regular comments about other matters.
JP Allen stated that he had made comments similar to the County Attorney's at the last Committee of Thirteen meeting in regards to the election request by Ozark Regional Transit. He said they are elected to represent a district, and the voters have to make the decision about whom they elect. He said that their contact information is published, the meetings are held in public, and they are covered by the press. He agreed that they are dealing with an apathetic society, noting that only 50% turn out to vote. He said he does not want to limit peoples' involvement in government, but they need to have an orderly method of conducting the county's business. He said he does not want to open it up to

someone who wants to take advantage of the situation, because ultimately, it is the JPs who cast the votes.
JP Douglas stated that they need to formulate a plan and try it out so they can determine what adjustments need to be made.
JP Moore made motion to try the new rules for public comments at the next Committee of Thirteen meeting, allowing a total of 15 minutes of public of comments for each agenda item, three minutes per person, following discussion but prior to the vote, along with a requirement that those making item-specific comments must sign up to speak, which will be announced at the beginning of the meeting, seconded by JP Sandlin. JP Moore added that this will not affect the two public comment periods already included in the agenda.
JP Blaty expressed concern that someone may not know that they want to make a comment until the agenda item has been discussed. JP Moore stated that he will announce that if there is an agenda item they may be interested in, they should sign up, and if their questions or concerns are answered during discussion, they do not have to speak.
JP Allen spoke in favor of keeping the per person time limit at 5 minutes, and asked if the current rules of recognizing someone would still apply. George Spence stated that a majority of the committee can always do that.
JP Sandlin stated that she feels that by the time an item gets to the Quorum Court, people have had ample opportunity to make their voices heard. JP Blaty stated that she is concerned that they have not had enough opportunity prior to a vote, adding that she agreed with JP Allen's comments on allowing 5 minutes per person instead of three.

Motion passed by show of hands: 5 in favor (Douglas, Harrison, Sandlin, Blaty, Moore)
1 opposed (Allen)

2. Discussion: Meeting Protocol

JP Douglas stated that he brought this matter up due to some confusion at some of their meetings regarding the proper motion to begin discussion of an agenda item. JP Douglas stated that for the Quorum Court meetings, it should probably be very specific, but that in the Committee of Thirteen and small committee meetings, it seems they do a lot of amending.
JP Moore asked County Attorney George Spence if a motion is required to place an item on the floor for discussion before the item can be addressed. George Spence stated that typically there is an order of business, and once the item is read, he feels like that action puts the item on the floor for discussion. He said that one solution would be for the sponsoring JP to make a motion for approval as soon as an item is introduced, then following a second on the motion, discussion would begin. He added that although a motion to begin discussion is not required, it would help the meeting flow more smoothly.
JP Allen stated that he is concerned about moving too quickly and having a motion on the floor that needs to be amended several times, or withdrawals, and can recall several instances in which he has learned new information during discussion. George Spence stated that his comments were mainly directed toward Quorum Court meetings, and it could be that the small committee meetings might operate more informally. He added that it has been noted that committee meetings are for the purpose of receiving information, and the purpose of Quorum Court meetings is actually to dispense with items.
JP Moore stated that as he has pointed out before, the procedures for small committees is left up to the chair and the members, and as Committee of Thirteen chair, he prefers having a motion to place an item on the floor for discussion, followed by discussion, then a motion and second for approval.
No further action was taken.

3. Discussion: Current Legislative Session "Bills of Interest"

He said that the bill addressing state reimbursement to counties for housing state prisoners has been delayed for interim study to determine the cost, and that the bill to limit special elections to two per year has also gone to interim study in an effort to determine which sections of the Arkansas Code would be affected.

JP Douglas reported that Representative Uvalde Lindsey of Fayetteville has introduced legislation to restore the $2 per ton tipping fee to Solid Waste Districts that was lost due to a recent court decision, adding that the bill has passed both the House and Senate, and is awaiting the Governor's signature.

He said that Representative Tim Summers is sponsoring several bills – one related to the Arkansas Public Employees Retirement System which would cap the contribution rate paid by counties and increase the number of years for full investment from 28 to 30. He said that Representative Summers is also sponsoring legislation to revise the dollar amount that a project cost can reach before Engineering and Architecture fees are required, which is currently $25,000 for Engineering, $100,000 for Architecture, and has not been revised since 1995. He said the proposed increase would raise the limit to $75,000 for Engineering and $200,000 for Architectural.

He said there has been no movement on legislation related to the assessing and paying of property taxes, and added that soon they will need to begin working on issues to address during the 2013 session. He noted that the final day to file bills is Monday, March 7.

4. Ordinance Request: Amending O-2008-14 (Building Permit Fees) – Administrator of General Services Elizabeth Bowen

Administrator of General Services Elizabeth Bowen stated that they are proposing an ordinance to amend Ordinance O-2008-14, which established building permit requirements and fees, to waive the fees for construction due to storm damage. She said that "Rebuilding Together", a non-profit group in Northwest Arkansas, is attempting to help some of the victims of the December 31, 2010 tornado, and the current ordinance requires application to the Planning Board in addition to the County Judge's approval. She said the new language would give the County Judge the authority to waive the fees in the event of storm damage or other natural disaster. She said they would also like to add an emergency clause so that the ordinance will not require three readings and be effective upon passage.

JP Winscott stated that he would fully concur that this qualifies as an emergency, and will support it at the Committee of Thirteen.

JP Harrison made motion to forward the proposed ordinance, with an emergency clause, to the March 8, 2011 Committee of Thirteen with a do pass recommendation, seconded by JP Sandlin.

Motion passed by unanimous show of hands vote.

5. "Blue Book" Update: Elizabeth Bowen

Elizabeth Bowen stated that they are working on updating the "Blue Book" which contains the county's planning regulations to include all of the ordinances related to Planning and Development that have been enacted since the document was first adopted in 1998, such as the one addressing Informal Plats and Mobile Home Setbacks. She said there will also be some very minor changes which they would like to incorporate into the document.

JP Allen agreed that the document in its present form is awkward and cumbersome for the public to have to go through, and that it needs to be updated.

No further action was taken.

6. Equipment Procurement – Administrator of Public Safety Marshal Watson

Administrator of Public Safety Marshal Watson stated that the items he is going to discuss are totally conceptual in nature, beginning with the archaic method by which counties are required to obtain equipment in Arkansas. He said that cities currently have much more leeway in the methods by which they may purchase capital items, including the provision that a city council may simply vote to void the bid process, which counties are not allowed to do. He said there are procurement contracts that exist across the nation that cities can utilize, but the county cannot. He said that when they bid a single fire truck, or one or two road graders, they are not seeing significant cost savings; however, if they were allowed to go through a procurement system such as the Houston Galveston Area Procurement System or the General Services Administration (the purchasing arm of the Federal Government), they would see that savings, since those systems get larger discounts because they are bidding for a greater number of items. He concluded by saying that it is something that the legislature needs to look into.

County Attorney George Spence stated that the purchasing rules for cities, counties, and school districts are all different, adding that going through the bid process for a single source item is an exercise in futility, but has to be done anyway.

JP Allen made motion to request County Attorney George Spence to draft a bill addressing these issues, including allowing counties to waive the bidding process, and to utilize the other procurement contracts, seconded by JP Moore.

JP Moore requested that a copy of the final draft be emailed to all of the Quorum Court members.

JP Sandlin noted that there will not be another meeting before the March 7, 2011 deadline for submitting legislation. George Spence stated that while he is not being directed by the Quorum Court as a whole, it is coming from the Legislative Committee, but any citizen can talk to a legislator, so there is nothing wrong with it. JP Moore noted that there is a majority of the court present.

Motion passed by unanimous show of hands vote.

7. Equipment Disposal – Marshal Watson

Marshal Watson stated that the process of releasing equipment purchased with Homeland Security grant funds to other entities is also archaic. He said when it is broken, used up, or has reached the end of its life expectancy, it is often returned to the county to be disposed of. He said much of it is equipment that is used by emergency responders which cannot be released for auction to the public for safety reasons.

He said one method of disposing of it is to have the County Assessor appraise it, and if it is of little or no value, it can be returned to the agency for which it was purchased, in order to get it off of the county's inventory.

JP Moore made motion to request County Attorney George Spence to draft legislation to address this issue.

Motion died for lack of second.

The committee discussed waiting until the 2013 Legislative session to address this issue, so as not to diminish the importance of the procurement issue.

No further action was taken.

8. Public Safety Retirement – Marshal Watson

Marshal Watson stated that currently, 9-1-1 Dispatchers are not given the same benefit level that police officers and firefighters receive, even though they are involved in many of the same stressful

situations, such as trying to talk someone through resuscitating a child, etc. He said there has been some discussion of asking the legislature to change the rate of retirement benefits, and suggested that it might be something that the Arkansas Association of Counties could address.
JP Douglas stated that while he had great respect for the dispatchers and the job that they do, the Arkansas Public Employee Retirement System is not self-sufficient; as a matter of fact the Legislature is searching for ways to make cuts, so he does not think there is much of a chance that anyone would be receptive to increasing any of its costs.

Public Comments:
None

JP Allen asked for clarification of this committee's purpose, since in addition to State Legislative issues, it seems that they have addressed several other items tonight. He asked if every county ordinance to be considered is going to come through the Legislative Committee.
County Judge Bob Clinard stated that his initial intent was for this committee to address State Legislative issues that affected the county, but some other things came up that simply did not fit anywhere else, so they fell into this committee's lap. He added that he did not feel it was necessary for this committee to meet once every month.
JP Allen stated that in the past, protocol and procedural issues had been addressed either in the Quorum Court's organizational meeting, or at the Committee of Thirteen, since those items affect the entire Quorum Court.
JP Moore stated that he does not have any problem with this committee being a "catch-all" committee, and if the agenda is too large, they could cut down on the number of items on the agenda, and increase the number of meetings.
JP Sandlin noted that the committee got started a little late to address many of the issues in the legislature this session, but some things before this committee simply did not have any place else to go.
JP Jones noted that there really would be no other committee to address building permit fees.
JP Allen stated that he was just concerned about a trend of everything coming to this committee, because everything they do is "legislative".

JP Winscott stated that at the end of the current Legislative Session, he would like to see this committee request a report from the County's Representatives and Senators on the legislation that was adopted. He said that the legislators need to be held accountable, and the county needs to communicate with them about the items that they need to be working on over the next 18 months.

After motion and second, meeting adjourned at 8:14 p.m.