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**MINUTES OF THE  
SPECIAL MEETING OF THE  
WASHINGTON COUNTY QUORUM COURT**

Thursday, July 7, 2016  
5:30 p.m.  
Washington County Quorum Court Room

- 177.1 The Washington County Quorum Court met in special session on Thursday, July 7, 2016. The meeting was called to order by Judge Marilyn Edwards. She stated that the purpose of this meeting was to discuss the 2017 Budget process.
- 177.2 T. Lundstrum led the Quorum Court in prayer and in the Pledge of Allegiance.
- 177.3 MEMBERS PRESENT: Daniel Balls, Harvey Bowman, Rick Cochran, Robert Dennis, Lisa Ecke, Ann Harbison, Sharon Lloyd, Tom Lundstrum, Eva Madison, Sue Madison, Joel Maxwell, Gary McHenry, Joe Patterson, Butch Pond, and Bill Ussery.
- 177.4 OTHERS PRESENT: County Judge Marilyn Edwards, Chief of Staff George Butler, Treasurer Bobby Hill, Comptroller Ashley Farber; Lindsi Huffaker, Jennifer Hinkle, Renee Biby, Berni Kurz, Kyle Sylvester, Matt Durrett, Carla Holcroft, Christy Pinkley, Rick Hoyt, Jay Cantrell, Nelson Driver, Interested Citizens; and Members of the Press.
- 177.5 ADOPTION OF THE AGENDA: Judge Edwards asked if there were any additions or deletions to the agenda.
- 177.6 **A motion was made and seconded to adopt the agenda as presented. The motion passed unanimously by voice vote. The agenda was adopted as presented.**
- 177.7 PROCESS FOR 2017 BUDGET PREPARATION: Judge Edwards read a letter she had written to the Quorum Court. She stated it was incumbent on her to put some thoughts out there regarding last year's budget process so that there is no misunderstanding. She noted that at the beginning of last year's budget process, she advised the court that the product and process would belong to it. She requested that the Court lay out where and what it wanted at the end of the process in terms of reserves, to justify why it wanted that number, and to make plans on how to get there. She stated that the court finally determined what amount it wanted the reserves to be; however, there was not an announced consensus as to why that was an appropriate amount for reserves. There also was not a plan on how to get there other than the last minute grab at money that traditionally had gone to the Road Department.

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- 178.1 Judge Edwards stated she is once again asking the court on the front-end what it wants the reserves to be for 2017, and how it proposes to get there. She stated in preparing this budget, the Court members all need to know the constraints under which they are working. While she realizes that there may be 15 different sets of goals with 15 different people on the Quorum Court, they should tell what they want at the beginning of the process.
- 178.2 Judge Edwards stated last year, the Court held 15 budget meetings, costing \$45,000 of taxpayers' money by going line-by-line through budgets only to attempt to cut operations by 2% across the board, and finally raid the Road Department fund of \$1.2 million. She stated it seems that there were no thoughts in September as to where the Court wanted to be in December and not just for reserves. She stated that the Quorum Court's primary responsibility is the budget and the citizens of this county deserve a budget process that has focus and significance.
- 178.3 Secondly, Judge Edwards stated that if a court member has a problem or concern with a particular department, then he or she should first take it up with the appropriate elected official or department head in advance of calling that department out in public. She heard it stated in the budget process that this was the only time the Court had an opportunity to ask questions, which is not correct. She further stated that these county officials and department heads are available daily from 8 am to 4:30 pm during the week and will avail themselves at the slightest of notice. The Court can ask questions via e-mail, phone or by in-person visits. She further heard it said by members of the court that they did not know why people were upset because they were not belittling them; however, she respectfully disagrees. She stated that many court members cross examined county employees in a way that would not be tolerated if they were in the same position. She stated that on this point she cannot speak for all elected officials; however, her departments will be instructed to simply leave when they are being mistreated. She suggested that the court treat these county officials and department heads the way it wished to be treated.
- 178.4 Judge Edwards stated third, the Court will actually have to deal with some issues this year that were put off in 2011. She stated that when the Court cut ½ mill from the County's revenue, there were two points articulated over and over again. First, the reserves were too large and the Court needed to give the money back to the people of Washington County; and second, the Court could put the millage back on if it wanted to. She stated the last goal of shrinking the reserves has been realized and then some. She stated that last year the Court had the chance to restore the millage in the face of shrinking reserves and it refused to do it. She noted a large part of the problem is its conscience decision to continue to spend while refusing to

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- replace the revenue that it cut for four years. She stated the Court cannot cut its way out of a county budget.
- 179.1 Judge Edwards noted that the County runs on two things: physical and human capital. For the last couple of years, the Court has neglected its investments in both. While she encourages it to hear some support for raises, this is just July and a lot can happen between now and the time for the vote on final budget. She would like this year's budget process to be collaborative instead of adversary. She urged the Court to contact her or anyone that has a budget because the doors are always open.
- 179.2 E. Madison stated that if the County Judge is trying to set this off on a collaborative, non-adversarial tone, she is not sure the letter was the best way to get this started. She stated that she feels like she is being lectured to about a budget process that rested in Judge Edwards' hands last year. She disagreed that the court was responsible for the number of meetings called as this was exclusively within Judge Edwards' control; and there were some meetings that were felt to be unproductive. She noted that the Court is now having a meeting on the budget in July when it knows nothing about anticipated revenue. She stated that she is very frustrated by this and is offended that Judge Edwards is putting it on the Court. E. Madison stated that Judge Marilyn Edwards was the County Judge when the court voted unanimously to lower the millage; and she did not speak out on the issue, either to support or oppose it, but stayed silent. She stated that despite the tone that this meeting has started out on, she is hopeful that this court can find a way to handle the 2017 budget collaboratively.
- 179.3 Judge Edwards responded to E. Madison stating that the money, revenue and taxes are in the hands of the Court, and anything she could have said would have made no difference, because the Court had its minds made up.
- 179.4 S. Madison stated that she is sad to see this budget process start with this accusatory tone and if anybody is being belittled, she feels that it is the Court. She stated that this is not the members' full-time job. She feels that the public's business needs to be done in public; and she should not be running behind doors to talk to elected officials or department heads when the proper place to discuss budgets is here. She further believes that the elected officials and department heads might get a little exasperated if several JPs showed up at the offices with questions on the budget. S. Madison stated that she would like to pretend that everyone can move beyond this letter with a cooperative tone and work together with the County Judge's Office and other elected officials.

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- 180.1 T. Lundstrum stated that he was the one that made the motion to lower the property tax by ½ mill, because the County had \$18 million in reserves and it passed the Quorum Court unanimously. He stated that he is unaware of anyone who disagreed with that concept. He recently read in the newspaper where the State Legislature and Governor want to reduce state income tax, because it has \$170 million in reserve, which is excessive. This is not an unheard reason for reducing taxes. He noted that earlier the County had \$22 million in reserves until it started buying buildings and building parking decks.
- 180.2 B. Pond stated that he was on the Quorum Court that voted for the ½ mill cut and distinctly remember being warned by Judge Edwards several times that it was not a good idea, and the County would wind up coming short. Further, he had stated that he would not have a problem putting the millage back if the Court did end up having a shortage; however, his colleagues did not feel the same way he did. He stated he is not for overtaxing people, but he is also not for cutting services to the point where they end up having hardship in the county as far as road improvements, etc. He stated cutting back on road improvements will hurt the economy in the private sector.
- 180.3 H. Bowman stated that one of the things he considers in this whole process is that the county was spending between \$4 and \$5 million more per year than it were taking in, and that is the reason that the large surplus disappeared. He stated when the Court starts tightening budgets, it sees the large reserves disappearing, and realizes that it needs some money for hard times. Some tough decisions have to be made and were made on the shoulders of the Quorum Court. He understands that people who have his or her own budgets and plans do not appreciate having some of those plans disrupted by having money taken away; however, this is a tough and painful process. He further believes that the Quorum Court charged with this responsibility did it well.
- 180.4 Judge Edwards referred to the blue books and commended Executive Assistant Karen Beeks, Court Secretary Carly Sandidge, and Comptroller Ashley Farber who have worked day and night to get them ready for the court. She stated that the Court will not be going into line item budgets at this meeting, but she wanted the court to have the books to study during this process.
- 180.5 REVIEW OF COMPTROLLER'S BUDGET MATERIAL: County Comptroller Ashley Farber addressed the Quorum Court stating that she would quickly review some of the material provided and noted that she will be handing out additional worksheets and information to be added to the book for updates. She stated that the book is split into sections and tabbed

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with the first section being Financial Data, which is basically the same thing the Court was given last year, but is updated with this year's information. She stated section two is the Budget Controls that was adopted in December 2015. Section three is a glossary of terms that the Court will hear throughout the financial meetings. Section four is Revenue, which is not included at this time. Section five is the Expenditures, with the only thing included being the budget line item descriptions. Section six is Personnel, which sets out the history of the personnel positions, descriptions, and salary ranges. She stated she had a request for an estimate on employee raises and this was included as well. She reported around September 1<sup>st</sup>, she will get a letter from the Association of Arkansas Counties, which will explain the updated ranges and raises for elected officials. This will be passed onto the Court at that time. She stated that she added a section for Discarded Pages, which is for old information that has been replaced by updated information.

- 181.1 L. Ecke thanked those who had worked on this budget book and requested that the type be made larger because she has trouble reading it, even with a magnifying glass.
- 181.2 A. Harbison thanked those who put the budget book together, noting that last year was the most effective information that the Court had ever received upfront going into the budget process.
- 181.3 PRESENTATION BY INSURANCE CONSULTANT NELSON DRIVER ON THE COUNTY EMPLOYEE INSURANCE FUND: Nelson Driver, Insurance Consultant, addressed the Quorum Court and presented a spread sheet which details what is going on with the County's Employee Health Insurance Fund. He stated for the last several months he has seen a gradual increase in the health fund balance. The County will have a rather large pending claim, and if it comes to fruition this year, it will take about \$350,000 out of this fund immediately. He explained that this is a "shock claim" and the excess carrier last year, Edward Lewell, lasered this particular claim from \$450,000 to \$350,000 because of the size of the claim. He stated that he cannot say if or when this claim will hit, but it is likely to hit this year, noting that it is for an organ transplant. He stated that other than that the fund has been holding its own so far.
- 181.4 N. Driver noted last year when he came before the Court with his part of the budget, one of the first things he asked for was an \$821,000 increase over 2015 for 2016 and that increase is due to the fact that the County has been leaking funds out of the insurance fund at about \$80,000 on average per month. He noted that the court is presently putting into the fund per budgeted position \$411 per month. The employees are paying a portion of

the premium for themselves, paying the full cost of adding a spouse and children to the plan. He reported that the County has several retirees on the plan, noting that State law dictates that those retirees are allowed to stay on the plan as long as the desire to do so. The retirees pay 100% of the cost of the plan, the \$411 the county kicks in plus whatever their proportionate premium is. N. Driver stated that an employee-only enrolled in the plan is paying \$74.56 per month into the plan in addition to the \$411 the County pays in; for an employee spouse premium pays \$257.17 per month; for an employee with children on the plan without a spouse is paying \$197.17 per month; and for full family coverage is paying \$480.16 per month.

- 182.1 N. Driver reported that he would be coming back a couple of times with some proposed repairs, fix-its, or plugs to stop the leakage out of this fund. He stated for the last 16 years, the Court has had a "band-aid" approach as it has been very hesitant to raise employee premiums; however, soon it will be looking at a permanent fix. He noted that the Court has put a load into the Employee Insurance Fund on several different occasions and the year before last it put close to \$1 million into the fund. He recalled being asked by a few JPs when the money should be put into the fund last year; to which he told them not to yet, because that keeps the fund solvent only for a short period of time. He stated that numbers he will be giving the Court are very preliminary as actuarial studies are currently being performed and the County is currently out for bids for the third-party administration services on the health and the life insurance side of the benefits program. He reported that one of the studies, which came back on the prescription drug coverage to the plan, showed that if the County went across the board and increased the co-payment that the employees and families pay for all medications by \$5, then it would save the county approximately \$100,000 in expense from this fund. He noted that last year the county paid a little over \$800,000 alone for prescription drug coverage. He reported that the total cost of the plan all-inclusive in 2015 was about \$4.1 or \$4.2 million and this year it will be about \$5.1 or 5.2 million.
- 182.2 N. Driver stated that the Affordable Care Act will kick in some more beginning in 2017 and health plans in general are looking at a potential increase of about 30-35%. He stated that the Court will be looking at some changes across the board with what he is going to recommend that the County do to make the plan solvent, which is the fiduciary responsibility for him as the risk consultant and the County as the governing body. He stated that he will be bringing additional information to the court as quickly as he can, but it will be the end of September before the bids are wrapped up on the third-party administration services. He pointed out that state law restricts the County to 30 days to bid once the RFP is put out. As this is

nearly impossible, they will price it high because of the unexpected. He stated that they really need a 90-day lead time, which may take state legislation to get that law changed as there are a lot of studies they have to do from experienced loss history that goes along with the underwriting process in order to be able to appropriately price a risk to the plans.

- 183.1 N. Driver stated if the County has any hope of keeping the insurance plan level and rolling forward, then he will be strongly suggesting a Wellness Program, which has to be implemented by 2017. This program will be expensive with the payback a long way out. He stated in the last couple of years, he has been encouraging the employees to go to the doctor and entered into an agreement with an organization called IMWell and UAMS. He stated that the County employees can go to IMWell or to UAMS and receive express same-day care and treatment for a cold before it lingers, lasts, and grows into a full-blown illness that puts them in the ER or hospital. He stated in order to incentivize employees to participate in the wellness portion of this plan; their co-pay for the visit is waived with no out-of-pocket cost to them. He explained in exchange for that, both of these clinics give employees a 15% discount off of the BCBS rates that they pay for everything else, which more than offsets releasing the employees from the \$20 co-pay. He noted that this has worked well in some cases and some not. IMWell Clinic reported last month that it had been getting on average 40 clinic visits a week; noting this is 40 people not showing up to an ER and costing the insurance plans \$1,500 plus. Additionally, he stated that the costs are based on productivity as well with employees going to the clinic and returning to work in a couple of hours.
- 183.2 N. Driver stated that a full-blown wellness plan in all likelihood would cost the County on the front end about \$100,000 for the biometric screening including blood work, blood chemistry profiles, blood pressure, BMI, etc. He stated that the county can and needs to do this for several reasons: it will have a healthier work force, and it will save the County a lot of money in the long run (5-7 years). He stated as healthcare costs and insurance costs increase, the Court needs to be looking at what it can do to drive down that cost, which goes back to the "personal responsibility" aspect. He stated people need to take charge of he or she's own health and wellness. If they do not, then one way or another, they will pay for it. He noted he has pricing coming from a couple different sources on the biometric screening alone, which requires health coaches as well. He will be bringing this information to the court as it develops and he has some hard numbers.
- 183.3 T. Lundstrum stated that it sounds like N. Driver is suggesting that the Court increase the cost of health insurance to the employees; and in the ten years that he has been on the court, this has only been done once. He recalls at

that time that the Court could not increase it more than 5% without losing the County's grandfather status. He asked N. Driver to explain the ramifications of what this may be in terms of what it might cost the employee versus what it will cost the county.

- 184.1 N. Driver addressed T. Lundstrum stating that Washington County was held to the grandfather status under the Affordable Care Act and it was an increase in the premium cost and deductible/co-pay. He stated the County could do that one time under the Affordable Care Act without being penalized and losing grandfather status. He stated depending on whom you talked to with Health and Human Services this week; the County will lose the grandfather status anyway. Currently, with the way the county's health fund is not performing, the grandfather status loss will pale in comparison as to what will happen to the County's health fund. He stated that this is not even a factor at this point, because the County is looking at a 30% increase across the board. This increase is in an annual calendar year deductible as well co-pays for not only office visits, but also prescription drug program. He stated the way the actuarial study is looking so far, the bulk of the cost increase will be with family coverage side versus the individual employee side because that is where the claims are coming from. He stated that he has the same issues with the retiree portion of the plan and reiterated that state law requires that retirees can stay on a plan as long as they decide to do so. He plans to encourage the retirees to take a look at Medicare supplements, which will pay most of what Medicare does not pay. The retirees can do that for a significantly less amount of money than if they stay on the county's insurance plan. He stated that they will need to consider a phase-in program over 2-3 years to get the premiums up to where they should have been 15 years ago.
- 184.2 J. Maxwell thanked N. Driver for his thoroughness and proactivity because he believes this is major issue that if the Court does not keep a handle on will overwhelm it. He has seen large entities such as school districts and major employers hire a full-time healthcare provider to serve the entity on staff. He sees that this would allow the County to control its own costs, offset costs of a wellness plan doing those screenings in a phased in incremental, reasonable rate. Further, it would be providing its own healthcare, as well as its own insurance. This would be efficient and huge bonus to the employees, because there would be a lot less or no time away from work. He asked N. Driver if this would be something the county might consider.
- 184.3 N. Driver responded to J. Maxwell stating this is something that he has looked at and considered before starting the IMWell and UMAS programs, and had been approached by a physician to do an onsite clinic. He stated



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that large companies with thousands of employees have been very successful with that, but in the county's case, the physician would be looking at about 600 employees. He stated this is something that he can re-explore as part of the Wellness Program because the cost factor in the payback period might be more rapid by having someone on staff. He noted with an onsite clinic, the cost to implement and then to maintain it would be high, but it is not out of the realm of consideration as he is exploring all options.

- 185.1 J. Maxwell stated that some companies have had an on-site clinic on a smaller scale ran 3-days a week. Those companies also contract with a physician, so they do not incur the cost of having the physicians on staff all the time. He stated that the County could use that partial time to offset the screening, etc., and still get the benefit without incurring the full 40-hour week plus expenses. He urged the Court to look at because if it is a good option for the County, then it provides good health care and efficiency on the cost savings.
- 185.2 N. Driver stated another option being considered for the county is going into a dual-program, which would be a high-deductible Health Savings Account (HSA) fund type of health plan. It is a bare bones plan that basically meets the specifications required by the Affordable Care Act. It has a deductible level from \$3,000 to \$6,000 with the funded HSA, instead of being \$345. He stated he has had dealings with medical spending accounts, which are typically a pre-taxed savings plan for healthcare that will be lost if not used by the deadline. He stated that HSA has a rollover provision that continues to grow. This is great for employees and families who are young and healthy, because it gives them the opportunity to build up a significant resource that is transportable. He stated that he would probably recommend to the county that it fund part of that HSA.
- 185.3 J. Maxwell added that HSA funds often times end up being very lucrative for the individual as well as for the county because they bring personal responsibility, benefit, or consequences back to the people that make those healthcare decisions.
- 185.4 H. Bowman asked if the dramatic increases in healthcare costs are associated with the Affordable Care Act; to which N. Driver responded some of it is, but he has seen double digit increases in healthcare delivery costs for the last 25 years. He stated that all medical providers, from physicians to pharmaceutical companies, are in the process of "making hay while the sun shines" or taking advantage of the situation with everything from indigent care to being forced by the Affordable Care Act to eliminate the pre-existing condition exclusion from health plans. He stated that

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medical providers are raising their rates as fast as they can while the government allows them to do that to hopefully take up the slack for what is coming. He noted that demographics are a part of it and bottom line, people are living longer. There are so many things out there that are driving costs. He noted that pharmaceuticals are really expensive and that there are some medications out there right now that the average per dose cost is \$2,000.

- 186.1 H. Bowman stated that Northwest Arkansas seems to be building hospitals like crazy, and he is wondering if the tremendous surge in volume is related to people who have not been insured before hitting the hospitals; to which N. Driver responded that is part of it.
- 186.2 N. Driver pointed out something that the Court really needs to keep in mind and on the table is the standpoint that insurance, regardless of what kind it is, is designed to protect us against catastrophic loss and coverage. It was never designed to pay for flu shots. He stated that people are spoiled from the standpoint that he or she over-utilizes specialty care when it is not medically necessary. A primary care physician can diagnose and treat conditions 90% of the time. He stated that managed care programs that came into play back in the late 1970's that did not work were basically designed as a gatekeeper system, where physicians triage and determine whether specialty care was required, then make that referral if needed. Otherwise it was something that could be treated and managed at a less expense.
- 186.3 H. Bowman inquired about the upcoming election and what would happen if there was a change in administration that did away with the Affordable Care Act. N. Driver responded that the possibility or probability of repealing the Affordable Care Act is very slim, but there is going to have to be some stark changes to the Act. He stated that the Affordable Care Act currently is a starting point that has done some good things, helping families to be insured, including allowing college age students to remain on family plans and not being excluded due to preexisting conditions.
- 186.4 R. Cochran stated that he is a member of a Wellness Plan that is structured so he gets a benefit or reduction in premium by participating, but does not include spouses or children. He asked if the Wellness Program he is referring to would have that same type of plan or are employees required to participate no matter what.
- 186.5 N. Driver responded to R. Cochran stating that the Wellness Program that he is preliminarily looking at would require participation and anyone who refused would be hit with a surcharge. He stated there are some plans that

also include the spouse and the biometric screening would apply to both employee and spouse. He stated that his goal is to kick off a Wellness Plan starting January 1, 2017, with the biometric screening done in November during the open enrollment period to get baselines. Afterwards, there is a 12-month period of grace before anything happens with the biometric screening repeated in November of 2017 to see where they are. He stated if you were making progress towards your plan or within normal limits, it would be revenue neutral, but if you are off the charts, it would be higher. He noted if you participate in a Wellness Program and your physician is treating you for high blood pressure, for example, and you are making progress, then you can earn those credits back. For those whose blood pressure is as good as it is going to get with medication, exercise and diet, the cost would be higher and it would require a physician's statement saying that the patient is doing everything he or she can do to keep it within reason, then that patient would be able to earn the credits back. He stated that he will not penalize anyone who cannot medically get any better; but those who do not participate and do anything about it that will get hit with the higher costs.

- 187.1 R. Cochran asked on the dual program where there is an HSA or traditional, how likely would those folks leftover be in a higher risk; to which N. Driver responded that is one of the caveats of going into a dual program like this is the concept of adverse selection. He stated there will be people who right up front say there is no way an HSA makes sense and want to stay put right where they are, so they are cranking the numbers both ways.
- 187.2 H. Bowman asked if the County implements this program the way N. Driver is currently describing, what kind of additional increase to the budget would he expect to be necessary; to which N. Driver responded regardless of what is done, the county is probably looking at an 8% to 12% increase or somewhere in the neighborhood of \$350,000 to \$400,000. He further responded that this does not include implementing the Wellness Program, which would cost approximately \$100,000 for a total of \$500,000 instead of \$820,000 from last year; however, this would depend on how claims run for the rest of the year.
- 187.3 REPORT FROM HUMAN RESOURCES DIRECTOR LINDSI HUFFAKER:  
Human Resources Director Lindsy Huffaker addressed the Quorum Court and distributed documents to show how the overtime rule will affect their employees. She stated that she would give a light overview of the effect of the changes to overtime, the employees affected, some ideas or solutions that she has come up with, along with some ideas that she was requested to present.

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- 188.1 L. Huffaker addressed a list of county employees who are currently exempt and fall under the new federal threshold for overtime. She stated that the Department of Labor has updated its regulations and where previously there was a threshold of a little over \$23,000 required for an employee to be exempt; the number has been changed to \$47,476. She stated that the County would still have to meet a number of other criteria, and then the new threshold doubles from the previous threshold. She noted that the county currently has 34 employees on payroll that fall below the current threshold by \$210,301 and is classified as exempt for the time being; however, come December 1<sup>st</sup> the pay will not be sufficient for those employees to be classified as exempt. She stated that this means the court has to make a decision as to whether or not it will raise those employees' salaries to meet the new threshold or reclassify them as non-exempt employees and pay them hourly while budgeting for overtime or comp time. She explained that if the court decided to move everyone currently exempt up to the new threshold, it would cost \$210,301; however, this is not what she recommends that the Court does.
- 188.2 L. Huffaker stated over the last two months, she has been looking at each of the county employees to try and identify people that she thought might work as an hourly employee and be given comp time in lieu of overtime. This way it works within the current budget or that the overtime would not be so significant that the departments would have to increase its overtime budget. She stated that she has also reached out to a number of department heads and elected officials who have more than one person on the list of 34. They discussed whether or not they felt the employee in question could be treated as hourly or they needed to remain in exempt status. She referred to a list breaking down those two categories with 17 employees, if reclassified as hourly, would definitely have overtime requiring some sort of monetary budget for the amount of overtime. She stated for these employees, the Court would either raise their salaries or make a decision on overtime. L. Huffaker noted that the remaining 17 employees are ones where either their department head or elected official has identified as significantly below the new threshold, and need to be converted to an hourly rate with comp time or overtime.
- 188.3 L. Huffaker noted that for each employee she has shown his or her position; the department it effects; how much overtime the employee is estimated to have, if it is overtime; how many hours per week those who will qualify for overtime currently work; and how many of those people fall within budget. She addressed one of these employees who average 20 hours of overtime per week. If the county budgets for the next year and makes this employee hourly, then it will have to account for the fact that that employee is working

20 hours over 40 per week. The County will have to pay that 20 hours at overtime.

- 189.1 E. Madison asked if she gave any consideration to the hybrid method to which L. Huffaker responded that appears on the next page.
- 189.2 In response to a question from J. Maxwell about 207K employees, L. Huffaker stated that under the Fair Labor Standards Act the County is given a special exemption for people in law enforcement or classified as firefighters. This exemption allows these employees to work a few extra hours per month before they reach overtime. In the case of the Sheriff, she explained that he utilizes 12-hour shifts and most of his employees work for 4 days with 3 days off, then the next week work for 3 days with 4 days off. Those employees are allowed to get an extra 6 hours per pay period before they reach an overtime status.
- 189.3 L. Huffaker referred to an overtime cost analysis that is specifically broken down by department and shows the names of the employees, their current annual salary at an hourly rate, and how much they are currently below the new overtime threshold. She explained that she has calculated how much those employees typically work in overtime and what that costs the County, giving the example of the Road Department employees who have a 30-minute meeting every day before work for a minimum of 2-½ hours overtime per week if those employees are supervisors. She stated the exception to that is if an employee took a sick day or took some vacation time, then the County might get that off. She stated that during certain times of the year, the Road Department employees work significantly more than that. For a baseline, the County gave ½ hour credit for that time period for 3 hours a week overtime by 52 weeks in a year. The employees end up working an average of 156 hours of overtime per year. She noted that the 156 hours of overtime costs the county on an annual basis \$29,495.94 and the overtime cost to make them hourly would be \$34,464.57; therefore, a very conservative estimate indicates that it will cost the county more to pay overtime than it is to bring the current employees to new threshold.
- 189.4 L. Huffaker addressed E. Madison's inquiry about a "hybrid method," stating that the Department of Labor allowed another classification whereby you can reduce the employees' base wages, then calculate how much overtime you expect them to work. That base wage plus overtime equals those employees' current salary. She stated that this would be creating a situation of forced overtime, which allows the employees to earn exactly the same rate they are currently earning, and considered cost neutral. She referred to her chart showing this method and the hourly rate these

employees would have to be reduced to in order to make it cost neutral to the county. The dollar amount reduction is the amount of reduction the employees would take in order to make this cost neutral to the county. She pointed out that there has to be some caretaking with this hybrid method, because if some of these positions are reduced too much, then they will break JESAP's salary structure minimum.

- 190.1 L. Huffaker addressed her recommendation on the chart where she tried to find the most cost effective measurement for all of these employees without reducing their base pay, because every one of them that currently holds positions deserve what they are being paid. She further stated that a number of those employees are putting in 20 plus hours of overtime per week. She noted as Human Resources Director, she will advocate for the employees and could not imagine telling them that their base wage was going to be reduced so they can continue to work 60 hours a week. She further stated that the Quorum Court has the ability to decide what it will and she has tried to give the Court as much information as she can. She stated that these figures can change at any time as people move in and out of positions and any positions that go through JESAP for re-rating over the next few months may move some of these employees off of the chart. L. Huffaker stated that right now at the recommendation she has it would cost the county a total of \$81,507 to bring everybody compliant with the new overtime regulations.
- 190.2 In response to a question from Judge Edwards of what it would cost the County to pay the overtime, L. Huffaker stated that from what she has calculated so far, if the County does it for every employee, then the Court would be looking at \$140,000 to \$160,000 if it does not reduce base wages and just calculate over time.
- 190.3 E. Madison noted that a couple of these employees could not be reduced to hourly wage because it would put them below minimum wage, so this is not an option for everybody. She stated that she does this for a living and one thing her firm has been advising clients on is to make sure that those employees are in fact exempt and properly classified. She stated it is not worth the expense of bringing someone up to the new exemption level if in fact he or she is improperly classified and should be paid hourly anyway.
- 190.4 L. Huffaker responded to E. Madison that she went through the employees very thoroughly and feels very comfortable that the employees shown on the list truly meet the entire duties test to be overtime.
- 190.5 E. Madison stated her opinion that a combination of things is best because in the case of an employee that could switch to hourly and it be a very

modest rate reduction would not mean much, but some of the employees who would be reduced significantly would be a bigger deal. She pointed out that every company is grappling with this nationwide and most are coming up with some hybrid of the three methods. This includes some employees being raised to the new level, some being converted to hourly to get overtime, and some being switched from salary to hourly with it being cost neutral with the change to their hourly rate. E. Madison noted that Benton County has voted to ask the Attorney General's Office to sue the government to prevent these regulations from taking effect. She further stated that her firm has been studying these regulations for many months. One of her law partners in D.C. is the former Wage Hour Administrator of the Department of Labor, and has been intimately involved in this process, which includes testifying before Congress. She says that there is no way that this can be challenged in a court because the government is within its authority to do this.

- 191.1 E. Madison stated that from the perspective of the county employees, it is long past time for this salary minimum to be raised since \$23,000 is not a lot of money to be considered exempt from overtime. She further stated that it has been over a decade since that number was increased, even though some would argue that doubling that number was a little aggressive. She stated that this is going to take effect and the Court needs to figure out what L. Huffaker has done and figure out a way to implement it at the best cost to the County.
- 191.2 S. Lloyd stated she appreciates L. Huffaker's the proactive, thorough work that she has done on this; however, as an executive order, she questioned whether there was a possibility that it may not go into effect on December 1<sup>st</sup>.
- 191.3 E. Madison responded to S. Lloyd stating that this was not the subject of an executive order, but rather regulations published under rule-making authority of the Department of Labor. These regulations went through an extensive rule and comment making period, and is a properly made governmental regulation.
- 191.4 J. Maxwell stated that he does not want to unintentionally harm the employees and asked if there was any potential to harm to their benefits and retirement if the court changes their hourly rate in some way; to which L. Huffaker responded stating that as long as those employees continue to bring the same amount of gross money home, there would be no such harm. She noted that it does not matter whether income is earned as overtime or straight time, because if it is earned, then the same amount is going to the retirement system and Social Security. In further response to

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J. Maxwell's question about whether the county has any restraints as to if it has to treat all employees the same way or is there flexibility to use at its discretion; to which L. Huffaker stated that the County does have the flexibility to designate different employees differently and can differentiate between not only individuals, but job titles, etc. She further stated that when the Court is done, it would need to make sure that it did a good analysis so it does not have any unintentional adverse impact on a particular group of people.

- 192.1 In response to A. Harbison, L. Huffaker verified that the County can put the employees into groups and pay each group according to what is the best for the employee and for the County.
- 192.2 County Attorney Steve Zega addressed J. Maxwell and A. Harbison's comments stating that an example of the things that he is working on with L. Huffaker is the Sheriff's Office taking classifications of employees and doing exactly what the Court is talking about. He stated that he hopes to have something to present to everybody in the near future.
- 192.3 With regard to some of the heavy hitters and overtime, R. Cochran questioned whether a part-time position had been considered to accommodate for that; to which L. Huffaker responded that she is not able to adequately speak to that at this time, because some of the numbers came into her office late this afternoon. She further stated that she has not had a chance to speak to the elected officials who would be making the request to add personnel. R. Cochran stated that working 20 hours of overtime a week takes away from the employee's families and productivity after a long period of time. He would not suggest that the salaries be reduced, but recognize that those departments are in need of additional staffing with regard to a few county positions, noting that Karen Beeks is a good example.
- 192.4 Judge Edwards concurred with R. Cochran that Karen Beeks works long hours; and this week alone, has spent hours working the last two nights to get the material ready for this meeting.
- 192.5 NEXT SCHEDULED MEETING: Judge Edwards announced that she has tentatively scheduled a couple more Special Quorum Court meetings to continue the discussion of health insurance, salaries, and other matters related to the 2017 Budget. She stated that the next special meeting is scheduled for July 28<sup>th</sup> at 5:30 p.m. and then on August 11<sup>th</sup>. She advised the JPs to let Karen Beeks know if anyone has any problems with these dates.



- 193.1 J. Maxwell stated that he had some other business to discuss; to which Judge Edwards responded that Other Business is not on the agenda for this meeting, which was particularly for the budget review.
- 193.2 **J. Maxwell made a motion to suspend the rules to entertain and discuss an issue regarding Renee Biby. E. Madison seconded.**
- 193.3 **A. Harbison called for a point of order.** She stated that the Court needs to start following its agendas; and it has an appropriate time to address this matter at the Personnel Committee meeting on Monday, July 11<sup>th</sup>
- 193.4 County Attorney Steve Zega responded that the motion to depart from the agenda can be raised any time prior to adjournment. He stated that there is a proper motion and a second, but it is not debatable. He stated that A. Harbison's call for a point of order is not relevant in light of the motion that would take 2/3rds vote to pass.
- 193.5 Judge Edwards called for a vote on the motion to suspend the rules.
- 193.6 VOTING FOR: G. McHenry, J. Patterson, B. Ussery, D. Balls, H. Bowman, R. Cochran, R. Dennis, L. Ecke, S. Lloyd, T. Lundstrum, E. Madison, S. Madison, and J. Maxwell. VOTING AGAINST: B. Pond and A. Harbison. **The motion passed with thirteen members voting for and two members voting against the motion. The rules were suspended.**
- 193.7 J. Maxwell stated that Grant Administrator Renee Biby brought her need for additional staffing to the Court's attention Tuesday night. She noted that the staffing budgeted under her department was actually being used 100% of the time in another department. He had asked her to present documentation to the court so it can see what revenue would be generated from extra staff. He then asked that she be allowed to present this information to the court at this time. He reported that they both discussed taking on a couple of municipalities like Farmington, Prairie Grove, Fayetteville, and Goshen with three entries. Of the known homes, at \$2 per customer would equate to about \$15,864 of additional revenue, if the County takes on these new interlocal agreements. He further noted that \$3 per customer would equate to \$23,796 in additional revenue generated just by taking on the municipalities, not any county work. J. Maxwell stated that this is a source of revenue that additional help for R. Biby would generate. He stated if the Court decides to add a part-time or full-time position to help her, this could very well be revenue neutral or positive depending on the rate set. Additionally, he asked R. Biby to explain the potential revenue for administration of these grants.

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- 194.1 Renee Biby, Grants Administrator, addressed the Quorum Court stating as noted by J. Maxwell; her office would have revenue from the two new sewer systems. With extra help to do extra paperwork, potentially there are indirect cost rate agreements and a 10% *de minimis* agreement that the County could do on federal grants. She stated that they have not been done in the past, because they are very time-consuming and require a lot of extra paperwork. She gave the example that if the County was to receive a 10% *de minimis* cost rating on a \$325,000 grant, then potentially that *de minimis* rate, which is meant to pay her salary, office, utilities, and office supplies, could potentially equate to \$32,500. She further stated that her office administers HIDTA funds, and previously, she did not believe that the County ever used the administration fees that HIDTA gave, which would be another \$5,000 a year. She stated that there are some other bureau justice and federal grants that allow the 10% *de minimis*. She stated that if given the staff and time, then there is also a way to negotiate an indirect cost rate agreement for up to 20% of the total cost for administration fees.
- 194.2 J. Maxwell stated if the Court is entertaining giving R. Biby some help, it would appear that there would be some revenue neutral and additional funds that could be generated from the Federal Grant Administration.
- 194.3 A. Harbison asked whether the standard administrative fees on grants that are allowed were not being taken on these grants; to which R. Biby responded that in order to take these fees out, she has to write the grant on the front end and work on the budget narrative, which includes the administration fees. The County is then awarded those fees when the grant award comes in.
- 194.4 She stated if she does not work on developing the federal grant, including writing the budget narrative and abstract on the front end, then those fees are not added in. She explained previously that the various county department heads wrote their own grants. She got involved in some grant writing with the Substance Abuse and Mental Health Services Administration (SAMHSA) and another Drug Court Grant through the Bureau of Justice. She stated if given the opportunity, her office could devote more time to tracking new grants and funds as well as writing them. This would build on how much the County receives each year.
- 194.5 A. Harbison stated on all grants she has been involved in, a standard administrative fee was always deducted.
- 194.6 T. Lundstrum stated if the Court approaches this properly, it is one of the County's actual money-producing departments, which is very important. He stated that R. Biby does a very good job with it; however, with all the extra

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paperwork that these grants require, he would prefer to look at a full-time person as opposed to a part-time. Although it may cost a little more initially, he believes that these sewers will cover that salary and give R. Biby the help that she needs to actually do a better job than she is able to do now.

- 195.1 L. Ecke asked for R. Biby to make it clear that she is requesting a full-time employee to assist in the Grant Administration Department so they can pursue it; to which R. Biby stated she is good with whatever help the court wants to give her. L. Ecke concurred with T. Lundstrum that this needs to be a full-time position fully-funded because the Grants Administration office would be bringing in more money to the county.
- 195.2 S. Madison stated that she was surprised to learn that R. Biby did not already have help with these duties. With regard to the work load required in taking care of the sewer operations in these subdivisions, she asked if there was an estimate of how heavy a burden that would be.
- 195.3 R. Biby responded to S. Madison stating her experience with the past ordinance was that the work load comes and goes. She reported that she had 7 subdivisions that she monitored before and now has 12 with a potential of 14. She stated that the work load has increased and estimated that 50% to 60% of the time would be spent working on subdivisions. If given the additional staff, she would want someone with a wastewater background to be knowledgeable with sewer system operations and maintenance issues.
- 195.4 In response to a question from S. Madison, R. Biby stated under former Grant Administrator Wayne Blankenship county departments wrote their own grants, which is still done today in most departments. She stated that currently the County only has a few large grants and the goal is to expand that number. She reiterated that the *de minimis* costs were included in the project abstract in the budget narrative, which was previously done by each department.
- 195.5 S. Madison stated if each department is no longer submitting its own grants and the business of administering the *de minimis* of overhead was abandoned, then another revelation appears to be that R. Biby has taken on duties that were previously done elsewhere in the county or else they are not being done.
- 195.6 R. Biby responded to S. Madison stating that these are newer types of grants. In 2015, the old A133 standards were amended and now they have uniform guidance under CFR200. She stated this rewrote federal

laws on ways that grants could be handled because previously the majority of grants disallowed any administrative cost. When CFR200 was written and adopted in 2015, it changed the federal rules in that she can start charging the 10% *de minimis* in their new budget narratives and project abstracts. Her office did not previously do this, but rather administered grants after the money came in. She further stated that federal grants make up about 50% of the County's grants. State grants do not typically allow administrative costs as they are usually smaller.

- 196.1 S. Madison stated that this is very good information to have before the Personnel Meeting and thanked J. Maxwell and R. Biby for bringing it to the Court.
- 196.2 R. Cochran questioned what salary range or pay grade R. Biby is looking at based on the best estimate that she has for the job description; to which R. Biby responded that she spoke with L. Huffaker in Human Resources and they reviewed other job descriptions and believes it would rate at about grade 16. She further stated that a part-time position would not have to go through JESAP, but a full-time position does. R. Cochran stated that a grade 16 full-time salary rates somewhere between \$32,000 and \$36,000, plus benefits, and based on the additional revenue numbers, this would pretty well cover the cost of that position. He stated if the position required 50% to 60% of the time handling the septic systems, that would give the new assistant a couple of days a week to help R. Biby with other activities with the benefit of that being to gain more federal grants and *de minimis* fees. Therefore, he stated a full-time person would be a good bet and asked about the proper procedure to get that ball rolling.
- 196.3 B. Pond addressed R. Cochran's question as Chair of the Personnel Committee stating that this discussion was supposed to be had at the next committee meeting. He is a little concerned that the Court does not have all the information needed at this time. He believes R. Biby's hesitance to state whether this should be a part-time or full-time position was related to the fact that research had yet to be done and the discussion was premature. He asked when the decision would be made regarding full or part-time.
- 196.4 Chief of Staff George Butler responded to B. Pond stating that the sewer fee is going to come in regardless of whether the County has a part-time or full-time position. He stated that the Assistant Grants Administrator position has always been part-time, so he does not know when everyone will know that for sure. He initially felt like a part-time position should suffice, but it is hard to find the quality of help that the County wants in a part-time person, at least in certain areas.

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- 197.1 B. Pond questioned whether the Court started out with a part-time position and then made it full-time, if warranted.
- 197.2 R. Cochran stated that he believes the Court should pursue this at its next Personnel Committee meeting. R. Biby can present her recommendation of what her needs are at that time, and then proceed on through the normal process.
- 197.3 A. Harbison stated her suggestion is that the Court go with a part-time person from now until the first of the year to see how this will work out. She stated if the Grants Administrator needs a full-time person at that time, then the Court can put it in the budget and go from there. She noted that this is why she voted against this discussion, because the Court really cannot make a decision at this time and place. She believes that this decision needs to be made at the Personnel Committee meeting with all details worked out at that time.
- 197.4 E. Madison stated that this position will have to go to JESAP to be rated based on a job description, as will the other position need to be re-rated because of the reduction in duties. This will need to happen before proceeding to the Personnel Committee for consideration. She believes this is already in the works and is going to happen as quickly as it can.
- 197.5 In response to questions from E. Madison, R. Biby stated that she is currently working 45 hours a week and Chief of Staff George Butler assists her whenever needed. She further stated that when she held the other position with split duties of legal assistant to the County Attorney and Assistant Grants Administrator, the amount of time she spent in each capacity varied depending upon weeks and circumstances, but she would say probably 60%/40% or a pretty even split. She stated there were weeks when she would spend 85% of her time on the County Attorney's side because he had things going on; while other weeks she would have a sewer blow up and would spend 85% of her time on the Grants Administration side, so this would have to be calculated through an entire year.
- 197.6 E. Madison stated she is unsure of the reason for R. Biby's reluctance to tell the court what she really needs when it is very receptive to her needs. She urged her to be upfront by telling the Court what will benefit her department by the time the calendar opens up for this issue. She stated that R. Biby needs to ask for the additional personnel in order to get it.
- 197.7 T. Lundstrum stated it seems to him it would be important with this sewer issue where they have 12 and are looking at a possible 14, this problem will grow rather than diminish. He doubts that the County will be able to hire

- someone on a part-time salary who is educated in the field of water quality as well as understands the regulations with sewer systems, water quality, and how to test. He stated that the Court is looking at a long-term growing situation with these sewers and urged it to keep that in mind while looking at the issue.
- 198.1 L. Ecke stated she knows this situation has been overwhelming and frustrating to R. Biby, but urged her to stay the course because help is on the way.
- 198.2 S. Madison stated when considering a part-time versus full-time position, she pointed out that the Grant Administrator's goal is probably to increase the number and types of grants the county gets, which has not really been an option given the current situation. She stated with the sewer plants, administration of grants, and the hope that they will see more grants; she believes there is a very strong case that a full-time person is needed.
- 198.3 E. Madison addressed the upcoming scheduled special meetings, stating that she sees them as excessive and unnecessary before the Court receives any revenue predictions. She suggested that the presentations be combined with the regular Quorum Court meetings. She stated that the Court was criticized for having too many special meetings last year and believes that it should find a way to have fewer meetings; especially because the Court is not even reviewing budgets, but hearing presentations that can be heard at the regular meetings.
- 198.4 H. Bowman noted that there was a good representation of the county departments at this meeting and everyone knows one option for dealing with budget issues is to increase taxes. He stated that the Court has struggled and department heads have stepped up to help reduce overall expenditures and get the County's reserve built up in case they were to have a desperate catastrophic situation. He stated his background has been in very competitive businesses where they must continually improve efficiencies to survive. He recognizes that there may be a point where the Court has to bump the county's millage to increase revenue; however, he urged the other court members, department heads and elected officials to think about possible ways that the efficiency of county government could be increased without increasing taxes.
- 198.5 CITIZEN'S COMMENTS: Lorraine O'Neal, resident at 2001 West Wedington, addressed the Quorum Court with respect to the part-time vs. full-time discussion that took place. She stated in response to H. Bowman's comments about being responsible and efficient, she believes that there is an untapped amount of labor out there that is very qualified and

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would welcome a part-time position. She stated keeping in mind the budget, start out with a part-time employee with a possible option that it could become full-time if needed.

199.1 ADJOURNMENT: The meeting adjourned at 7:18 pm.

Respectfully submitted,



Carly Sandidge  
Quorum Court Coordinator/Reporter