



MARILYN EDWARDS
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

June 14, 2013

**REGULAR MEETING OF THE
WASHINGTON COUNTY QUORUM COURT**

Thursday, June 20, 2013
6:00 p.m.
Washington County Quorum Court Room

A G E N D A

1. CALL TO ORDER.

JUDGE EDWARDS

2. PRAYER AND PLEDGE OF ALLEGIANCE.

3. ROLL CALL.

4. **ADOPTION OF AGENDA.** At the beginning of each meeting, the agenda shall be approved. Any JP may request an item be added to the agenda subject to approval of the Quorum Court.

5. **APPROVAL OF MINUTES.** Approval of the minutes of the May 16 regular meeting and June 4 special meeting of the Quorum Court. **(5.1, 5.2)**

6. FINANCE REPORT.

CANDY CLARK

6.1 **APPROPRIATION ORDINANCE:** AN ORDINANCE RECOGNIZING REVENUES OF \$19,038 IN THE GENERAL FUND, AND APPROPRIATING THE AMOUNT OF \$19,038 FROM THE GENERAL FUND TO THE DEPARTMENT OF EMERGENCY MANAGEMENT BUDGET FOR 2013.

6.2 **APPROPRIATION ORDINANCE:** AN ORDINANCE RECOGNIZING ADDITIONAL REVENUE OF \$6,940 IN THE GENERAL FUND, AND APPROPRIATING \$6,940 TO DISTRICT COURT SECURITY BUDGET FOR 2013.

6.3 **APPROPRIATION ORDINANCE:** AN ORDINANCE RECOGNIZING REVENUES OF \$4,000 IN THE JDC GRANT FUND, AND APPROPRIATING THE AMOUNT OF \$4,000 FROM THE JDC GRANT FUND TO THE JDC HOFNOD BUDGET FOR 2013.

7. COUNTY JUDGE'S REPORT. JUDGE EDWARDS
8. COMMITTEE REPORTS. (8.1-8.4)
9. AN ORDINANCE RATIFYING CONDITIONAL USE PERMITS GRANTED BY THE PLANNING AND ZONING BOARD. This ordinance is on second reading and ratifies a CUP granted for East Prairie Grove Tower Site CUP. (9.1, 9.2) JOE PATTERSON
- Public Comment.
(20-minute limit: 10 minutes for & 10 minutes against; 3-minute limit per speaker)
10. AN ORDINANCE AMENDING WASHINGTON COUNTY CODE 11-100 PERTAINING TO LARGE SCALE DEVELOPMENT STANDARDS. This ordinance is on first reading and is being recommended by the County Services Committee. (10.1) JOE PATTERSON
11. AMENDMENT TO THE RULES AND REGULATIONS OF THE PLANNING DIRECTOR REGARDING ZONING. This amendment is being recommended by the County Services Committee and requires approval of the Quorum Court by simple motion. (11.1) JOE PATTERSON
12. A RESOLUTION OF OPPOSITION TO THE JANUARY 2013 "DESIGNATION" AND "RECOGNITION" OF THE WHITE RIVER AND ITS WATERSHED AS THE "SECOND NATIONAL BLUEWAY"; AND ESPECIAL OPPOSITION TO A "BLUEWAY" MEMORANDUM OF UNDERSTANDING BEING ENTERED INTO THE FEDERAL AND STATE BUREAUCRATS PERTAINING TO OUR LANDS AND WATERS-DUE TO LACK OF PROPER NOTIFICATION OR INVITATION, AND DUE TO FAILURE TO SEEK APPROVAL, INVOLVEMENT, OR INPUT OF ANY KIND FROM WASHINGTON COUNTY, ARKANSAS. This resolution has been forwarded for consideration by the County Services Committee. (12.1) JOE PATTERSON
13. AN ORDINANCE APPROVING AN AGREEMENT WITH THE CITY OF TONTITOWN, ARKANSAS, THE CITY OF SPRINGDALE, ARKANSAS, AND WASHINGTON COUNTY, ARKANSAS, REGARDING THE OPERATIONAL EXPENSES OF THE SPRINGDALE DISTRICT COURT. This ordinance is on first reading and is being recommended by the Jail/Law Enforcement/ Courts Committee. (13.1, 13.2) TOM LUNDSTRUM
14. OTHER BUSINESS.
15. CITIZEN'S COMMENTS. Fifteen-minute comment period with a three-minute limit for each individual to comment on items on the agenda or other items.
16. ADJOURNMENT.

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

Thursday, May 16, 2013

6:00 p.m.

Washington County Quorum Court Room

- 75.1 The Washington County Quorum Court met in regular session on Thursday, May 16, 2013. The meeting was called to order by Judge Marilyn Edwards.
- 75.2 Bill Ussery led the Quorum Court in a prayer and in the Pledge of Allegiance.
- 75.3 MEMBERS PRESENT: Ron Aman, Rex Bailey, Harvey Bowman, Candy Clark, Rick Cochran, John Firmin, Barbara Fitzpatrick, Eva Madison, Joe Patterson, Butch Pond, Mary Ann Spears, and Bill Ussery.
- 75.4 MEMBERS ABSENT: Ann Harbison, Tom Lundstrum, and Jimmy Mardis.
- 75.5 OTHERS PRESENT: County Judge Marilyn Edwards, County Attorney George Butler, County Comptroller Cheryl Bolinger; Interested Citizens; and Members of the Press.
- 75.6 ADOPTION OF THE AGENDA: Judge Edwards asked if there were any additions or deletions to the agenda.
- 75.7 **A motion was made and seconded to adopt the agenda as distributed. The motion passed unanimously by voice vote. The agenda was adopted as distributed.**
- 75.8 APPROVAL OF MINUTES: Judge Edwards asked for approval of the minutes of the April 18 regular meeting of the Washington County Quorum Court.
- 75.9 **A motion was made and seconded to approve the minutes as distributed. The motion passed unanimously by voice vote. The minutes were approved.**
- 75.10 FINANCE REPORT: C. Clark reported that there were seven items on the agenda tonight forwarded from the Finance and Budget Committee.
- 75.11 A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY, SOLID WASTE MANAGEMENT DIVISION: C. Clark introduced **A Resolution Authorizing The Submittal Of A Grant Application To The Arkansas Department Of Environmental Quality, Solid Waste Management Division**, and County Attorney George Butler read the resolution.

76.1 **C. Clark made a motion to adopt the resolution. R. Bailey seconded.**

76.2 Citizen Comments: There were no citizen comments made.

76.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**

76.4 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The resolution was adopted.**

RESOLUTION NO. 2013-08, BOOK NO. 3, PAGE NO. 46

76.5 AN ORDINANCE AUTHORIZING THE COUNTY TO DO BUSINESS WITH HILAND DAIRY AND CINTAS: C. Clark introduced **An Ordinance Authorizing The County To Do Business With Hiland Dairy And Cintas.**

76.6 County Attorney George Butler stated that this is a standard ordinance that they have been doing, but after discussion in committee he discovered that they actually do not need to have the ordinance in this situation. He explained that the only time that this ordinance is required is when it is in the best interest of the County; the Quorum Court may permit them to purchase goods or services, directly or indirectly, from Quorum Court members, county officers or county employees due to unusual circumstances. He noted that this has gotten confused with another part of the ethics statute that says that no officer of the county or government may use his or her official position to advance their individual personal economic or interest of a needy family member, with "needy family member" not being defined. Therefore, he stated that it is okay if they have this ordinance, but in this case, it is not really required because they are not buying directly or indirectly from a county employee or relative.

76.7 **C. Clark made a motion to table the ordinance indefinitely. R. Bailey seconded.**

76.8 Citizen Comments: There were no citizen comments made.

76.9 **With no further discussion, Judge Edwards called for a vote on the motion to table the ordinance.**

76.10 **The motion passed unanimously by those present by voice vote. The ordinance was tabled.**

77.1 AN ORDINANCE APPROPRIATING THE TOTAL AMOUNT OF \$92,010 FROM VARIOUS FUNDS TO VARIOUS BUDGET LINE ITEMS FOR NEEDED ADJUSTMENTS FOR THE YEAR 2012: C. Clark introduced **An Ordinance Appropriating The Total Amount Of \$92,010 From Various Funds To Various Budget Line Items For Needed Adjustments For The Year 2012**, and County Attorney George Butler read the ordinance.

77.2 C. Clark explained that this is a housekeeping ordinance.

77.3 **C. Clark made a motion to adopt the ordinance. R. Bailey seconded.**

77.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**

77.5 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-27, BOOK NO. 9, PAGE NO. 196

77.6 AN ORDINANCE REDUCING THE AMOUNT OF \$73,718 FROM FULL-TIME SALARY LINE ITEMS IN VARIOUS COUNTY BUDGETS AND RESTORING THOSE FUNDS TO UNAPPROPRIATED RESERVES; AND, APPROPRIATING THE AMOUNT OF \$70,351 FROM UNAPPROPRIATED RESERVES TO VARIOUS BUDGETS FOR 2013: C. Clark introduced **An Ordinance Reducing The Amount Of \$73,718 From Full-Time Salary Line Items In Various County Budgets And Restoring Those Funds To Unappropriated Reserves; And, Appropriating The Amount Of \$70,351 From Unappropriated Reserves To Various Budgets For 2013**, and County Attorney George Butler read the ordinance.

77.7 C. Clark stated that this was also a housekeeping ordinance.

77.8 **C. Clark made a motion to adopt the ordinance. E. Madison seconded.**

77.9 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**

77.10 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-28, BOOK NO. 9, PAGE NO. 198

- 78.1 AN ORDINANCE APPROPRIATING \$43,285 FROM THE GENERAL FUND TO THE ASSESSOR'S BUDGET FOR 2013: C. Clark introduced **An Ordinance Appropriating \$43,285 From The General Fund To The Assessor's Budget For 2013**, and County Attorney George Butler read the ordinance.
- 78.2 C. Clark explained that this appropriation was for an invoice from 2011 that did not get paid.
- 78.3 **C. Clark made a motion to adopt the ordinance. J. Patterson seconded.**
- 78.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 78.5 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-29, BOOK NO. 9, PAGE NO. 201

- 78.6 AN ORDINANCE APPROPRIATING \$100,000 FROM THE GENERAL FUND TO THE TRANSFERS OUT BUDGET; AND RECOGNIZING AND APPROPRIATING REVENUES OF \$100,000 IN THE CENTRAL SUPPLIES FUND FOR 2013: C. Clark introduced **An Ordinance Appropriating \$100,000 From The General Fund To The Transfers Out Budget; And Recognizing And Appropriating Revenues Of \$100,000 In The Central Supplies Fund For 2013**, and County Attorney George Butler read the ordinance.
- 78.7 **C. Clark made a motion to adopt the ordinance. B. Fitzpatrick seconded.**
- 78.8 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 78.9 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-30, BOOK NO. 9, PAGE NO. 202

- 79.1 AN ORDINANCE APPROPRIATING \$7,000 FROM THE DRUG COURT PROGRAM FUND TO THE DRUG COURT PROGRAM BUDGET FOR 2013: C. Clark introduced **An Ordinance Appropriating \$7,000 From The Drug Court Program Fund To The Drug Court Program Budget For 2013**, and County Attorney George Butler read the ordinance.
- 79.2 **C. Clark made a motion to adopt the ordinance. B. Fitzpatrick seconded.**
- 79.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 79.4 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-31, BOOK NO. 9, PAGE NO. 203

- 79.5 COUNTY JUDGE'S REPORT: Judge Edwards introduced Bill Bradley, President and CEO of Washington Regional Medical Center, who would be making the annual report from Washington Regional Medical Center
- 79.6 Bill Bradley, President and CEO of Washington Regional Medical Center, addressed the Quorum Court stating that he had some good news and some bad news. He stated that healthcare reform will create tough years for healthcare providers for 2013, 2014, and 2015, as well as the federal budget deficit reduction sequester that hit them on April 1, 2013. He explained that for Washington Regional Medical Center, over the next five years, the combined impact of sequestration and healthcare reform is \$25 million that they need to get out of their operations and over the next few months the challenge will be to develop a plan to cope with this. He reported that their volumes continue to be very good and they continue to grow, but this will be a tremendous challenge and a lot for WRMC to deal with; however, at the end of the day they will figure it out and be better for it.
- 79.7 Mr. Bradley referred to the special report to the community edition "Your Health" handout and reported that one of WRMC's quality metrics that they are measured on by major independent third parties that they continue to do very well on and they benchmark themselves against national averages for things like mortality which is lower than the national average and equates to about 35 lives in a year's period of time. He further noted with regard to complications, WRMC vs. a hospital that is performing at the average level,

there would be 312 less complications at WRMC. He noted that readmissions is an area that impacts their reimbursement from Medicare so with a readmission rate of 84 fewer patients than at an average performing facility which is low, it is assumed that their quality is high and they got paid more this year. He stated that they were the only area hospital that didn't get penalized and actually received a bonus. He noted that WRMC's glucose levels are 18% lower than the national average; deep vein thrombosis levels are that you are about 3½ times less likely to get a blood clot at WRMC than a national average hospital and twice as likely to not get an infection. Mr. Bradley stated that they are very proud of these performance metrics and statistics.

- 80.1 Mr. Bradley reported that a group formed by major employers such as G.E. and G.M., Hopkins, Harvard, etc., evaluate hospitals for patient safety and WRMC was one of four hospitals in Arkansas to receive an "A" grade which is quite an accomplishment for them.
- 80.2 E. Madison stated that she occasionally receives questions about WRMC and was recently questioned about whether BrookStone was going to be sold and as someone who has had grandparents stay at this facility, this was unwelcome news.
- 80.3 Mr. Bradley responded to E. Madison stating when they are confronted with the challenges that he alluded to earlier, they have to make some tough decisions and their Board looked at all services they offer and, since they are not really into the residential care business but rather into the treatment of illness and wellness business, that is the reason that this decision was made. He explained that it was related to the City Hospital component as well because nursing homes and assisted living has not really been a part of their mission compared to long-term acute care hospitals, inpatient rehabilitation hospitals, or skilled nursing facilities which are the areas that they are going to focus on. He stated that a lot of people have had loved ones in BrookStone and they have received many compliments through the years about the care, but this is the type of decision that the Board has been struggling with and there will probably be more such decisions with the challenges that they have.
- 80.4 In response to a question from E. Madison about whether they are far enough along that they have identified a buyer for BrookStone, Mr. Bradley stated that they have received some bids which they are in the process of analyzing because they want to make sure to sell to someone who will do a good job.

- 81.1 M. Spears stated having spent a good part of this last week at WRMC with a 7-month-old grandson, she wanted to commend WRMC for the outstanding care that he received.
- 81.2 B. Fitzpatrick stated that she has received a lot of comments regarding problems with billing from different areas which creates overbilling, under billing, reimbursements, rebilling and then being turned over to a bill collector for something that they were told was an incorrect bill. She stated if there is one thing that especially the elderly do not need is this kind of run around and questioned whether there was any plans to look into the idea of centralized billing through the hospital with one bill and the hospital then reimburses the various departments.
- 81.3 Mr. Bradley responded to B. Fitzpatrick stating that the problem is that they are not one legal entity, noting when he started at WRMC 8 years ago, they had 12 physicians that worked for them and now they have 100 as well as an additional 300 physicians in the area that are on their medical staff and there is no way to do all the billing.
- 81.4 B. Fitzpatrick stated that these physicians could bill the hospital and the hospital could then bill the patient; to which Mr. Bradley stated that there are a lot of federal laws about when they write checks to physicians there are a lot of restrictions which is why they now retain three lawyers.
- 81.5 H. Bowman referred to sequestration with Obama Care being tough for the hospital through 2015 and asked how it will be better after that time; to which Mr. Bradley responded that he believes the sequestration will be a problem indefinitely, but it will be worse through 2015. He stated that part of the healthcare reform law is that more people would get same level coverage and the original deal with hospitals is that hospitals agree to finance 20% of healthcare reform through lower reimbursement which they volunteered to do. He stated that the converse part is that more people were going to get insurance and so their charity and indigent care would be reduced. However, as time and politics have passed, about 60% of the original number that were going to have coverage will have coverage, so it has been watered down quite a bit and they will not get as much benefit from that as they had hoped. He stated in now way will it make up for the reimbursement cuts and will only be an opportunity to get back about \$2 to \$3 million out of the \$25 million.
- 81.6 H. Bowman asked where the primary losses were coming from in the \$25 million over the next three years; to which Mr. Bradley responded that it is coming out of reimbursement and they are all getting paid less for what they do which puts a lot of pressure on them to reduce their operating costs, process improvement, improving billing, etc.

- 82.1 In response to a question from H. Bowman on how this will impact elder care, Mr. Bradley stated that he does not see a major impact to the elderly. He stated why he believes healthcare reform will have trouble working is that the country is not going to save any money because hospital admissions per 1000 population will go down with a lot more focus on outpatient care and preventative medicine which will reduce the need to go to the hospital in the long term; however, there are so many "baby boomers" that will more than compensate for that.
- 82.2 Judge Edwards introduced Steve Harrison with Central EMS to provide the annual report from the Washington County Regional Ambulance Authority.
- 82.3 Steve Harrison, Central EMS Assistant Chief, addressed the Quorum Court stating that 2012 was a good year for them with an increased call volume. He noted that their dispatch center is still the only internationally accredited emergency medical dispatch center for the State of Arkansas and continue to perform at a 98 to 99 percentile. He pointed out that their cardiac arrest save rate is at 25% compared to the national average of 7% attributed to their ambulance responses, their equipment, first responders, etc., and speaks very highly to that. He noted that they continue to try to improve their ambulances and equipment and have added an ambulance to help with calls on the east side of the county toward Goshen.
- 82.4 In response to a question from H. Bowman about the national average for cardiac arrest save rate, Mr. Harrison stated that they call it return to spontaneous heart beat with the national average being only 7% compared to Central EMS's rate of 25%.
- 82.5 Also under the County Judge's Report, Judge Edwards stated that her report on the County Road Department is pretty much the same as last month, so there was nothing new to report this month.
- 82.6 COMMITTEE REPORTS: J. Patterson, Chairman of the County Services Committee, reported that this committee met on April 29 and had a short meeting with the removal of the GIS Department item from their agenda. They received an update from Juliet Richey from the County Planning Department as well as a report from Lester Howick on the County Animal Shelter. They had some discussion about the reports from the Animal Shelter being quarterly and more financial in nature.
- 82.7 E. Madison, Chair of the Public Works Committee, reported that the committee met briefly on April 29 following the County Services meeting. She reported on behalf of Ron Wood that the bids were opened on the Sheriff's

Annex on Friday and a decision should be made this week. She reported that they had a discussion about Roberts Rules of Order, but took no action. After the meeting adjourned, the Committee toured the County's Emergency Operations Center.

- 83.1 B. Pond, Chairman of the Personnel Committee, reported that they did not meet this month due to lack of an agenda.
- 83.2 C. Clark, Chairman of the Finance and Budget Committee stated that they needed to acknowledge receipt of the Washington County Legislative Audit for the year 2011.
- 83.3 **C. Clark made a motion to acknowledge receipt of the Washington County Legislative Audit for the Year 2011. J. Firmin seconded.**
- 83.4 R. Cochran noted that one of the auditor's comments was an adverse opinion on the accounting, but he is also aware that all 75 counties in the State receive this same adverse message. He stated that this was something that they discussed in committee, but this is not an issue other than the accountants have to say that. He reported that the other issue that the auditors hit them hard on was with their disaster recovery plan for the IT and infrastructure for the Year 2011 which they have put a lot of money into, and he does not expect for that to even hit the radar on their next report for 2012.
- 83.5 Judge Edwards stated that they are trying to work on the disaster recovery plan which is a very difficult project, but they are moving forward and hoping one of these days to have it taken care of.
- 83.6 **With no further discussion, Judge Edwards called for a voice vote on the motion.**
- 83.7 **The motion passed unanimously by those present by voice vote. Receipt of the 2011 Audit was acknowledged.**
- 83.8 AN ORDINANCE APPROVING AN INTERLOCAL AGREEMENT BETWEEN WASHINGTON COUNTY AND THE INCORPORATED CITIES THEREIN TO PROVIDE HAZARDOUS MATERIALS INCIDENT RESPONSE SERVICES:
J. Patterson introduced **An Ordinance Approving An Interlocal Agreement Between Washington County And The Incorporated Cities Therein To Provide Hazardous Materials Incident Response Services**, and County Attorney George Butler read the ordinance. This ordinance is on third and final reading.

- 84.1 County Attorney George Butler reported that they have received a letter back from the Attorney General on this interlocal agreement, and everyone else has passed the ordinance, and they are just waiting on some documentation from them.
- 84.2 J. Patterson explained that this has been ongoing for several years and the equipment has just been moved around with the headquarters relocated.
- 84.3 **J. Patterson made a motion to adopt the ordinance. R. Bailey seconded.**
- 84.4 Citizen Comments: There were no citizen comments made.
- 84.5 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 84.6 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-32, BOOK NO. 9, PAGE NO. 204

- 84.7 AN EMERGENCY ORDINANCE RATIFYING A CONDITIONAL USE PERMIT DENIED BY THE PLANNING AND ZONING BOARD: J. Patterson introduced **An Emergency Ordinance Ratifying A Conditional Use Permit Denied By The Planning And Zoning Board**, and County Attorney George Butler read the ordinance. The County Planning Board denied a CUP for White River Auction on April 4. The ordinance contains an emergency clause and will be in effect immediately upon passage.
- 84.8 County Attorney George Butler explained that because of the way the Arkansas Court of Appeals construed our zoning ordinance, both approvals and denials have to be ratified by the Quorum Court. He noted that they held off on this as they thought that there was going to be an appeal, but there has not been an appeal filed and the time to appeal has expired.
- 84.9 **J. Patterson made a motion to adopt the ordinance. R. Bailey seconded.**
- 84.10 Citizen Comments: There were no citizen comments made.
- 84.11 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**

85.1 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, R. Bailey, H. Bowman, and C. Clark. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-33, BOOK NO. 9, PAGE NO. 210

85.2 A RESOLUTION DECLARING THAT A VACANCY EXISTS FOR THE POSITION OF CONSTABLE JUSTICE OF THE PEACE DISTRICT #10: M. Spears introduced **A Resolution Declaring That A Vacancy Exists For The Position Of Constable Justice Of The Peace District #10**, and County Attorney George Butler read the resolution.

85.3 M. Spears explained that John Maynard, Constable in her District has been called up for active duty in the Air Force creating a vacancy.

85.4 **M. Spears made a motion to adopt the resolution. C. Clark seconded.**

85.5 E. Madison stated that she seems to recall that for a long time Benton County had a lot of vacant constable positions, inquiring about how that worked; to which George Butler responded stating that he was unsure about Benton County, but it could be that they didn't declare a vacancy or the Governor didn't appoint anyone or a combination of the two.

85.6 E. Madison stated that given the Judge has moved to reduce the number of constables, she would almost be declined to leave this position empty.

85.7 County Attorney George Butler explained that once the Quorum Court knows about a vacancy, they are required to advise the Governor of that fact and then it is up to the Governor to appoint anyone or not.

85.8 J. Patterson stated that he recalls reading in the newspaper on a couple of occasions that Benton County is reducing the number of constables, but he has never seen what that number was going to be.

85.9 Citizen Comments: There were no citizen comments made.

85.10 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**

85.11 VOTING FOR: R. Cochran, J. Firmin, B. Fitzpatrick, J. Patterson, B. Pond, M. Spears, B. Ussery, R. Aman, H. Bowman, and C. Clark. VOTING AGAINST: E. Madison and R. Bailey. **The motion passed with ten**

**members voting in favor and two members voting against the motion.
The resolution was adopted.**

RESOLUTION NO. 2013-09, BOOK NO. 3, PAGE NO. 47

- 86.1 OTHER BUSINESS: There was no other business to discuss.
- 86.2 CITIZEN COMMENTS: There were no citizen comments made.
- 86.3 ADJOURNMENT: The meeting adjourned at 6:40 p.m.

Respectfully submitted,



Karen M. Beeks
Quorum Court Coordinator/Reporter

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

Tuesday, June 4, 2013
6:00 p.m.

Washington County Quorum Court Room

- 87.1 The Washington County Quorum Court met in a Special Meeting on Tuesday, June 4, 2013. The meeting was called to order by Judge Marilyn Edwards. She stated that this was a Conditional Use Permit Appeal Hearing for an East Prairie Grove Cell Tower Site.
- 87.2 PRAYER AND PLEDGE: J. Patterson led the Quorum Court in prayer and in the Pledge of Allegiance.
- 87.3 In response to a question about time limits, County Attorney George Butler stated that there is a 45 minute time limit for each side of the issue, but as the official time keeper, when there are interruptions and questions back and forth, he will stop the clock.
- 87.4 MEMBERS PRESENT: Ron Aman, Rex Bailey, Harvey Bowman, Rick Cochran, John Firmin, Barbara Fitzpatrick, Ann Harbison, Tom Lundstrum, Joe Patterson, Butch Pond, Mary Ann Spears, and Bill Ussery.
- 87.5 MEMBERS ABSENT: Candy Clark, Eva Madison, and Jimmy Mardis.
- 87.6 OTHERS PRESENT: County Judge Marilyn Edwards, County Attorney George Butler, Planning Director Juliet Richey, Emergency Services Director John Luther, Interested Citizens; and Members of the Press.
- 87.7 CONDITIONAL USE PERMIT APPEAL HEARING: East Prairie Grove Tower Site CUP (Conditional Use Permit Request) for Location: Section 23, Township 15, Range 31 West by Owner: Storm-Agri Enterprise INC. and Applicant: Smith Communications, LLC ; Dave Reynolds at Location Address: 11183 Storms RD, Prairie Grove, AR 72753 of 131.52 acres for Proposed Land Use: Cell Tower; Coordinates: Longitude- 94° 14' 21.14" W Latitude- 35° 58' 8.15" N; Project #: 2013-021 Planner: Sarah Geurtz, e-mail at – sgeurtz@co.washington.ar.us.
- 87.8 Introductory Remarks and Presentation by County Staff Summarizing the Project and Staff Recommendations: County Attorney George Butler stated that this will be handled much like a Planning Board meeting with staff giving their presentation of the project and the court is free to ask questions at anytime. He stated that there will be testimony from public agencies, if any, then presentation by the applicant in support of the project followed by presentation by appellant against the project, each with a 45 minute time limit.

He reiterated that if the presentations are interrupted to ask questions, he will stop the timer. G. Butler stated that once they have heard all testimony, they will have the first reading of the ordinance, after which any motion to ratify could be made and since it is not an emergency ordinance, will require suspension of the rules to go through three readings.

- 88.1 G. Butler stated that they follow some informal rules of conduct that all speakers would be civil, respectful, and courteous and address the Quorum Court. He explained that only the Quorum Court would be allowed to do all questioning, examination and cross-examination. He stated that obscene language, violence, disruptive conduct, nor personal remarks or attacks would be tolerated. He further noted that yelling, screaming, booing or interrupting would not be allowed, but light applause at the end of a speaker is permissible.
- 88.2 County Planning Director Juliet Richey stated that she would be giving an introduction to cell towers in general and the handling of conditional use permits for this project, followed by a complete staff report to be given by County Planner Sarah Guertz that will mirror most information received in the printed staff report.
- 88.3 Ms. Richey stated that Planning Staff has extensively and comprehensively evaluated this CUP for the location proposed, and any change to the location would result in the CUP process being restarted with a newly proposed location. She explained that the matter before the court is to determine whether a CUP for this cell tower at this location should be ratified or approved, either with or without conditions or in the alternative denied. She stated while they may discuss alternative locations other than that presented, staff has not completed in depth research on those sites and the applicant has not submitted in depth information on alternative sites. She stated depending on the distance that the tower location is moved, additional factors could come into play such as whether or not the new location would be feasible for the applicant, whether or not there may be environmental, engineering or other factors in a different location, and what the response of neighboring property owners to an alternative site may be.
- 88.4 Ms. Richey stated in general it is not the county's job to design or site the project for the applicant, nor is it the county's job to gauge the potential effectiveness of the business plan of the applicant. She stated that the question here is solely whether or not the tower meets the CUP criteria laid out in their zoning ordinance at the proposed location. She noted that the planning staff take their jobs very seriously and do not make their recommendations casually and try their absolute best to anticipate issues and

questions from the Planning Board, Quorum Court and public and do their best to provide answers to the issues and questions raised and strive to balance needs of all county citizens, residents, businesses, farmers and work within the framework of the ordinances in place in Washington County. Ms. Richey stated if any issues or questions are raised throughout the appeal process that more attention or research is needed, that planning staff be told specifically what they would like to have research and they will do what they can to provide that information.

- 89.1 Ms. Richey noted that applicable Federal law in Sec 704(a)(iv) of the FCC Act of 1996 prohibits them from making decisions about the possible environmental impacts of cell towers based on radio frequency emissions, etc. and this includes health-related concerns in regard to radio frequency emissions. She further stated in November of 2009, the FCC issued a Declaratory Ruling clarifying portions of the FCC Act which states the following: (a) Local governments have 150 days to review and act upon tower siting applications and if the County fails to act in that period of time, the applicant can bring action against them in court, and we will bear the burden of explaining why the delay was reasonable. (b) The County cannot deny an application solely because "one or more carriers serve a given geographic market," as in doing so, the County would be engaging in unlawful regulation that "prohibits or had the effect of prohibiting the provision of personal wireless services." In other words – just because one provider (i.e. AT&T, Verizon, etc) has existing good service in an area is not grounds to deny a tower from being placed in that area.
- 89.2 County Attorney George Butler added that the 150 days runs from the day that the applicant applied to the Planning and Zoning Board which according to his calculations will run on July 9, 2013.
- 89.3 Ms. Richey stated that the reason to discuss coverage is because it is tied in part to this location application; however, they need to keep in mind the limits to their ability to consider that.
- 89.4 Ms. Richey stated in regard to the health, safety issues, and radiation, the federal regulation allows only a certain amount of maximum radiation from the towers that the tower builders and the carriers on the tower have to comply with and as long as that amount of radiation has not exceeded the law, then they can't use that for a reason not to allow the tower.
- 89.5 Ms. Richey stated that this CUP is the first of a two-part development process in Washington County; however, if this tower is approved, it will probably be

the only part of the process that the county will participate in. She noted if this CUP is approved, the next step is a communication tower review process wherein if certain criteria are met, they can be approved administratively and if they don't meet that criteria, then it goes to the Planning Board who would have the final say. She noted that the land that this site is showing currently does meet the criteria and if the CUP is approved, they would be able to be administratively approved. She noted in this part of the process, the final structural drawings come into play for the conditional use.

- 90.1 Ms. Richey noted three different tower types including the guyed lattice-type tower that is tall and thin; self-supporting lattice-type tower used for towers shorter than the guy-wired towers and allow a tower to not have guy wires but results in a wider tower, especially at the base; and Monopole-cylindrical metal pole with antennas located either inside or hanging on the outside and are used for shorter towers. She noted that the tower that they are discussing tonight is 300 to 320 feet tall and for that application, they rarely see anything besides the guyed lattice-type tower. Ms. Richey noted that tower heights need to be relatively even across a network in order for towers to communicate well between one another. Therefore, towers are engineered to have similar tower elevations within a network; some towers are shorter or taller than others, some might be located on a hill, and some might be located within a valley.
- 90.2 Ms. Richey stated that the National Environmental Policy Act (NEPA) Report is a report required for all new cell towers wherein environmental, cultural, and archeological aspects of the proposed tower site must be thoroughly researched in a NEPA report and she noted that they have received such a report for this project. Further, she noted that the FAA (Federal Aviation Administration) and FCC (Federal Communication Commission) approval must be acquired prior to tower construction and staff has received both FAA and FCC approval.
- 90.3 Ms. Richey noted that better cellular coverage can enable emergency service responders to provide even better service and the Emergency Services Director John Luther is in support of towers in the more rural areas of the County where cellular coverage is poor. She pointed out that Mr. Luther reported that over 85% of 911 calls are placed from cell phones; and better coverage allows First Responders to better serve citizens with transmission of data en route to hospitals, triangulation of a person's location, and GPS capabilities. She stated that Mr. Luther would talk more on this later in the meeting.

- 91.1 Ms. Richey stated at they would discuss property value tonight and in this case, the applicant submitted a letter from a Residential Real Estate Appraiser that states from her 12 year experience appraising in Northwest Arkansas, it has not been her experience that cell phone towers negatively effect the property values of adjacent property holders. She also wrote that she has spoken with senior Real Estate Appraisers who have confirmed that there is currently no quantifying evidence of an automatic decline in property values when property is located adjacent to property containing a cell phone tower. Ms. Richey noted that in cases like this, they usually hear different stories from different appraisers or other real estate professionals and she does think that there is some common sense that goes into looking at these cases and that probably proximity to residences by a tower will probably play into this and it is hard to make a blanket statement across the board without looking at fact specific attributes.
- 91.2 Ms. Richey stated that in general all towers are lit with a white pulsating light during daytime hours and a red low-intensity pulsating light during nighttime hours and this is for all towers over 200 feet and corresponds with the County communication tower codes.
- 91.3 Ms. Richey stated that all neighbors owning parcels within 300' of the parcels on which the towers are proposed to be constructed were notified via certified mail for the Planning Board/ZBA meeting, and were re-notified by regular mail of the appeal hearing. She further stated that some neighbors have contacted the Planning Office expressing concern that they would be unable to build a future residence on their property due to the proximity of the proposed tower and this is not true. She pointed out if a proposed tower is approved and built, new residences may be located within any distance or proximity to the tower that a property owner desires.
- 91.4 Ms. Richey stated that the proposed tower, East Prairie Grove Tower Site CUP is 300 to 320' tall guy-wired lattice-type tower and the use of guy wires allows this tower to be only about 36" wide. She noted that this tower would provide better cellular coverage where poor coverage currently exists. She noted that 12 appeals have been filed for this CUP.
- 91.5 Ms. Richey stated that reasons this tower site was specifically chosen by AT&T and Smith Communications, LLC, was location within the basic service area needing better cellular coverage, leasable land, buildable site, road and utility access, and ability to meet the County's Administrative Tower checklist of requirements.

- 92.1 Ms. Richey stated that staff has given consideration to a number of factors related to this proposed use such as residential structure proximities, proposed tower types and heights, type of lights on the towers, fire and emergency vehicle accesses, need for even better emergency services in the rural areas of the County, and all other items that will be discussed in the Staff Report.
- 92.2 Ms. Richey stated that she is in no way an expert on cell towers and the applicant will speak more on this. There is engineering involved in placement of towers and where they need to be located to fill holes within their existing network. She referred to a map, noting that each dot represented a tower that all talk back and forth with each other and in order to have a robust network, they do have to have somewhat specific placement of their towers and do quite a bit of research before choosing a tower site. She further stated whether or not the tower site could be moved somewhat and still fulfill their needs is a question that they will need to ask the applicant.
- 92.3 Ms. Richey stated that most towers have a number of carriers on them and usually when built, they may have 4-5 different carriers, along with other people who may hang antenna on the tower. She noted that they are not reviewing the carriers or antenna tonight, but only the structure of the tower. She stated that they do administrative reviews of all antennas added to towers in the county and when they come in, they require structure analysis for addition of each antenna to make sure that the tower can support the same.
- 92.4 Sarah Guertz, County Planner, addressed the Quorum Court stating that this CUP was heard and approved with conditions by the Planning Board and Zoning Board of Adjustments on March 7, 2013. She stated that there were five board members present and noted a correction to the staff report that Planning Board member Cheryl West had recused herself and the remaining four board members voting in favor of approving the CUP. Ms. Guertz reported at this meeting, nine members of the public spoke in opposition to the tower and one member of the public spoke in favor; and the applicant and owner of the property on which the tower is proposed also spoke in support of the tower. She noted that twelve appeals were later filed for a total number of 14 appellants with Bassett Law Firm LLP representing six of the appellants and Tom Kieklak of Harrington Miller Law Firm is representing the applicant Dave Smith of Smith Communications, LLC.
- 92.5 Ms. Guertz stated that the tower site is located south of Farmington between Prairie Grove, Greenland and West Fork, located solely within the County and

not within a city's planning area. The property is zoned Agriculture/Single-Family Residential 1 unit per acre; the property owner is Patrick Storm of Storms Agri-Enterprise, Inc.; the applicant is Dave Reynolds of Smith Communications, LLC.; and the parcel consists of 131.52 acres. She stated that the tower will be located off of Storms Road which connects with Gifford Road that connects with the Illinois Chapel Road to the north and Hwy. 265 to the east.

- 93.1 In response to a question, Ms. Guertz stated that Storms Road was a residential drive.
- 93.2 Ms. Guertz stated that the property consists of open pasture with a line of trees along Hickory Creek to the north and a small hill to the west, and contains flood plain from Hickory Creek and from the Illinois River to the west. She pointed out that the tower site including the skylines is not located within any of the FEMA determined 100-year flood plain. If tower is approved, the existing cattle guard gate off of Storms Road must be 26 feet in width in order to accommodate emergency vehicle access and the road must be able to support 75,000 lbs in all weather conditions. She noted that the cattle guard will need to be removed, filled in and compacted in order to support this weight.
- 93.3 In response to a question, Ms. Guertz stated that Storms Road does meet the county's criteria, and further noted that the county will be regulating the access road from this road to the tower site.
- 93.4 Ms. Guertz addressed AT&T's Voice Coverage Map for this area, noting that this tower site currently has best cellular coverage with three areas around it with good to moderate coverage. Additionally, she addressed a map that provided by the applicant showing how cellular coverage would be improved if this tower is constructed. She stated that the tower would be located in the northeastern property corner and would consist of an approximately 300 foot tall guyed wired lattice type tower and with the addition of lights and a lightning rod to reach 320 feet in height and the use of guyed lines will allow this tower to be about 36 inches wide. She noted that they would use yellow guyed wire wraps about 1½ feet long every 15 feet; and on top of the tower there would be a white pulsating light during day hours and a red pulsating light during night hours, as well as red marker lights would be at about 150 feet of elevation on the tower and would be lite at night.
- 93.5 Ms. Guertz stated that the compound area would be abut 75' x 75' and staff is requiring that the tower pad to be elevated to withstand the 100-year storm event which is 1,175.5 feet of elevation; the tower compound would be

elevated to ½ foot above the 100-year storm event. She reiterated that the tower location is not in the FEMA 100-year flood plain and a 100-year storm event is different from this. Ms. Guertz stated that the applicant had boring samples taken to inspect the soils and presence of groundwater and the tests revealed that the soil to be what they expected at this site and their test turned up water in only one of the test pits at 2' and 2½' below ground only and applicant indicated that this will not be a problem or effect the stability of the tower. She stated that there is no further land use for this area of the county and the surrounding properties are agricultural, agricultural-residential, and residential, and at this time uses are large agricultural parcels with residential homes on small, medium and large parcels.

- 94.1 Ms. Guertz stated that Washington County code requires that if a residence is located within 400 feet plus the height of a tower to be constructed, the owners of that residence must consent in writing to construction of the tower; however, in this case there are no residential structures located within the notification buffer distances. She noted that the two nearest residences are each located approximately .22 miles from the tower's base; one home owned by Storms Agri-Enterprises, Inc. on the subject's parcel and is located approximately 1168 feet from the tower's base and the other home is owned by Gary and Cathy Scott and is located approximately 1141 feet from the tower's base.
- 94.2 Ms. Guertz referred to maps of appellants and members of the public who submitted comments on this project in opposition as well as in support of the project. She noted that all neighbors within 300 feet of the boundary of this property were notified by certified mail of this March 7th CUP hearing and in total, 10 members of the public contacted staff in support of this project and 20 members of the public contacted staff in opposition to this project. She stated that there were 12 filed appeals for a total number of 14 separate appellants. The following summarized reasons were given by neighbors in opposition to this tower: lack of compatibility; feeling that it does not comply with County Zoning Ordinances; aesthetic impact, impact of view from their property, lights; tower location; displeased with the Planning Board's handling of the CUP decision; wanted more time and ability to negotiate tower location; people in favor of the tower lived several miles away; property values; safety concerns; health concerns; and affect on wildlife. She noted that concerns that were not covered in the appeal forms include: belief of Native American burial grounds to the south of the tower; environmental – concern of the generator's fuel being near Hickory Creek; believe that the farmers in this area have no to little need of the technology; desire for a different style tower; Smith's information about the tower height being a little misleading; and coverage not needed in this area. In response to the belief that Native

American burial grounds may be located somewhere to the south of the tower site, Mr. Reynolds provided a letter from Larry Jenkins of Peregrine Environmental, the company who produced the NEPA report, in which Mr. Jenkins reiterated the conducted by Flat Earth Archeology and the responses from multiple Native American Tribes that found/reported no adverse impact on sites of Native American significance in this area.

- 95.1 Ms. Guertz reported that the following reasons have been given by neighbors contacting their office in support of this tower: weak cell service in the Hogeye area; no cell service in the South Highway 265 to Strickler areas; importance of this tower for social and safety reasons; business needs of better service in the Hogeye area; and poor to non-existent AT&T cell service between Hogeye and Strickler is limiting and dangerous.
- 95.2 Ms. Guertz reviewed criteria used to make the determination for this CUP. A project shall retain the agricultural nature and rural residential character of the county through proper development regulations; while at the same time recognizing the need for industrial land uses, principally where adequate utilities, roads, and other infrastructure exists or will exist. This will allow the industrial and commercial uses and rural residential lands that choose to locate in the county, as well as help to insure that incompatibility with agricultural, residential and other uses is minimized. Staff's determination is there appear to be a number of valid reasons that the tower has been requested in this region, and at this particular location and height. One cannot deny the aesthetic impact of a large tower and indeed, this tower would be quite visible from surrounding properties. However, there is a tree line between the tower site and Illinois Chapel Road to the north which offers some visual buffer. Also, the proposed tower is only 36" wide and is a guyed lattice-type tower that has less visual impact than the other tower types might have such as self-support lattice and monopoles which would be substantially wider, especially at the base. The choice of the 36" wide tower helps to mitigate its appearance in this rural and agricultural area of the County. She stated that with these items taken into full consideration, Staff feels like this cellular facility should be allowed at this location, with conditions.
- 95.3 The protection and preservation of agricultural lands through the proper use of regulatory mechanisms is critical to retain the rural nature of the county. Staff feels they have carefully considered and addressed, to the best of their abilities and knowledge, the protections and preservation of agricultural lands using the regulatory mechanisms at their disposal, primarily the Conditional Use Permit Process.

- 96.1 Ms. Guertz stated that to address adjustments and items of their CUP Code, staff has given consideration to a number of factors related to this proposed use such as: residential structure proximity; the proposed tower type and height; the type of lights on the tower; fire and emergency vehicle access; the need for even better emergency services in the rural areas of the County; and all other items discussed so far.
- 96.2 Ms. Guertz stated that staff recommends approval of the East Prairie Grove Tower Site CUP, referring to planning conditions and noting three changes to their staff report: #7: Any future liquid petroleum generators shall utilize a secondary fuel containment system as determined by Title 40 CFR 112 to prevent fuel leakages; and, #8: The proposed site minimum elevation should be at elevation 1176.1 feet and the ground outside the site graded to drain away from and around the site. The adjacent drainage swells shall be rerouted and designed as per the June 3rd Professional Engineers letter from Satterfield Land Surveyors. The rest of the conditions are as stated in the staff report.
- 96.3 In response to a question, Ms. Richey stated that she does not believe that the landowner currently resides on this property and she is unaware of where he resides.
- 96.4 **Testimony from Public Agencies (Health Department, Road Department, etc.):** John Luther, Director of the Department of Emergency Management addressed the Quorum Court stating that the Washington County 911 Office supports additional cellular infrastructure in rural Washington County as it would enhance access to emergency services for the citizens of our county. He noted that currently over 85% of all 911 calls in Washington County are made with cell phones and unfortunately, they still have areas within the county that do not have adequate cell coverage or no coverage at all. He explained that the information they receive from landline calls such as fixed location and call information, they don't receive with wireless calls, but rather receive the number of the caller, name of carrier, and a triangulating point that is triangulated between the tower sites. He stated the fewer tower sites that the network has to work with to deduct the location, the harder it is to actually pinpoint a location. Therefore, he explained the more cell tower sites available for triangulation, the greater the accuracy of Emergency Services to pinpoint the location of the caller and easier to ascertain the location of the call. He added that this is often useful when searching for lost persons, such as with hunters or hikers; and they have had many farmers who have called 911 with injuries or accidents in a rural area.

- 97.1 Mr. Luther reported that he was recently at the National Search and Rescue Conference and State Search and Rescue Coordinators meeting in South Carolina and was briefed on some new technology, cell and radar forensic tool at the Air force Rescue Coordination Center at Kendall Air force Base . It was explained that if the 911 system in Washington County takes a call and has the carriers information, but is having trouble with the location, they can provide them with the data from the carrier and they can drill down and actually look in a higher probability area of where the party is in relationship to the cell tower and give them a more accurate area to search. Mr. Luther stated that they could use this technology in the case of plane crashes, lost hikers or hunters, cars off the road, or with someone from out-of-town who has had an accident and does not know where they are. He stated that the key to this is that these people have to be able to dial 911 and have it access the system.
- 97.2 T. Lundstrum stated some of the problems he has heard expressed about these cell towers is the physical location being so close to existing property lines and asked if this particular tower were moved back a few hundred feet and not as close to the property line as it is proposed, would that have any effect on the point that Mr. Luther was making.
- 97.3 Mr. Luther responded to T. Lundstrum, stating that the cell companies that build the networks know where their most appropriate location is and he just knows that once it is in place, their 911 system gets the information from the network, so it is out of his scope to talk about the actual placement of the tower. He can say, however, that the cell companies consistently put the towers in the right spots because they know where they need to be in relationship to each other.
- 97.4 H. Bowman asked what percentage of 911 calls come in off of cellular vs. land lines; to which Mr. Luther responded if they look at 100% of the calls, over 85% are wireless calls and as people let their landlines go, that number continues to increase.
- 97.5 **Presentation by the Applicant in Support of the Project:** Dave Reynolds of Smith Communications, LLC, addressed the Quorum Court and introduced Tom Kieklak, their attorney and Michael Smith, owner of Smith Communications, LLC and Smith Two-Way Radio who would give part of their presentation and be available to answer any questions. He noted that they won't be given a very long presentation, as they believe that they have made their presentation and planning staff has examined it thoroughly and came up with some good answers.

- 98.1 Mr. Reynolds stated that he wanted to stress that this application has met all criteria of the State and Federal Government; they have had Geologists, Archeologists, Biologists, etc. to look at this site and believe that there is absolutely no reason not to build a cell tower at this location. He further stated that there are engineers who have designed these towers to withstand all existing codes for cell towers which are much more stringent than normal building codes for houses. He stated that Sabre Towers is the world's largest manufacturer of guyed towers and that both Sabre Towers and their senior designer, who designed this tower, have responded to much misconception about these towers, stating that if there is a catastrophic wind event that causes one of these towers to fall, it does not fall like a tree, but are designed with weight distribution of the guyed wires to the ground, to basically collapse on itself in a very small radius.
- 98.2 Mr. Reynolds stated that they will be bringing the grade of the cell tower up to miss the 100-year storm event and with that, will level it out in the highest point of the site and will only be changing the grade by 3/10 of a foot; they will not be changing the drainage. He noted that there is a small manmade ditch in the field that has allowed this area to drain for several years and they have determined that they can move a small portion of this ditch around the corner of their site and reroute it back into itself which will not change the flow off or on the property in anyway. He stated that they have done some geological boring to look at core samples, supplied the boring logs which are exactly what they would expect in this area of the county with sandy loam, red dirt, and some shale. In one of the anchor holes there was a little bit of water found at 2½ and 2 feet. Our anchors will be 12' deep so at that point they are in shale rock. The anchors themselves are 3' square, 12' long, and 12' down, and they will be imbedded in that rock. They are engineered to be in that type of soil, so there is no wind event that can topple this tower over within the code, other than a catastrophic tornado hits it directly. He stated that Planning Staff went over everything that he would have covered so he would entertain any questions.
- 98.3 R. Bailey asked whether they looked at alternative sites to keep it away from the neighbors to help their concerns; to whom Mr. Reynolds responded that they have and he will let Mr. Kieklak respond to that.
- 98.4 Tom Kieklak stating specifically they talked about moving the tower to be at least the height of the tower away to the closest farm where the chicken houses are, but when they talk about moving it much farther than that, then they are talking about the needs of people not present tonight but need the tower and reengineering their network for them. There is a small area that they thought might be enough to get it back away from there, but as far as

moving it hundreds or thousands of feet, that is not something that they are able to explore. Mr. Kieklak further stated that there has been a lot of communication with neighbors, and they have made a specific offer to move it, but they are about 375' away from most of the property owners, and if you were to lay it down on the ground flat, it would not touch any other property. They have heard this as a concern multiple times so it is something they have tried to address.

- 99.1 A. Harbison asked about moving the tower back to Storms Road, stating that there is no one in the audience that disagrees that they need the tower, but when it is put against property lines and the effect of it has the least effect on the person putting it up, she believes that moving it back some would be more ideal than where they are proposing to place the tower.
- 99.2 Mr. Kieklak stated that when they looked for a place to put the tower, there are criteria that are federal, environmental, Indian artifacts, any other kind of plant or animal that are on the federal register, FAA and FCC requirements that have to be followed, and then there are county regulations. He further stated that Washington County has the finest Planning Staff that he has ever encountered and after all of these other criteria are met, they have to meet the requirements of Washington County, so they cannot just pick a place on the map and drop it because it will make everybody happy. He noted that moving the tower in any direction would move it closer to other property owners and in that case the folks that live along Highway 265 would then also have every right to ask the County to remove it from their property. This is what federal law, more specifically the Telecommunications Act, had to finally address because no one wants this in their backyard.
- 99.3 T. Lundstrum stated that the complaints he has heard are mainly aesthetic and the impact that it will have on people's backyards. Having gone out and looked at the site, if he lived in that closest house, he would not want it there. He stated that this is why he questioned whether it could be moved back a sufficient distance of 350' that would satisfy some of their needs.
- 99.4 B. Fitzpatrick stated that her ex-husband was a navy radar man and has explained to her how this stuff works, so her concern is whether this placement is where it is going to get the best triangulation off of the most number of repeaters which is the point of the 911, and if this is the best location to ping off the most other towers, than this is where it needs to be.
- 99.5 Michael Smith of Smith Communications, LLC, responded to B. Fitzpatrick stating that where they are proposing to place the tower is the best location.

- 100.1 Judge Edwards asked who the offer was made to move the tower; to which Mr. Kieklak responded that they have talked with opposing counsel and have tried to work with those things with optimism
- 100.2 H. Bowman asked them to show him on the map where the 375' setback would be and Mr. Reynolds pointed out the chicken houses in question and noted that they offered to move it 375' from the closest corner of anyone else's property which is 70' higher than the tower would actually be, but it was their understanding that no one wanted to consider this, rather they did not want to be able to see the tower at all.
- 100.3 H. Bowman asked what additional considerations would they have to go through to relocate the tower to that site; to which Mr. Reynolds responded that the process would start over at step one with all the different studies which takes about six months to get back around to this point and they would be looking at thousands of dollars of expense.
- 100.4 H. Bowman asked whether they usually have options of places that they want to place future towers; to which Mr. Reynolds responded that they do and they have had these for several years. He noted another location directly at the end of the chicken houses where the owners had an option and agreed to place a tower there, but they changed their minds and are now opposing the tower wanting to lease the land for agility trails. He further stated that just moving the tower to that location at this point would take them back to step one.
- 100.5 Michael Smith of Smith Communications, LLC, responded to H. Bowman stating that some of these options could be used, but 80-85% would had to be redone.
- 100.6 In response to a request from R. Cochran, Juliet Richey displayed the ATT map; and Mr. Reynolds showed the coverage area filled in that would relieve some of the pressure of the towers currently serving from the Greenland and Prairie Grove area.
- 100.7 R. Cochran asked if the people are experiencing no service available because of the number of cellular devices, capacity and coverage, and the existing tower sites are becoming full most of the time. In looking at the coverage map, most of what he sees is in the best service range with some going into the good and some into the moderate areas, but doesn't see anything going into the shaded or blank for no service available. He therefore questioned who would be receiving service that does not have service currently.

- 101.1 Mr. Reynolds responded to R. Cochran that those who would benefit from this tower who are not receiving service currently are in the hilltop shadows, lobes and corridors will greatly improve from what it is now. He stated that although there is plenty of signals around the Greenland and Prairie Grove areas, by having this tower in-between in the two valleys that connect to cover the roadways, it splits the load from between two to three towers.
- 101.2 R. Cochran stated that he understands the load, but is still questioning who will be receiving service that isn't currently.
- 101.3 R. Aman addressed the possibility of moving the tower south of the two chicken houses and asked if the neighbors approved of that option, whether they would be willing to go back to square one and also whether this would put the tower out of the neighbor's sight; to which Mr. Reynolds responded stating that possibly if the neighbors gave assurance that they wouldn't be back here with the same opposition in six months. He further explained that this is a 300' tower and is already almost ¼ mile away from anyone's house.
- 101.4 M. Spears noted that the proposed tower site is not ¼ mile away from Ms. Scott's house and questioned why they would opt to look right on those property lines for this tower site; to which Mr. Smith stated originally when AT&T surveyed, it was right behind the chicken houses which was close to the property line, but those owners decided not to do this so they had to go across the property line and tried to keep it as close to the center of the search ring as possible.
- 101.5 H. Bowman stated as he drove out to look at this site, he was not able to get AT&T service in that area with either navigation or make calls. He stated that his feelings with this being right on the property line is that apparently AT&T is not willing to be a very good neighbor when they are not more considerate than that. However, the fact that the closest neighbor previously had sold an option to place it in their backyard kind of changed his opinion about that. He feels that moving the site 300' to a more remote site and still maintains coverage would be a good choice if they can get an agreement with the property owners in the area to proceed on that basis. He stated that his opinion about it being out of sight is beyond any kind of expectation, noting that you can't say to an adjoining property owner that they cannot build anything that they can see.
- 101.6 A. Harbison asked for them to point out the search ring or radius of where the tower can be placed to which Mr. Reynolds stated going out ¼ mile from the center of where it is now proposed would still fulfill their minimum needs.

- 102.1 A. Harbison stated that they may need to tweak it some to get the maximum benefit out of it, but she thinks that they need to look at the search ring.
- 102.2 In response to J. Patterson, Mr. Reynolds stated that it would be a very slight difference if moved 300 ft. and showed the location on the map. His point is the tower is over 100' from the property line at the base and not looming over anything. He then showed simulations of the tower looking from Illinois Chapel Road.
- 102.3 B. Fitzpatrick stated that she would like to see a picture or simulation of an actual tower from that distance to see what it would look like and Mr. Reynolds stated that he took a photo of a tower that would be comparable to this one.
- 102.4 R. Cochran asked to see the slide that showed the distance from the tower to the various residences, and stated that they are saying they could move the tower as much as ¼ mile off of that point and asked if this was in the flood plain; to which Mr. Reynolds stated that it was not, but more elevated. R. Cochran questioned whether it would not be more practical to place the tower near the pond, putting the grove of trees in the line of site of the people living to the north where the majority of their opposition is from, that would conceal it to a certain degree and get it off of the property line.
- 102.5 Mr. Smith responded that this would be a possibility if they could get the neighbors to agree.
- 102.6 Pat Storms whose property the cell tower would be built on addressed the Quorum Court to answer any questions.
- 102.7 In response to a question from R. Bailey, Mr. Storms stated that he currently lives in Fayetteville, but has lived on one of their two farms for 50 years. He noted that there are 404 acres on this parcel and their farm is for sale. Mr. Storms stated that he is a licensed real estate broker and knows a little bit about property. He explained that he was asked if the tower could be placed at this site, but he did not pick this site nor is it where he would have chosen to put it. He was asked because on the other side of the fence, the property had already been given an option to the Andersons for 3-4 years and when it was finally decided that the tower was needed due to heavy traffic, instead of having to do all of the preliminary work prior to building a tower, they wanted to place it on the Storms property across the fence a couple hundred feet right in the middle of one of his pastures. He noted that they are currently not cutting hay on this property, but they have in the past. He stated the bottom line is he was never contacted by any of his good neighbors requesting that

they put it elsewhere and he did not know that it was to be built until they contacted him stating that they were having problems with the Andersons and asked if they could build it on his property which he agreed to and took the money.

103.1 R. Bailey stated if he wanted to move out into the country and a cell tower was located on property he was looking at, it would be a deal breaker for him.

103.2 Mr. Storm responded to R. Bailey that from practical experience personally, 17 years ago the state eminent domain 22 acres to put Hwy. 412 through his property in Benton County. Although they did not want this, it was the best thing that ever happened because he had three kids grow up and drove that safe highway instead of the old Hwy. 68. Today's problem is not the same as tomorrow's problem. Mr. Storm stated that he used to never be able to get cell phone reception with Verizon and changing to AT&T made it better, but it is not always good service and this tower would make good service possible. He noted that his mother lived on this property from 1960 until recently when she had a bad stroke and she could not even get to the phone to call, but her 911 call would not have gotten out from her cell phone. He stated that he is in favor of this cell tower and was in favor of moving it straight to the west, but if it was good enough to have on the other side of the fence prior, it should be good enough to have on his side of the fence presently. Mr. Storm stated that if they do not sell the farm, he will someday probably build a house there and that tower will not affect him one way or the other, other than to give him better phone reception than he currently has.

103.3 H. Bowman asked whether having good cell communications in this neighborhood will increase the property values in this area; to which Mr. Storms responded that currently the entire area of the property is depressed as farmland has not jumped back like city property and while he does not know whether this will increase property values, he does not believe that it will make the property worth less. He further stated if they do have good cell reception and are on a tractor at the creek or river, they have something that is more compatible to people who live in the city and have access to cell phones.

103.4 H. Bowman stated that 15 years ago he did not know anything about smart phones and little about cell phones, but today his life revolves around a cell phone. He would not build a home in that area unless he did have cell service.

103.5 Pat Storms noted that his brother Mike Storms is also here tonight and co-owner of this property where they grew up, now have cattle, having sold their chicken houses long ago.

104.1 **A 5-minute recess was taken at this time.**

104.2 **Presentation by Appellant against the Project:** Dale Brown, Attorney with the Bassett Law Firm, addressed the Quorum Court stating that he was there on behalf of 6 of the appellants, Kathy and Jerry Caudle, Cathy and Gary Scott, and Mike and Jessica Anderson. He stated that his clients object to the Planning Board's approval of this CUP in violation of Section 11-201, noting that the ordinance reads that the entire board membership must vote by majority and since the entire board was not present, they do not feel that it would be proper approval and he wished on make this clear on the record.

104.3 Mr. Brown distributed a copy of the conditional use criteria he will be referring to and showed a video of various cell towers for illustration purposes, noting when he was first contacted to take this case, he had a hard time getting a perspective of exactly how tall the proposed tower was going to be. He stated when they contacted the City of Fayetteville about the process they went through on approving the cell tower on Hwy. 265 that was 150 ft, they were surprised to receive engineering approved drawings with the AT&T logo which he is using primarily to illustrate the point that although it has chosen not to be involved here, that AT&T does get involved with these types of zoning and proposals. He stated that there has been a lot of questions about what type of coverage would be provided and, while he does not believe that either Dave Reynolds or Patrick Storms represent AT&T or have sufficient first hand knowledge to be addressing many of the questions that have been presented tonight regarding coverage area, where the tower can be located and still be suitable, etc. He stated that they need information from AT&T about those questions because he does not have any first hand information and they have to recognize the fact that Mr. Storms and AT&T have entered into some sort of business relationship. He noted that they requested numerous items through a letter dated April 16, 2013, to Mr. Reynolds' office, documents back and forth with AT&T, information on flood plains and co-locations, agreements, how much money is being exchanged and how much financial interest the applicant has in this, but they did not receive a response and believe that this is important for the Quorum Court's consideration and deliberation.

104.4 Mr. Brown stated that they believe that it is important that the applicant does not live on the property currently. He stated that there is certainly an argument about, "not in our backyard" and also that this area needs 911 and cell phone coverage. He stated that his clients do not dispute that it would be fine if the county could increase cell phone service, but this body is here to determine whether the Planning Board properly approved this CUP. He referred to the document that he distributed is from a county ordinance that

this body passed years ago in order to provide some certainty for county residents about where they invest life savings to buy property. He pointed out that the subject property is zoned agricultural/residential-1 single family and if this tower was constructed without coming to this body that would be a non-conforming use. Therefore, he stated they believe that only by using these conditional use factors can the Quorum Court find, to determine that the factors exist which either work in favor or either approving or denying the conditional use.

- 105.1 Mr. Brown stated before they get into these factors which he sees as the guiding principals of what they have to go by, he wanted to address the issue of 911 coverage. He addressed the application that Mr. Reynolds filed with the County that applies to the administrative approval of the tower. He noted that it is his understanding once this gets to the administrative approval process, he does not believe that they have a say in the process and that this is their only time to talk. Mr. Brown noted that Mr. Reynolds certified to the County on January 17, 2013, that the proposed tower would not be used for 911 services. Further, he stated that the whole notion that they need this cell phone tower in this exact location to provide better cell service and/or 911 service flies in the face of the only document that he has found directly from AT&T. He referred to the map showing "best, good, moderate" service, stating that he has been told that the areas shown as least to moderate represent tops of mountains and no where on the AT&T map do you see "no service available", so he questioned how much better coverage is needed. Mr. Brown stated that in light of a 320' proposed eyesore is going to be in their backyard, his clients have a hard time swallowing that it needs to be in this location for better cell service and he would respectfully submit that there is no evidentiary basis in front of the Quorum Court to determine that.
- 105.2 Mr. Brown stated that it strikes him as a little bit troubling that at least with the City of Fayetteville's experience, that AT&T will get involved in the nitty-gritty and will provide the body approving or denying CUP, engineered approved maps, specs and drawings. He noted that the applicant referenced a letter from Sabre Industries, the manufacturer of this tower, dated today that references this tower designed for basic wind speed of 90 mph with no ice and 30 mph with one inch radial ice. He stated especially given the recent events in Oklahoma, the tornado that went through Cincinnati years ago, the winds can get above 90 mph and one of their concerns is the safety of the property and citizens around that property, and he noted that the statement simply says that it is likely that the tower would collapse on itself. Mr. Brown stated that he and his clients believe that a cell phone tower needs to be anywhere around residences, people, lives and property.

- 106.1 Mr. Brown addressed the conditional use factors set out in the County's ordinance that determine whether factors exist which either work in favor of either approving or denying the conditional use. He referred to CUP criteria checklist under Sec. 11-200 that reads, "The Board shall hear and decide requests for a conditional use and may authorize such is it finds:" or determines "(3) That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted." He noted that he has not seen any engineer drawings or specifications that relate to this proposed tower and its structural integrity and the Quorum Court does not have that information in front of them. He addressed a document provided by the geo-technical folks in Oklahoma that dug in some of the locations where the guyed wires were to be located stating that ground water was encountered at 2½' and at 4½' and a statement that water classifications based on drilling characteristics and visual observation of the core samples would be required for the exact classification. He stated that these folks did not do any testing on the soil, but rather just looked at it and encountered ground water on location. He stated this is a technical review and scientific data of what they thought was in the ground, but there is no analysis to it that it will support this tower.
- 106.2 Mr. Brown stated that according to Planning Staff, the tower base is 465 feet from the flood plain, which calculates to 155 yards and he and his clients would submit that a cell phone tower or something that can break, destruct and fall doesn't need to be within this distance of a flood plain which is exactly what they have here and goes against the criteria about adequate drainage. He reiterated that they do not have an engineer stating that what they propose will effectively deal with the flood plain. He is aware that very recently the Planning Staff brought to the attention of Mr. Reynolds that there were some swales out there and this new information has happened since the Planning Board took its action. Mr. Brown referred to a flood plain map showing how close this tower is to the edge of that flood plain coming from all directions and stated that they respectfully submit that you don't need a cell phone tower that close to a flood plain and particularly given that according to the AT&T provided coverage map, it is unwarranted anywhere on the Storms' property.
- 106.3 Mr. Brown referenced criteria for allowance of conditional uses, "(4) That the proposed use is compatible with the surrounding area.", noting that it will have an effect on the aesthetics and he would submit that a cell phone tower in the middle of an agricultural-family zoned property is not compatible by any definition. He stated that people move to the county a lot of times to get away from things like tall buildings and cell phone towers, and this farm land needs to be protected.

- 107.1 Mr. Brown referenced criteria for allowance of conditional uses, "(5) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare." stating that they have to find that this use will not endanger those things and this goes back to public safety that he previously mentioned.
- 107.2 He noted that tornadoes do happen, some worse than others, and showed a video from Dallas and Fort Worth of what tornadoes can do. He stated that this is one reason, if not the reason, to not put this tower anywhere near something that can crumble and move it.
- 107.3 Mr. Brown stated that when they requested information from the County about whether existing cell phone towers were structurally safe, the Planning Staff responded from an administrative process where the county staff can request that engineers or qualified professionals from time-to-time inspect and make sure that towers are safe, are certified to withstand a certain amount of wind, etc. He stated that it is his understanding that the County has not received a single sworn statement saying that any cell phone tower has been inspected that Mr. Reynolds is involved in. He stated that an ordinance is only as good as used for enforcement and so they submit before they add this cell phone tower to the county, that they make sure the existing ones are safe.
- 107.4 T. Lundstrum noted that this states that this cell phone tower can withstand ½" of ice in 70 mph winds and the earlier document he referred to said that this tower would withstand 30 mph winds and accumulation of 3" of ice; to which Mr. Brown responded that it states the above-referenced guyed tower is designed for a basic wind speed of 90 mph with no ice and 30 mph with 1" radial ice.
- 107.5 Mr. Lundstrum stated that the reason this sticks in his mind is that they spent a lot of money a couple of years ago recovering from an ice storm, so ice is not unusual for this area.
- 107.6 Mr. Brown stated that it looks like it is talking about two different scenarios; 90 mph wind with no ice and 30 mph wind with 1" radial ice.
- 107.7 Mr. Lundstrum noted the reference that it will withstand a combination of ½" of ice and a 70 mph wind and he thought that was the specifications on the proposed tower which says that it will withstand a 30 mph wind with 1" of ice and questions which are the standards of this ordinance.
- 107.8 Mr. Brown referred to the criteria for allowance of conditional uses, "(6) That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor, substantially diminish and impair property values within the surrounding

area.”, and he stated that they submit that erecting a 320’ cell tower is injurious to property zoned agricultural and residential. He stated that he believes the property value issue is a question open for debate, noting that there was a letter from an appraiser who commented that cell phone towers don’t generally adversely affect property values and they simply disagree with that as an unreasonable conclusion. He further noted from the records received from the county, Mr. Butler agreed with that as well.

- 108.1 Mr. Brown showed a view of Kathy and Gary Scott’s new screened back porch and where the cell tower would be located. No one would want to pay good money for that view. This is what they will be looking at each morning.
- 108.2 Mr. Brown referred to the criteria for allowance of conditional uses, “(7) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone.”, stating that this body zoned this land and all areas surrounding it agricultural-residential. He pointed out that there are two mountains in other directions out there that have cell phone towers and there is not a single one on Stevenson Mountain and frankly whether it would cost them more money to get this tower on Stevenson Mountain is not really his clients’ concern, but questioned why not on Stevenson Mountain?
- 108.3 Mr. Brown addressed the proposal to relocate 375’ was received at 3:30 p.m. yesterday in his office and frankly 375’ does not change the equation of all the issues. He verified that no one came to talk to him or his clients and they rejected the proposal received. He further verified that the first notice his clients had about the proposed CUP was when they received notification from the County about 2 weeks before the Planning Board meeting, so it was not like this has been a long negotiation process.
- 108.4 Mike Anderson, landowner closest to the proposed tower and of the chicken houses referenced, addressed the Quorum Court stating that he would be glad to answer any questions related to his opposition to the tower.
- 108.5 H. Bowman noted that Mr. Anderson at one time sold an option to place a cell tower on that site and he questioned why he had approved of the option of putting a tower there sometime back and take compensation for that and then change his mind now that it has moved across the fence.
- 108.6 Mr. Anderson responded to H. Bowman’s question stating that about 6-7 years ago, AT&T came and said that they were going to put a tower in the area and wanted to talk to him about putting a tower on his land. When they told AT&T that they did not want a tower on their property, AT&T advised that they would have to look at a tower on the other side of the fence anyway and

wouldn't be compensated. AT&T told them that it wasn't definitely going in, but he just wanted to have an option to do it and that he wasn't signing an agreement to build the tower, just for them to think about it. He stated that this went on for a few years and then they cancelled it. Mr. Anderson noted that Reynolds contacted them about 2 years ago pitching the same thing and they said that they didn't really want to have a tower on their property and were told the same thing by Reynolds – that they would put the tower on the other side of the fence where they would have to look at it, got upset, and went down the road to talk to the Storms who entered into the agreement. He stated that it was presented to them that they didn't have any options.

- 109.1 H. Bowman questioned that if they accepted compensation for an option, that option is saying that they were going to agree to the tower; to which Mr. Smith responded that it was not an agreement to build a tower, just an agreement to propose placement of a tower. H. Bowman stated that the only option he has every dealt with stated that they had the right to put something there.
- 109.2 Kim Fugit, resident of 10998 Illinois Chapel Road, addressed the Quorum Court stating that he was a licensed architect, building contractor and realtor, so has a little bit of background and experience in these matters. He explained that he purchased his 65 acres about five years ago and the reason that he purchased that property was not based on the lack of sewer, lack of water, lack of cell service, and the lack of gas, but mainly due to a lot of those reasons. He believes that those are the reasons that most of them live in that area – to get away from those types of issues.
- 109.3 Mr. Fugit stated that there were only a couple points he wanted to make in addition to those that have already been made. Related to the coverage map, he stated that he has lived on this property for 2 years and owned the property for over 5 years and has never had an issue with service through AT&T, day or night. He stated that he understands some of those in favor of this tower are in the Hogeye and Strickler areas and based on the coverage map that they have seen, if this area is well-covered which he is proof of and the people in Hogeye and Strickler are not well-covered, it seems to him that common sense would be to put the tower in their communities.
- 109.4 Mr. Fugit stated that the only debate that they have all had is the importance of 911 coverage and if they do have good 911 coverage there, which both personal experience and the coverage map would show, he believes that there is probably more at stake here than 911 coverage to the applicants, and this is something that they should look into. He stated that he knows Mike Smith and hates to be on the other side of the fence from him, but he would like to also see the advantages or incentives to the applicants above and beyond just the 911 possibility.

- 110.1 Kathy Scott, one of the appellants to this case, addressed the Quorum Court stating that she has had several of the JPs come out to her house to see this proposed tower site, so they know what she is talking about when she says she is the closest resident to the site. She stated that it is not just that there is going to be a tower on the other side of the fence close to her house, but she spends a lot of time in her pasture doing dog training and so she will have this 320' blinking light in her workplace to look at. She stated when they talk about the enjoyment and taking away from the pristine area, no one will ever understand how much she enjoys what she does and this will completely take that from her.
- 110.2 Ms. Scott stated that the point was made that there were neighbors in favor of this tower and one of the names on the list that they were given lives south of Hogeeye and when they went to speak to him, he was very confused and did not know what they were talking about, stating that he did not sign anything stating that he was in favor of a tower behind her house. This man said that about 1½ years ago, a large number of people in the Strickler area and south of Hogeeye, got together and signed a petition to AT&T for a tower down in that area. He further knew that at least one of the other people on the list had not signed anything in favor of this tower. Ms. Scott stated that she feels like this was misrepresented on the original information.
- 110.3 Mr. Brown stated that he knows that there are 2, maybe 3 Quorum Court members absent tonight and would request that they delay the vote on this ordinance until the full Quorum Court is present.
- 110.4 AN ORDINANCE RATIFYING CONDITIONAL USE PERMITS GRANTED BY THE PLANNING AND ZONING BOARD: J. Patterson introduced **An Ordinance Ratifying Conditional Use Permits Granted By The Planning And Zoning Board**, and County Attorney George Butler read the ordinance that is on first reading.
- 110.5 R. Bailey stated that he doesn't mind taking the ordinance to second reading, but they have three Quorum Court members absent tonight and he believes that they should all be present for this vote.
- 110.6 County Attorney George Butler stated that the plan was to proceed through three readings, but before they can do that they would have to suspend the rules to proceed to second and final reading by title only before they vote on it and it takes 2/3rds of the entire court to pass.
- 110.7 **R. Bailey made a motion to suspend the rules and place the ordinance on second reading by title only. The motion died for lack of a second.**

- 111.1 H. Bowman stated that based on the statements made by Dale Brown, Attorney for the appellants, it sounds to him that the Planning Board failed to meet the qualifications that he signed in that situation and asked what the options would be to have another look by the Planning Board to make sure that all criteria is met.
- 111.2 County Attorney George Butler stated that the Quorum Court does not have the option to remand the ordinance back to the Board. He stated that they basically hear these matters de novo because the way the Court of Appeals has construed their ordinance, it is legislative in nature and effectively it is a rezoning which cannot be delegated to the Planning Board. The Planning Board does hear it procedure wise initially because most of them do not get appealed, but they always have to ratify them even if the Planning Board turns one down. Therefore, the Quorum Court has three readings to decide whether or not it satisfied the criteria made in the ordinance.
- 111.3 G. Butler stated that they also need to be careful because Federal law says that they cannot advise the advocate that their application is incomplete after 30 days has elapsed and they are now many, many months after that. He stated that they can say that they have not furnished enough information and therefore, the Quorum Court is not going to rule on it or they can remand it back and may find themselves in Federal Court over that. He stated if they want more information, they should ask for it.
- 111.4 H. Bowman stated what if it appears that there are other locations that might still serve the purpose in this area have not been reviewed; to which G. Butler responded that it is not really up to the Quorum Court to consider whether or not there are other locations that are better, but it is up to them to decide whether or not this particular site meets the criteria and satisfies the requirements of the CUP.
- 111.5 H. Bowman stated that he is new on this court, but it appears to him that there are a number of reasons to continue looking at other options for this tower, so what he is hearing from Mr. Butler is that they have the opportunity to vote "yes" or "no" and if we want to look at other locations in this case, then they should vote "no" to which Attorney Butler agreed.
- 111.6 H. Bowman made the comment that when the new hospital was built in Fayetteville a number of years ago, a good friend of his worked for the hospital and it was his responsibility to get everything approved with regard to the location of the hospital. At the time his friend told him the area where the hospital now sits was zoned agricultural and residents threw a fit and didn't want a hospital there. His response to those people was that they had a

proposal from Tyson Foods to locate a hog farm out there that meets the specifications and this was likely to happen if they didn't agree to put the hospital on this property. He made the comparison that Mr. Storm could put a dairy farm or barn or a hog farm, chicken or turkey houses, they would be stuck with it because of the agricultural zoning. Mr. Bowman stated that he has worked around cell towers and hog farms and he believes that they would prefer the cell tower compared to a hog farm.

- 112.1 A. Harbison stated that she would like both sides to try to meet and get this worked out because it puts them in a very difficult situation. She stated that she knows everybody involved and all of them are her constituents and she tries to represent all of them. She thinks that they have some other options and realizes that it will cost some people some money, but urged everyone to try to be good neighbors to each other and see if they can't get this taken care of before the next Quorum Court meeting.
- 112.2 B. Fitzpatrick asked for confirmation that they would read this ordinance again only at the next regular Quorum Court meeting; and County Attorney George Butler continued stating that they would have limited discussion after the second reading and then it would be read for the third time at another special meeting like this where there is discussion before the vote is taken.
- 112.3 B. Fitzpatrick stated that gives 2½ weeks to see if the parties can work things out with each other before they actually have to rule on this. She stated that these people are not her constituents, but she agrees with A. Harbison that she would like to see them agree on something if at all possible.
- 112.4 Juliet Richey stated if there was anyone who wanted to visit this site, they can find some time in the interim that would work for everyone to make a special tour of this proposed tower site. She stated that the aerial maps are a great tool, but do not show the three dimensional spaces as far as the trees and hills, etc. and how that fits in.
- 112.5 Judge Edwards stated that anyone interested in visiting this proposed tower site should call Court Secretary Karen Beeks to set up a time for this.
- 112.6 Citizen Comments: Dr. Mark Hubbard, large animal mobile veterinarian in Northwest Arkansas based out of Springdale, addressed the Quorum Court stating that he does a lot of business up and down that valley off of Hwy. 265 heading back to Prairie Grove. He stated that he has an I-Phone 5S, the latest Apple I-Phone and AT&T service, and when he goes down that road, he does lose his signal every time.

- 113.1 H.A. Fraley, former JP Earvel Fraley's younger brother, addressed the Quorum Court stating that he lives to the very west of where the Storms' property wraps around back to Illinois Chapel, and he can sit in his living room in his steel house and use his phone and his 4G I-Pad. He stated that he worked in the Air Force for 14 years and was medically retired having fallen off of a 56' tower and he believes that some of the information that they are being given with respect to this antenna is not accurate.
- 113.2 Jeramiah Jones addressed the Quorum Court on behalf of John Swenson who wasn't able to make the meeting tonight. He stated with regard to speculation of property value for which there is no way to really measure, from what he understands they can only base it on certain facts like those contained in a letter from Mr. Swenson which he read. He stated in the letter that he wanted to share a personal story that illustrates the negative effects of such a cell tower addition. He reported in late 2009, he and his wife spent many months looking at properties for sale trying to find the perfect location for their sheep ranch and found an idyllic setting just off of Hwy. 170 in Winslow, 80 acres with complete infrastructure, well-maintained, a perfect property except for one thing – there was a cell tower on this property. He stated after doing some research they concluded that it would be poor judgment to purchase this farm and all of their reasons for not purchasing the property evolved around this cell tower, that it would be a poor investment, and they reasonably assumed that the same negative reaction they would have to this cell tower would likely be an issue for other potential buyers should they decide to sell the property later. Mr. Jones stated that being new to this area, he can also state that the presence of a cell tower on such property would make him reconsider such property because the area itself is beautiful and he would be moving out there to get away from things such as towers, blinking lights, etc.
- 113.3 Sam Cornett, resident on Illinois Chapel west of the Caudle's, addressed the Quorum Court stating that he has a trash service and travels all area in that valley, all of Illinois Chapel, Butler Road, Hogeye Road, and he travels Hwy. 265 all the way from the Greenland exit to Coal Creek. He noted that he has AT&T phone service and an I-phone 4 and he has no trouble getting service anywhere throughout that valley until he gets about 1½ miles south of the Hogeye store around CR 29.
- 113.4 Other Business: T. Lundstrum stated that he has visited this cell tower site and he only has a \$49 phone and had three bars on that property. He stated that his grandson shoots trap at Hogeye and he has sent and received text messages and phone calls from Hogeye with his phone.

- 114.1 B. Pond stated that one of the issues brought up by T. Lundstrum is that he noticed the difference in the ratios between the rain and ice; that regulations call for one thickness of ice and certain mph winds and different statistics that came from the tower company, so they probably need to have these calculated out.
- 114.2 In response to a question from B. Pond, County Attorney George Butler stated that there were five Planning Board members present out of seven when this CUP was voted on with four voting in favor and one abstaining. He further explained that he would define "majority" as 50% plus one as the definition is more than half and Roberts Rules of Order state the word majority means more than half. In this case, 3.5 would be half, so they had more than majority voting in favor and it passed properly. He noted that the full Planning Board does not have to be present, just like the full Quorum Court does not have to be present, as long as they have enough members to vote on an ordinance that requires either a 2/3rds or majority.
- 114.3 B. Pond stated that they do know that there is a telephone company provider who is willing to pay so much a month to have reception at that location for the 300' tower; to which County Attorney George Butler responded that they have been advised that AT&T will be handling this. B. Pond stated therefore since they know that AT&T has determined the need and is willing to pay, it is not left up to the Quorum Court to determine whether AT&T needs this and all they have to do is vote in favor or not based on criteria set out in the CUP.
- 114.4 County Attorney George Butler noted that the need for this tower is not a factor in their ordinance.
- 114.5 Pat Storms addressed the Quorum Court stating that he has agreed to placement of this tower on his property and signed a contract, and has listened to most of his neighbor's state that they did not want this cell tower. Unlike the analogy previously made regarding the Washington Regional Medical Center vs. a hog farm, he has no intention of ever placing a hog farm on his property and does not want his neighbors mad at him. He stated that he feels like his family has been made out as bad people, which they are not. He stated that they can make a little money, but he does not go to his neighbor's homes and tell them that they can't raise sheep, chickens, dogs, etc. He stated that he just owns the property and is willing to have the cell tower placed thereon and his neighbors are concerned not only about the possibility of the tower falling, but they just don't want to see it. As a landowner, he feels that he should be able to make an income from something that is not going to be detrimental to somebody else. He stated that this is the United States and free enterprise and that is what he is looking

at. Mr. Storms further pointed out that a tornado can pick something up and carry it for miles before dumping it. He noted that for his neighbors, there is not a good spot for this tower and if it is moved elsewhere, somebody else will complain about it as it is just not possible to have it out of the neighbors' sight. He does not believe it is fair to ask for disclosure of how much money Smith Communications, LLC is going to make or spend as everyone has a right to make money off of their property as free enterprise means free enterprise. He urged the court to come out and look at the proposed tower site.

- 115.1 Dale Brown responded to Mr. Storms, stating that they do not feel that he is a bad person, but they simply want Mr. Storms to comply with the law. He stated that he understands and appreciates free enterprise, but in this instance, Mr. Storms in pursuit of free enterprise is trying to do something that this Quorum Court has said he cannot do without meeting certain criteria. He asked about "transparency" and "full disclosure", stating that everyone agrees that his clients will have to look at an unsightly cell phone tower if it is approved in that location, so why can't they know how much Smith Communications, LLC is being paid by AT&T and Mr. Storms is being paid for the easement to put this tower on his property. He stated that this is a process that has been set not by his clients, but the County sent them a letter saying that they have the right to fight this proposal and they are simply asking for full disclosure, get all facts on the table, and let the chips fall where they may. Mr. Brown stated that just because his clients are trying to hold the applicants' feet to what the law requires does not make them doing anything that is unreasonable or unwise.
- 115.2 With respect to Mr. Storms' statements regarding tornadoes, he concurs that they do not know where a tower would go in the event of a tornado, but why would they do anything in the best interest of this county and comply with these factors to add a 300' steel structure that could be turned into a projectile that would kill or injure people and they reject any notion that it is a safe thing to do on this property. He stated it is about these factors and the law requires them to make "findings", not just consider these things and the law that the county passed does not talk about the need for 911 service.
- 115.3 In response to a question from Mr. Brown, County Attorney George Butler explained that at their next Quorum Court meeting, the ordinance would be on second reading followed by some discussion by the court and citizens comments, and the third reading is when he would need to be prepared to present any information. Attorney Butler did note that there is always a chance that the Quorum Court could suspend the rules and decide to vote on this ordinance at their next meeting.

- 116.1 Tom Kieklak addressed the Quorum Court stating that the Planning Staff and Board have spent five months working hard to make sure that this project meets the CUP criteria and urged anyone with questions to feel free to ask their own Planning Board and Staff who has combed through every regulation that they could find and took extra concerns from both neighbors. He hopes the Quorum Court will pay extra attention to that.
- 116.2 ADJOURNMENT: The meeting adjourned at 9:00 p.m.

Respectfully submitted,



Karen M. Beeks
Quorum Court Coordinator/Reporter

ORDINANCE NO. 2013-_____

APPROPRIATION ORDINANCE:

**BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENACTED:**

**AN ORDINANCE RECOGNIZING REVENUES OF
\$19,038 IN THE GENERAL FUND, AND
APPROPRIATING THE AMOUNT OF \$19,038 FROM
THE GENERAL FUND TO THE DEPARTMENT OF
EMERGENCY MANAGEMENT BUDGET FOR 2013.**

ARTICLE 1. There is hereby recognized revenue in the amount of \$19,038 in the Transfers In Court Order Revenue Line Item of the General Fund (1000-8755) for 2013.

ARTICLE 2. There is hereby appropriated the amount of \$19,038 to the Clothing & Uniforms Line Item of the Department of Emergency Management Budget (10000500-2006) for 2013.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____
Date of Passage: _____
Votes For: _____ Votes Against: _____
Abstention: _____ Absent: _____

ORDINANCE NO. 2013-_____

APPROPRIATION ORDINANCE:

**BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:**

**AN ORDINANCE RECOGNIZING ADDITIONAL
REVENUE OF \$6,940 IN THE GENERAL FUND,
AND APPROPRIATING \$6,940 TO DISTRICT
COURT SECURITY BUDGET FOR 2013.**

ARTICLE 1. There is hereby recognized additional revenue of \$6,940 in the State Grants Revenue Line Item of the General Fund (1000-7010) for 2013; and,

ARTICLE 2. There is hereby appropriated the following amounts from the General Fund to the Court Security Budget for 2013:

<u>Court Security</u>	
General Supplies (10000432-2001)	\$ 360
Small Equipment (10000432-2002)	4,080
Building Supplies and Materials (10000432-2020)	<u>2,500</u>
TOTAL APPROPRIATION:	<u>\$ 6,940</u>

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____
Date of Passage: _____
Votes For: _____ Votes Against: _____
Abstention: _____ Absent: _____

ORDINANCE NO. 2013-_____

APPROPRIATION ORDINANCE:

**BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENACTED:**

**AN ORDINANCE RECOGNIZING REVENUES OF
\$4,000 IN THE JDC GRANT FUND, AND
APPROPRIATING THE AMOUNT OF \$4,000 FROM
THE JDC GRANT FUND TO THE JDC HOFNOD
BUDGET FOR 2013.**

ARTICLE 1. There is hereby recognized revenue in the amount of \$4,000 in the State Grants Revenue Line Item of the JDC Grant Fund (1900-7010) for 2013.

ARTICLE 2. There is hereby appropriated the amount of \$4,000 to the Buildings Line Item of the JDC HOFNOD Budget (19000434-4002) for 2013.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____
Date of Passage: _____
Votes For: _____ Votes Against: _____
Abstention: _____ Absent: _____



MARILYN EDWARDS
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

MEETING REPORT OF THE
WASHINGTON COUNTY QUORUM COURT
COUNTY SERVICES COMMITTEE

Monday, June 3, 2013
5:30 p.m.

Washington County Quorum Court Room

Members Present: Joe Patterson, Tom Lundstrum, Rex Bailey, John Firmin, and Barbara Fitzpatrick.

Members Absent: Eva Madison, and Jimmy Mardis.

Others Present: Harvey Bowman, Rick Cochran, Butch Pond, George Butler, Ann Harbison, Mary Ann Spears, Bill Ussery, Juliet Richey, Dan Short, Debbie Beckerdite, Joe Maynard, Catherine Kilogre, Rachel Wright, Jennifer Shields, Joe Alexander, Renee Biby, and Tony Hernandez (NWA Times).

The meeting was called to order at 5:30 p.m. by Chairman Joe Patterson. The agenda was adopted as presented.

Report from the Washington County Planning Office. County Planning Director Juliet Richey updated the Committee on activities of the County Planning Board during the past month. There were eleven items approved administratively in the month of May. There was one Large Scale Development for Modern Mission Laser Tag that was approved as well as one Preliminary Plat for the Hughmount Village subdivision. There is a special meeting of the Quorum Court on June 4th to hear an appeal on the East Prairie Grove Tower appeal. She also reported that there is one item on the Planning Board agenda for June which is a Large Scale Development for B&R Meat Processing.

Review of An Ordinance Amending Washington County Code 11-100 Pertaining To Large Scale Development Standards and Amendment To The Rules And Regulations Of The Planning Director Regarding Zoning. These two items have been drafted by the County Attorney at the request of Planning Director Juliet Richey and adds an exemption for ambulance services.

County Attorney George Butler explained that this is adding ambulance service to items that will be allowed by right, the same as municipal and volunteer fire departments and also exempting them from development standards.

Tom Lundstrum asked if new locations to house ambulances are being planned. Becky Stewart, CEMS Chief, replied that it is imperative to plan where to strategically locate the ambulances where the higher density of calls are or where calls are occurring that an ambulance takes a longer time to get there. CEMS currently does not have an ambulance station east of Highway 71. The plan is to locate something out in the east side of Fayetteville. If a location is found, CEMS will work with the requirements, but it takes quite a bit of time to go through the process, sometimes a good location may be in a residential area. At this point there are not specific plans to add a station as a result of this request. There is, however, a piece of property on Crossover Road that is being looked at. Right now an ambulance is placed in the parking lot at Harps for a short term solution.

Tom Lundstrum asked what this potentially could cost the County. Becky Stewart replied that CEMS is not anticipating asking the County for any additional funding at this time.

John Firmin asked if it is typical in other areas that these types of services are exempted. Juliet Richey replied it is not uncommon.

Tom Lundstrum made a motion to forward the Ordinance to the full Quorum Court with a do pass recommendation. Rex Bailey seconded. The motion was approved unanimously.

Report from the Lester C. Howick Animal Shelter. Chief of Staff Dan Short provided a report to the Committee regarding the Animal Shelter. The total intakes for 2012 and 2013 are 260 cats and 565 dogs, dispositions for 2013 are 227 cats and 531 dogs. The census is 78 cats and 145 dogs. The Shelter was currently running at capacity and the Director has been authorized to place people on a waiting list if they want to surrender an animal to the Shelter.

Shelter income from city contracts and adoption and reclaim fees total \$18,382 for 2013. Shelter donations for 2012 totaled \$800. Monetary Donations for 2013 total \$1,213.55. Product Donations for 2013 total \$533 to date. These totals do not include the Animal League donations. The total donation from the Animal League as of April 30, 2013 was \$21,661.08. Shortly after that date, they also provided a variety of equipment and that amount is unknown at this time but will be on next month's report.

The part time volunteer hours for the month of May totaled 605.5 hours, including inmate labor. There is one full time volunteer that spends about 67.5 hours doing Facebook and Petfinder work. The six paid employees worked 1230 regular hours; they worked a total of 1,361 hours with overtime. The number of volunteer hours, inmate hours, and overage from employees combines for a total of 804 hours.

Tom Lundstrum stated he would like to keep his eye on the labor hours to determine if a new position is needed, which may be more economical than the overtime rate.

Rex Bailey asked what the average time was to keep an animal. Dan Short replied that the County's policy as far as euthanasia is 84 days. Euthanasia is always the last choice.

John Firmin asked to amortize the cost of the shelter over a period of years. Dan Short replied that if that cost of the shelter is taken out then the cost per animal is \$452; if the building is included, the cost of the animal is \$3,026. Buildings and Grounds provides the cleaning supplies and the utilities for the Shelter. An additional \$25,000 also came out of the budget for equipment. Year to date, \$189,443 has been expended from the shelter budget.

Dan Short stated that the projections for the smaller cities have come in less than expected with the annual projection being \$58,000; the actual revenues received to date for nine months are \$10,800.

Tom Lundstrum asked whether an ordinance could be drafted where by the revenue from an animal control citation could come directly to the animal shelter; to which George Butler replied that state law determines most of the revenue designations. If the ticket is written in the county and is a county case, that fine money already goes to the General Fund and is being appropriated as the Quorum Court sees fit. Tom Lundstrum stated that there is not a revenue stream going into the animal shelter that is even going to come close to defraying the cost.

Barbara Fitzpatrick stated that the County was paying \$75 per animal to Fayetteville and the County is still averaging things that shouldn't be averaged. The building should be good for 20 years without any updates, so averaging the cost of the building in with the animals and averaging equipment skews the numbers. The animal actually costs in food, water, litter and then of course payroll.

Rick Cochran asked if consumption expenditures could be segregated (items like food and litter) as well equipment. He would also like to know all of the costs that are being paid out of the Buildings & Grounds budget for the shelter. Rick Cochran believes that the Buildings & Grounds budget should decrease by that same amount and the Animal Shelter budget should increase so it will be self-sustaining.

Dan Short presented the current Statement of Operations for the Shelter. The personnel section of the budget is 41% expended and supplies are 92% expended. He pointed out areas where line item adjustments have been made and noted that the budget will need to be increased before the end of the year.

Dan Short also reported: 1) The name of the Animal Shelter has been changed to the Lester C. Howick Animal Shelter for Dogs and Cats in order to clarify that no exotic animals or livestock will be accepted; 2) The Road Department poured a concrete pad and Shelter Consultant Lib Horn provided the Shelter with a chain link kennel for puppies; 3) A 2003 suburban has been transferred to the Animal Shelter from the Road Department so that the Shelter will have transportation when needed and the Department of Emergency Management has transferred a covered trailer to the Animal Shelter. The Animal Shelter's logo has been placed on both items by the Road Department's sign shop.; and, 4) Mats have been purchased in order to eliminate the constant use of the washer and dryer in the Shelter; the mats can be cleaned by spraying them down with a hose.

Harvey Bowman asked Mr. Short to provide recommendations in the future on what can be done to reduce the costs at the Shelter.

Request from NWA Citizens for Better Government for a Resolution in Opposition of the National Blueway Designation of the White River Watershed. The White River and its entire watershed were designated a National Blueway on January 9, 2013. The time frame in which opposition can be expressed and action taken against this designation ends on July 6, 2013. This was placed on the agenda at the request of JP Joe Patterson.

Debbie Beckerdite with the NWA Citizens for Better Government addressed the committee stating that the White River has been designated as a Blueway Designation by the Federal Government by Secretarial Order. A sample resolution has been distributed to that Committee opposing this designation to protect Washington County from the Federal Government and protect property rights. This involves UN Agenda 21 Wildlands Project under which the National Blueways fall.

Harvey Bowman asked if this has gone through other counties yet; to which Debbie Beckerdite stated that each county is being contacted. Newton County has passed the Resolution.

After discussion, Tom Lundstrum made a motion to forward the Resolution to the full Quorum Court for consideration. Rex Bailey seconded. The motion was approved with Barbara Fitzpatrick and John Firmin voting no, and Joe Patterson, Tom Lundstrum and Rex Bailey voting yes.

Other Business. There was no other business to be discussed.

Public Comment. Citizen Debbie Beckerdite commented that priorities should be set with the animals and that maybe looking into a lower standard of vaccinations for the

animals as they are brought in would be beneficial. She also suggested not doing initial vaccinations until they go up for adoption and then consider only covering some of the basic ones.

Citizen Joe Maynard commented that it is important for the people to know the true cost of the animal shelter. He also stated that the Blueways Project is a little abstract and maybe a bit far fetched, however, Fayetteville has passed a streamside ordinance where a pond from South Fayetteville is under Fayetteville's control as long as it is in the city limits. He believes that the county should do everything it possibly can to keep local control of the watershed.

Citizen Joe Alexander commented that he was concerned with the blueways project as well. He feels the free market is the best way to decide whether or not a business is sustainable and not small groups.

Adjournment. The meeting adjourned at 7:07 p.m.

rb/kb



MARILYN EDWARDS
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

MEETING REPORT OF THE
WASHINGTON COUNTY QUORUM COURT
PERSONNEL COMMITTEE

Monday, June 10, 2013
5:30 p.m.
Washington County Quorum Court Room

Members Present: Butch Pond, Ann Harbison, Mary Ann Spears, Candy Clark, Barbara Fitzpatrick, Ron Aman, and Harvey Bowman.

Others Present: Jimmy Mardis, Rick Cochran, Rex Bailey, Tom Lundstrum, John Firmin, Eva Madison, Bill Ussery, Tim Helder, Jay Cantrel, Jack Beckford, Norma Frisby, Lindsi Huffaker, Blair Johanson, and Tony Hernandez (NWA Times).

The meeting was called to order at 5:30 p.m. by Chairman Butch Pond. The agenda was adopted as presented.

Report from Blair Johanson, Salary Consultant for Washington County. Salary Consultant Blair Johanson reported that JESAP reviewed five positions in the Juvenile Court Department. Out of that grouping, the Director of Juvenile Court Services position received an adjustment of two grade levels. In evaluating the job description, the scope of responsibilities has expanded and point wise, it was re-rated to go from a Grade 21 to a Grade 23.

Candy Clark asked how much this will cost; to which Mr. Johanson replied he did not know as the JESAP Committee looks at the job descriptions and the factors to evaluate the position. HR Director Lindsi Huffaker added the money is already budgeted and the change follows JESAP Policy.

Blair Johanson said that an update on the County's compensation in comparison with the market will be given in August. There were 66 organizations that participated in an annual study conducted by The Arkansas Compensation Association out of central Arkansas. Generally, organizations average anywhere from 1.5% to 2.57% based on merit. Without the zero values included, the County is looking at between 2.6% to 3.5% for 2014. For reference, the national basis is somewhere between 2.9% to 3.3%.

Request from Juvenile Court to Change the Community Outreach Coordinator Position (Grade 13) to a Juvenile Officer Position (Grade 15). Norma Frisbee, Director of Juvenile Court Services, addressed the Committee. The two intake officers currently

have a case load of about 80 cases that they supervise. Additionally, there are 62 cases in the diversion programs. This is a large number of cases for intake officers to supervise, and this position change will assist with taking over the 62 diversion cases and providing supervision. This change will be budget neutral with no additional funding required, and Comptroller Cheryl Bolinger said could be taken care of in the quarterly housekeeping ordinance.

Harvey Bowman asked if the staff contacts the offenders on the phone or in person; to which Ms. Frisbee replied that the staff does have contact with the clients, both by phone and in person. She would like a minimum of at least two contact visits each month; however, that is not always possible with the current case load.

Mary Ann Spears made a motion to forward the request to the Finance Committee with a do pass recommendation. Ann Harbison seconded. The motion was approved unanimously.

With no other business or public comment, the meeting adjourned at 5:50 p.m.

rb/kb



MARILYN EDWARDS
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

MEETING REPORT OF THE
WASHINGTON COUNTY QUORUM COURT
JAIL/LAW ENFORCEMENT/COURTS COMMITTEE

Monday, June 10, 2013
5:50 p.m.
Washington County Quorum Court Room

Members Present: Butch Pond, Tom Lundstrum, Candy Clark, Ron Aman, Jimmy Mardis, and Bill Ussery.

Members Absent: Joe Patterson.

Others Present: Harvey Bowman, Rick Cochran, Rex Bailey, Ann Harbison, Mary Ann Spears, John Firmin, Barbara Fitzpatrick, Eva Madison, Tim Helder, Jay Cantrell, Randall Denzer, Jack Beckford, Jeane Mack, and Tony Hernandez (NWA Times).

The meeting was called to order at 5:50 p.m. by Chairman Tom Lundstrum. The agenda was adopted as presented.

Report from the Juvenile Detention Facility. Jeane Mack, Juvenile Detention Director, reported that the numbers at JDC are still low. School will go until June 28; it is considered year around. She is currently interviewing for the Social Worker position and has chosen to re-advertise.

Report from the Sheriff's Office on Enforcement and Adult Detention. Chief Deputy Jay Cantrell reported that there was nothing extraordinary happening on the enforcement side. Detention Major Randall Denzer reported that on the detention side, only 39 have been sent to ADC. They are getting backed up, which is good for the Jail because the state pays \$28 per day. The Federal Prisoners create \$50 per day and that should be better than last year.

Tom Lundstrum asked if it is possible to let the Animal Shelter to get another 309; to which Randall Denzer replied the Sheriff would have to ask for one and it is hard to get more as they are in high demand throughout the state.

Rick Cochran asked if the workers out cleaning the roads were the same category; to which Randall Denzer replied that those are the community service and work release prisoners. The Shelter gets as many of those as they want before they are sent to the other positions.

Mary Ann Spears commented that Lincoln sends kids out to do community service and wondered if Greenland could do the same with sending them to the Animal Shelter; and Jeane Mack replied that the kids cannot leave the Detention Center and that there is no trustee in the juvenile world.

Update from Sheriff Helder on the Renovation of the East Annex-Upstairs. Sheriff Tim Helder told the Committee that the plumbers have been working for two weeks and the framers began laying the tracks for the walls on June 10. The furniture estimates came in really high at approximately \$115,000. He went back and sat down with people and got it down some, but it is still going to cost more than what was anticipated.

Tom Lundstrum stated that Ron Wood would be providing the Public Works Committee with a cost breakdown at a future meeting.

An Ordinance Approving An Agreement With The City Of Tontitown, Arkansas, The City Of Springdale, Arkansas, And Washington County, Arkansas, Regarding The Operational Expenses Of The Springdale District Court. Tom Lundstrum reported that this ordinance was drafted by the County Attorney and is in compliance with State Law, and will not cost the County anything.

Candy Clark made a motion to forward the Ordinance to the full Quorum Court with a do pass recommendation. Jimmy Mardis seconded. The motion was approved unanimously.

With no other business or public comment, the meeting adjourned at 6:10 p.m.

rb/kb



MARILYN EDWARDS
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

MEETING REPORT OF THE
WASHINGTON COUNTY QUORUM COURT
FINANCE AND BUDGET COMMITTEE

Tuesday, June 11, 2013
5:30 p.m.
Washington County Quorum Court Room

Members Present: Butch Pond, Ann Harbison, Tom Lundstrum, Mary Ann Spears, Rex Bailey, Candy Clark, John Firmin, Barbara Fitzpatrick, Rick Cochran, Eva Madison, Ron Aman, Harvey Bowman, Jimmy Mardis, and Bill Ussery.

Members Absent: Joe Patterson.

Others Present: Rick Cochran, Roger Haney, Ashley Farber, Renee Biby, Wayne Blankenship, Dan Short, Jeane Mack, Jay Cantrell, Randall Denzer, and Tony Hernandez (NWA Times).

The meeting was called to order at 5:30 p.m. by Chair Candy Clark. The agenda was adopted as presented.

Financial Report. County Treasurer Roger Haney updated the Committee on the financial report for May, 2013. The collections for this time of the year should be at 42%; some are over and some are right on track. The General Fund takes care of the main operations of the County and during the month of May, the mortgage companies pay the escrowed tax dollars. Delinquent penalties are up at this time as well. The Jail Fund is down from \$931,000 to \$709,000 this month, but it is sufficient to meet the budget obligations. Sales tax increased 4.58% over May, 2012 and up 4.48% for the year. The Jail sales tax is also up almost the same percent; both are meeting the projections.

Assistant Comptroller Ashley Farber reported that the funds were all in line with where they should be for this time of the year. The ending balance for the unappropriated reserves for the month of May was \$10,094,924 with \$564,349 remaining in the Reserve for Road and \$2,545,649 remaining in the Reserve for Jail.

Report from County Grant Administrator Wayne Blankenship on Grants Awarded to the County and Related Appropriation Requests and Resolutions Needed for the Submission of Grant Applications. Assistant Grant Administrator Renee Biby reviewed the following items with the Committee:

An Ordinance Recognizing Revenues Of \$19,038 In The General Fund, And Appropriating The Amount Of \$19,038 From The General Fund To The Department Of Emergency Management Budget For 2013.

Assistant Grant Administrator Renee Biby reported that this is the final amount from the previous HazMat Interlocal Agreement. The Department of Emergency Management Director is going to utilize these funds to purchase new safety equipment for the HazMat teams.

Mary Ann Spears made a motion to forward the Ordinance to the full Quorum Court with a do pass recommendation. Barbara Fitzpatrick seconded. The motion was approved unanimously.

An Ordinance Recognizing Additional Revenue Of \$6,940 In The General Fund, And Appropriating \$6,940 To District Court Security Budget For 2013.

Assistant Grant Administrator Renee Biby reported that this is a grant that was received for West Fork District Court and the funds will be utilized to purchase Tasers and bullet proof window protection.

Ann Harbison made a motion to forward the Ordinance to the full Quorum Court with a do pass recommendation. Butch Pond seconded. The motion was approved unanimously.

An Ordinance Recognizing Revenues Of \$4,000 In The JDC Grant Fund, And Appropriating The Amount Of \$4,000 From The JDC Grant Fund To The JDC HOFNOD Budget For 2013.

Assistant Grant Administrator Renee Biby reported that this was a state grant received from Uvalde Lindsey. These funds will be utilized to build a fishing dock at the pond on the south campus for the HOFNOD program.

Mary Ann Spears made a motion to forward the Ordinance to the full Quorum Court with a do pass recommendation. Barbara Fitzpatrick seconded. The motion was approved unanimously.

With no other business or public comment, the meeting adjourned at 5:43 p.m.

rb/kb

ORDINANCE NO. 2013-_____

BE IT ORDAINED BY THE QUORUM COURT OF THE COUNTY OF WASHINGTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE RATIFYING CONDITIONAL USE PERMITS GRANTED BY THE PLANNING AND ZONING BOARD.

WHEREAS, the Planning and Zoning Board granted a Conditional Use Permit on March 7 for Prairie Grove Tower Site; and,

WHEREAS, an appeal has been filed concerning such; and,

WHEREAS, based upon the actions of the Planning and Zoning Board and the facts before the Court.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF WASHINGTON COUNTY, ARKANSAS:

ARTICLE 1. That the Conditional Use Permit for Prairie Grove Tower Site granted by the Planning and Zoning Board is hereby ratified.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____ Joe Patterson

Date of Passage: _____

Votes For: _____ Votes Against: _____

Abstention: _____ Absent: _____

East Prairie Grove Tower Site CUP

The Planning Board/Zoning Board of Adjustments approved East Prairie Grove Tower Site Conditional Use Permit (with conditions) on March, 7, 2013.

This CUP is currently under appeal.

East Prairie Grove Tower Site CUP is requesting a CUP to allow the construction of an approximately 300 foot tall, guy-wired, lattice-type wireless communications tower facility (with the addition of lights and a lightening rod, the overall height could increase to approximately 320 feet). The tower would be approximately 3' wide. The parcel acreage is 131.52 acres on which the applicant is leasing a 30' wide access and utility easement, a 75'x75' area on which the tower would be located, and guy wire easements. The access and utility easement would connect the tower site to Storms Road.

The land owner is Storms Agri-Enterprises, LLC; the applicant is Dave Reynolds of Smith communications, LLC. The property is located east of Prairie Grove.

No existing residential structures are located within the signed-consent distance from the buffer. The applicant, Dave Reynolds, has stated that there are no towers within a 1-mile radius on which collocation could occur.

The tower would be visible from many surrounding properties due to the openness and flatness of this area of the County. However, this tower would be a lattice-type tower only 3' in width; of the available tower types, Staff feels that this type would have the least visual impact. The applicant has stated that FAA regulations require, at the top of the tower, a white pulsing light during day hours and a low intensity red pulsing light during night hours. "Sight marker lights" would be required at 150' elevation on the tower. However, Mr. Reynolds reported that all lights would be shielded from the ground and shine upwards and not downwards.

The applicant submitted voice coverage maps showing the need for better cellular coverage in this area of the County. The Washington County 911 Director, John Luther, is in support of additional cellular infrastructure in rural Washington County because it would enhance access to emergency services.

The primary issue with this project has been multiple neighbor complaints concerning safety of cellular radiation, appearance of the tower, concern of adjacent land value devaluation, fire safety, floodplain proximity, and a report of a suspected Native American Indian burial ground.

Radiation: Safety due to cellular radiation cannot legally be considered, per Federal law PUBLIC LAW 104-104—FEB. 8, 1996, TELECOMMUNICATIONS ACT OF 1996.

Staff feels that this type of tower would be preferable to shorter self-supporting or monopole towers, especially since shorter towers would likely require multiple shorter towers in order to provide the same coverage as a taller, guyed tower.

Land Value: The applicant provided a statement from an Appraiser that states that it had not been her experience that cell towers negatively affected property values of adjacent properties.

Fire Safety: The Washington County Fire Marshal has looked at this project for fire safety and conditions have been placed upon this project to ensure that emergency service would be able to reach this tower in case of emergency.

Floodplain: The tower site is not located within the adjacent floodplain per FEMA FIRM map 05143C0355. Staff has a condition requiring secondary fuel containment systems for generators since this site is located near a floodplain.

Native American Burial Ground: an adjacent neighbor reported that he thought there was a Native American burial ground located somewhere to the south of the tower site. Mr. Reynolds provided a letter from Larry Jenkins of Peregrine Environmental (the company who produced the NEPA report), in which Mr. Jenkins reiterates the study conducted by Flat Earth Archeology and the responses from multiple Native American Tribes that found/reported no adverse impact on sites of Native American significance in this area.

The Planning Board/ Zoning Board of Adjustments approved (4- in favor, 1- recusal, 0- against, 2- not present) the project with the below listed conditions. Since that time Planning staff has added several new conditions that are recommended for ratification. These new conditions are denoted below in bold print.

Planning Conditions:

1. A copy of the Federal Communications Commission (FCC) approval letter must be submitted to Staff prior to tower operation.
2. Must be an approximately 300 foot tall guyed wireless communications tower facility that, with the addition of lights and a lightning rod, could increase the overall height to approximately 320 feet.
3. Compound must be generally sized as presented (75'x75').
4. This CUP will apply only to the lease area and related easement as presented and not to the entire 131.52 acres.
5. Proper Circuit Clerk-filed easement documents shall be recorded for the proposed access and utility easement.
6. The NEPA report shall be updated to reflect the actual height of the tower as presented to Staff (300 to 320 feet).
7. Any future **liquid petroleum** generators shall utilize a **secondary** fuel containment system as defined by Title 40 CFR 112 to prevent fuel leakages.
8. **The proposed site minimum elevation should be at elevation 1176.1 feet and the ground outside the site graded to drain away from and around the site.**

9. The adjacent drainage swale shall be rerouted and designed as per the June 3rd Professional Engineer's letter from Satterfield Land Surveyors.
10. No stormwater permit is required by Washington County, at this time. Must comply with all ADEQ rules and regulations. Please note that if construction disturbs more than one acre, a Notice of Coverage and Stormwater Pollution Prevention Plan must be posted at the site prior to commencing construction. http://www.adeg.state.ar.us/water/branch_permits/general_permits/stormwater/construction/construction.htm. If construction disturbs more than five acres, a stormwater permit and applicable fees must be submitted to ADEQ.

Water/Plumbing/Fire Conditions:

1. An access drive constructed 26 feet in width from Storms Road to the tower is required for emergency vehicle access; it shall have 13 feet 6 inches of unobstructed vertical clearance.
2. All entrance drives and parking areas must support 75,000lbs in all weather conditions.
3. The proposed gate off Storms Road **shall be 26 feet in width and** can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.
4. The existing gate on Storms Road shall be 26 feet in width and can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.
5. The cattle guard on Storms Road must be shown to be able to support 75,000 lbs in all weather conditions, or it must be removed and filled in and shown to be able to support 75,000 lbs in all weather conditions.
6. An turnaround area for emergency vehicles shall be added to the survey and approved by the Washington County Fire Marshal and must be able to support 75,000 lbs in all weather conditions. The NEPA report must be updated to reflect this turnaround space or a letter from the company who created the NEPA report shall be submitted to Staff stating that the NEPA report does not need to be updated. If Staff feels that any utilities might be affected by the addition of the turnaround, approval must be granted by those utility companies.

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.

Utility Conditions:

1. Ozarks Electric: Any relocation of an existing line or extension of a line to feed this property will be at the owner's/applicant's expense.
2. Any utility work in the County Road ROW must be approved and permitted by the Road Department. Call 444-1610 for details.

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the County Right-of-Way.
2. The light at the top of the tower shall be as described by the applicant – a pulsing (non-strobing) light (white during the day and red during the night) producing approximately the equivalent of a 100 watt light bulb.
3. No additional lighting, on the ground, is approved with this CUP

Standard Conditions:

1. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
2. This CUP must be ratified by the Quorum Court.
3. Must adhere to all Washington County Communication Tower Ordinance Standards.
4. Must proceed through Washington County Communication Tower Administrative Approval process.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. If all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
 - This project requires additional review; the applicant must submit for Administrative Tower Review within 12 months of this CUP project's ratification.

ORDINANCE NO. 2013-_____

**BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:**

**AN ORDINANCE AMENDING WASHINGTON
COUNTY CODE 11-100 PERTAINING TO LARGE
SCALE DEVELOPMENT STANDARDS.**

WHEREAS, Washington County has enacted exemptions to Large Scale Developments in the past; and,

WHEREAS, there is a need to add an exemption for ambulance services.

**NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM
COURT OF WASHINGTON COUNTY, ARKANSAS:**

ARTICLE 1. Washington County Code 11-100 is hereby amended to read as follows:

Sec. 11-100 Large-scale development standards

- (l) The following public utility services and structures are hereby exempt from the Washington County Code provisions concerning large-scale developments:
- (1) Utility boxes;
 - (2) Passenger stops for buses;
 - (3) Police alarm boxes;
 - (4) Historical markers, watershed improvement projects, water conservation projects, or flood control projects;
 - (5) Utility mainline, local transformer and station, water pump stations, waterline flushing assembly, water storage facilities, PRV vaults, electric regulation stations, sewage lift station, manholes, natural gas pressure control stations, individual septic systems, other necessary structures and equipment for water, sewage, and other utility facilities. However, in residential areas, lift stations and pump stations may be required to insulate their station machinery, if the noise produced by such machinery would be an annoyance to the surrounding residential community.

- (6) Booster generators, not owned by a utility, which are utilized for homes, poultry houses and other agricultural facilities.
- (7) Any additions or expansions of existing municipal fire department or volunteer fire departments, or ambulance service buildings or facilities located in the unincorporated portions of the County.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____
Date of Passage: _____
Votes For: _____ Votes Against: _____
Abstention: _____ Absent: _____

AMENDMENT TO THE RULES AND REGULATIONS OF THE PLANNING DIRECTOR REGARDING ZONING

WHEREAS, pursuant to Article 7 of Ordinance No. 2006-66 the Planning Director is authorized to promulgate rules and regulations in regards to zoning matters; and,

WHEREAS, said rules were promulgated and approved by the Quorum Court on January 8, 2007 and March 8, 2008; and,

WHEREAS, said rules were amended in 2008, 2009, 2010, and 2012.

WHEREAS, it is necessary to amend said rules again.

NOW, THEREFORE:

ARTICLE 1. The following is hereby promulgated subject to the approval of the Quorum Court:

Said rules are hereby amended to add the following to be allowed as a matter of right within the zoned areas of the County:

- a. Any addition or expansion of ~~existing~~ municipal fire departments, ~~or~~ volunteer fire departments, or ambulance service buildings or facilities located in the unincorporated portions of the County.

JULIET RICHEY, Planning Director

DATE

RESOLUTION NO. 2013-_____

**BE IT RESOLVED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, A RESOLUTION
TO BE ENTITLED:**

A RESOLUTION OF OPPOSITION TO THE JANUARY 2013 "DESIGNATION" AND "RECOGNITION" OF THE WHITE RIVER AND ITS WATERSHED AS THE "SECOND NATIONAL BLUEWAY"; AND ESPECIAL OPPOSITION TO A "BLUEWAY" MEMORANDUM OF UNDERSTANDING BEING ENTERED INTO THE FEDERAL AND STATE BUREAUCRATS PERTAINING TO OUR LANDS AND WATERS DUE TO LACK OF PROPER NOTIFICATION OR INVITATION, AND DUE TO FAILURE TO SEEK APPROVAL, INVOLVEMENT, OR INPUT OF ANY KIND FROM WASHINGTON COUNTY, ARKANSAS.

WHEREAS, on January 9, 2013, agents of the U.S. Department of Interior hosted in Little Rock an announcement/news release ceremony to announce that the White River and its watershed (17.8 million acres across 60 counties in Arkansas and Missouri) "had been named the nation's second National Blueway". The only two U.S. congressional delegates named as being present for the announcement were neither one a representative of the vast area of north Arkansas pertaining to the White River/Watershed. The three U.S. congressional delegates, who do represent the White River/Watershed area of Arkansas, Senator John Boozman, Representative Steve Womack, and Representative Rick Crawford, were not present at the ceremony, and it is not known if even they were aware of or had been invited to the "naming/designating" of the supposed White River/Watershed "Blueway". Also, no County officials of any of the affected area were meaningfully informed nor known to have been invited to be present at the ceremony; and,

WHEREAS, the federal law requirements of the National Environment Policy Act (NEPA) and the Clean Water Act (CWA) and other federal statutes require that all conservation programs be balanced with equal protection of the customs, cultures, and economies of the areas conserved or preserved; yet the language of the Blueway Memorandum of Understanding (MOU) contract plainly lists "cultural preservation" and "sustainable economic opportunities" to be provided for only "to the extent compatible with agency missions, goals, objectives, and priorities", while the overall language of the MOU contract is solely about grandiose schemes to "conserve" and "preserve" the entire watershed including "working lands and waters;" and,

WHEREAS, no definition of “working lands and waters” is given in the MOU; and,

WHEREAS, affected Arkansas counties which have adopted Comprehensive Land Use and Management Plans according to the provisions of federal law at 40 CFR 1501.7(a)(1), et al, were neither informed, notified, or invited to participate in the “Blueway” process as is required by federal law; and,

WHEREAS, such violation of federal law by federal agencies to not balance conservation and preservation with protection of custom, culture, social, and economic vitality; plus their failure to fulfill federal law requirements to inform, include, and involve county officials in all plans and proceedings of federal/state programs and projects, etc., in our understanding thereby nullifies and voids all their bureaucratic attempts and efforts which have taken place up to this present time, for the purpose of “designating” or “naming” of the White River/Watershed as a “National Blueway”; and,

WHEREAS, the whole appearance of and the general list of participants in this ill-conceived “Blueway” attempt is so reminiscent of and similar to the now infamous effort of 1996 (by the U.S. Department of Interior, U.S. Fish and Wildlife, Arkansas Game & Fish, and other state and federal agencies) to submit the same general area (Ozark Highlands/White River Basin) to the U.S. Man and Biosphere (MAB) program which had the same goals, objectives and strategies as does this “Blueway” newcomer; (the 1996 MAB attempt was aborted when Former Governor Huckabee demanded AG&FC to withdraw).

NOW, THEREFORE, BE IT RESOLVED BY THE QUORUM COURT OF WASHINGTON COUNTY, ARKANSAS:

ARTICLE 1. Washington County has every intention to continue present conservation practices as is mandated by laws that are consistent with historic and balanced provisions of the Constitution of the State of Arkansas and will therefore, neither recognize, cooperate, participate or partner with, nor submit to any so-called “Blueway” designs of any type of kind due to the violations of federal law noted above; and due to the insult of our county being ignored by state and federal agents as they scheme together to “manage” our lands and waters without seeking our approval or consulting with us.

ARTICLE 2. Washington County calls on Governor Beebe to demand immediate withdrawal of Arkansas Game & Fish Commission, Arkansas Natural Heritage Commission, and Arkansas Waterways Association from participation in or support of the White River Watershed National Blueway.

ARTICLE 3. Washington County calls on our U.S. Congressional Delegation to demand immediate withdrawal of federal agencies from imposing a National Blueway System of any type or kind upon White River Watershed; and to

refrain from entering into a Memorandum of Understanding for any purpose, now or in the future, pertaining to lands, air, water, etc. of Arkansas unless county governments have been fully informed, involved, and consulted, and have agreed to do so based on widespread local support from the public and private sectors. And further, our county also calls on our congressional delegates to take special care in the future, to prevent any attempt of any other similar federally designed "collaborative framework" MOU contract in Arkansas again.

ARTICLE 4. Upon adoption of this Resolution, the County Clerk of this county or her designee shall immediately forward a file-marked copy to Governor Beebe and to each of Arkansas' six U.S. congressional delegates, to both their state offices and to their Washington D.C. offices, and for informational purposes to all our district Arkansas legislative delegates. The County Clerk or her designee shall certify to the Quorum Court that such distribution has been accomplished.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____ Joe Patterson

Date of Passage: _____

Votes For: _____ Votes Against: _____

Abstention: _____ Absent: _____

ORDINANCE NO. 2013-_____

**BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:**

**AN ORDINANCE APPROVING AN AGREEMENT WITH
THE CITY OF TONTITOWN, ARKANSAS, THE CITY OF
SPRINGDALE, ARKANSAS, AND WASHINGTON
COUNTY, ARKANSAS, REGARDING THE OPERATIONAL
EXPENSES OF THE SPRINGDALE DISTRICT COURT.**

WHEREAS, the City of Tontitown, Arkansas, has a police department but does not have a district court; and,

WHEREAS, the City of Tontitown, Arkansas, wishes to have the cases generated by its police department prosecuted through the Springdale District Court; and,

WHEREAS, Ark. Code Ann. §16-17-1203 provides that a written agreement is to be entered into between the City of Tontitown and the governing bodies of the City of Springdale, Arkansas, and Washington County, Arkansas, concerning the contribution to the operational expenses of the Springdale District Court by the City of Tontitown, Arkansas; and,

WHEREAS, the contribution made by the City of Tontitown, Arkansas, to the Springdale District Court shall be a prorated amount based on the number of cases filed in the Springdale District Court.

**NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM
COURT OF WASHINGTON COUNTY, ARKANSAS:**

ARTICLE 1. That the County Judge is hereby authorized to enter into an agreement with the City of Tontitown, Arkansas, and the City of Springdale, concerning the contribution to the operational expenses of the Springdale District Court by the City of Tontitown, Arkansas, pursuant to Ark. Code Ann. §16-17-1203.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: _____

Date of Passage: _____

Votes For: _____ Votes Against: _____

Abstention: _____ Absent: _____

AGREEMENT

This agreement is made and entered into between the City of Tontitown, Arkansas ("Tontitown"), the City of Springdale, Arkansas, and Washington County, Arkansas.

WITNESSETH:

WHEREAS, the City of Tontitown, Arkansas, has a police department but does not have a district court;

WHEREAS, the City of Tontitown, Arkansas, wishes to have the cases generated by its police department prosecuted through the Springdale District Court;

WHEREAS, Ark. Code Ann. §16-17-1203 provides that a written agreement is to be entered into between the City of Tontitown and the governing bodies of the City of Springdale, Arkansas, and Washington County, Arkansas, concerning the contribution to the operational expenses of the Springdale District Court by the City of Tontitown, Arkansas;

WHEREAS, the contribution made by the City of Tontitown, Arkansas, to the Springdale District Court shall be a prorated amount based on the number of cases filed in the Springdale District Court; and

WHEREAS, the City of Tontitown, Arkansas, and the City of Springdale, Arkansas, wish to comply with the provisions of Ark. Code Ann. §16-17-1203.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree that the Springdale District Court shall allow Tontitown to process its cases in said district court, and Tontitown shall contribute to the operational expenses of the court on a prorated amount of all cases filed in the district court from Tontitown during the preceding calendar year. For purposes of the calendar year 2013, said contribution shall consist of a one-time contribution of \$1,500.00 to the Springdale District Court to integrate Tontitown into the Springdale District Court. This agreement shall be considered the written agreement pursuant to Ark. Code Ann. §16-17-1203, and the Mayor of the City of Tontitown is hereby authorized and directed to execute this agreement on behalf of the City of Tontitown, which shall then be submitted to the governing bodies of the City of Springdale, Arkansas, and Washington County, Arkansas, for their respective approval.

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of _____, 2013.

City of Tontitown, Arkansas

By _____

City of Springdale, Arkansas

By _____
Doug Sprouse, Mayor

By _____
Denise Pearce, City Clerk

Washington County, Arkansas

By _____
Marilyn Edwards, County Judge

ACKNOWLEDGEMENT

STATE OF ARKANSAS

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)SS

COUNTY OF WASHINGTON

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Before me, a Notary Public, duly commissioned, qualified and acting within and for the aforesaid County, on this day personally appeared Marilyn Edwards, Washington County Judge, well known to me to be the person whose name is subscribed to the foregoing instrument and stated to me that she executed the same for the consideration and purposes therein mentioned and set forth.

In testimony whereof, I have hereunto set my hand and official seal this _____ day of _____, 20__.

My Commission Expires:

Notary Public