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WASHINGTON COUNTY

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

Thursday, November 20, 2014  
6:00 p.m.  
Washington County Quorum Court Room

- 189.1 The Washington County Quorum Court met in regular session on Thursday, November 20, 2014. The meeting was called to order by County Judge Marilyn Edwards.
- 189.2 Judge Edwards reminded everyone to please turn on their mics when speaking as it is nearly impossible to hear any discussion when the mics are off. She stated that this meeting is aired live and it is important that the people at home can hear them.
- 189.3 B. Ussery led the Quorum Court in a prayer and in the Pledge of Allegiance.
- 189.4 **MEMBERS PRESENT:** Ron Aman, Rex Bailey, Harvey Bowman, Diane Bryant, Candy Clark, Rick Cochran, John Firmin, Barbara Fitzpatrick, Ann Harbison, Tom Lundstrum, Eva Madison, Jimmy Mardis, Joe Patterson, Butch Pond, and Bill Ussery.
- 189.5 **OTHERS PRESENT:** County Judge Marilyn Edwards, County Chief of Staff Dan Short, County Comptroller Cheryl Bolinger; Interested Citizens; and Members of the Press.
- 189.6 **ADOPTION OF THE AGENDA:** Judge Edwards asked if there were any additions or deletions to the agenda.
- 189.7 Judge Edwards reported at the advice of the County Attorney that the resolution recognizing a vacancy in Quorum Court District Two needs to be removed from the agenda. She further noted that the Baldwin Cell Tower CUP has been appealed and therefore, Item #8 needs to be removed from the agenda.
- 189.8 **A motion was made and seconded to adopt the agenda as amended. The motion passed unanimously by voice vote. The agenda was adopted as amended.**
- 189.9 **APPROVAL OF MINUTES:** Judge Edwards asked for approval of the minutes of the October 16 regular meeting of the Washington County Quorum Court.
- 189.10 **A motion was made and seconded to approve the minutes as distributed. The motion passed unanimously by voice vote. The minutes were approved.**

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- 190.1 **FINANCE REPORT:** C. Clark stated that she only had two appropriation ordinances tonight, but they were big ones with their mileage ordinance and ordinance adopting their 2015 budget.
- 190.2 **C. Clark made a motion to suspend the rules and read the ordinance by title only. R. Bailey seconded. The motion passed unanimously by voice vote.**
- 190.3 **AN ORDINANCE LEVYING THE COUNTY, MUNICIPAL AND SCHOOL DISTRICT TAXES FOR THE YEAR 2014:** C. Clark introduced **An Ordinance Levying The County, Municipal And School District Taxes For The Year 2014**, and County Attorney George Butler read the ordinance by title only.
- 190.4 C. Clark stated that they have talked about this forever and a day in Finance Committee and n one of the levied numbers have changed.
- 190.5 **C. Clark made a motion to adopt the ordinance. T. Lundstrum seconded.**
- 190.6 B. Fitzpatrick stated that there is a reason why the entity that writes the budget has not only taxing authority, but taxing responsibility to fund critical tax payer services. She stated when revenues are projected to be insufficient to provide replacement equipment for the Sheriff and Road Departments, to even consider upcoming issues like EMS needing to take over rural ambulance service at Springdale Fire Department; it gives that entity our duty to raise the millage sufficiently to cover it. She stated that 1 mil of tax liability is what it costs or \$11 per \$100,000, assessed value, per month; and to generate \$3 million in revenue is challenging to meet those capital expenditure replacement items.
- 190.7 **B. Fitzpatrick made a motion to amend the ordinance to increase County General from 3.9 to 4.9 mils. D. Bryant seconded.**
- 190.8 D. Bryant stated that she has done some research on our jail system and noted that about 4% of our population are in jail in the State of Arkansas with only South Carolina reporting more, and we are not getting money from the State to care for those inmates and the State is not going to give them any more money for this purpose. She stated that there is a commitment to cut taxes and if we do, we will be hurting and how will we pay for our jail because \$28 per day is not enough to support it. She stated that this money has to come from somewhere and unfortunately they will probably cut state level taxes and they will be hurting even more in the future. D. Bryant stated that

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she would rather spend money on their schools than on their jails, but the fact of the matter is that they will not be getting anymore money from the state.

- 191.1 J. Firmin stated that he was unable to attend the Finance Committee meeting and he is also concerned about the future and planning for the monies that they will need in the future because this budget reflects cuts that they can't sustain, so he will be supporting the motion to increase the millage.
- 191.2 B. Fitzpatrick stated that the ambulance service will set up next year to take over Springdale's rural ambulance service and they will have 2015 to purchase three ambulances at a cost of \$250,000; they will have to hire and train three crews and although they will do the absolute best she can with the budget, they are still talking about \$1 million or more for the first year and probably ½ million for the second year. She stated that they also know that the Sheriff's Department has got a fleet of vehicles which means they need to be replacing some vehicles every year. Further, the Road Department has a fleet of road equipment and every year something ages out or is damaged from snow/ice storms, noting at the end of the clean up from the last such event, they didn't have a piece of road equipment that didn't need repair and the equipment needs to be kept up on a regular basis. B. Fitzpatrick stated that the budget that they are dealing with and will have to stick with because they don't have any capital in the budget and even if this passes, the money won't be available until October 2015. She says that they are banking on being able to borrow money if they need to and borrowing money when you don't have enough to pay your bills already is a less than fiscally responsible thing to do. She stated that when she leaves the Quorum Court, she would like to leave the County in good shape and this is her last attempt.
- 191.3 **E. Madison called for the question. R. Bailey seconded.**
- 191.4 County Attorney George Butler explained that they needed to vote on E. Madison's call for the question and it would take ten votes to cut off debate.
- 191.5 **Judge Edwards called for a vote on the call for the question.**
- 191.6 **VOTING FOR: R. Aman, R. Bailey, H. Bowman, D. Bryant, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, and B. Ussery. The motion passed unanimously. Debate was cut off.**
- 191.7 County Attorney George Butler stated next they would be voting on the motion to amend the ordinance.

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- 192.1 B. Fitzpatrick explained her motion to amend the ordinance to increase County General Fund from 3.9 to 4.9 mils.
- 192.2 **With no further discussion, Judge Edwards called for a vote on the motion to amend the ordinance.**
- 192.3 VOTING FOR: D. Bryant, J. Firmin, and B. Fitzpatrick. VOTING AGAINST: R. Aman, R. Bailey, H. Bowman, C. Clark, R. Cochran, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, and B. Ussery. **The motion to amend the ordinance failed with three members voting in favor and twelve members voting against the motion.**
- 192.4 Judge Edwards stated that they would now return to the original motion to adopt the ordinance.
- 192.5 A. Harbison stated a couple of years ago when they were looking at the road millage and moving some road millage to the general fund and she wanted to bring this up for discussion. At that time, Fayetteville said if we would discuss with them and if they knew that their money would be reduced, that while they wouldn't exactly be in favor of it, they could plan around it. She noted that Fayetteville and Springdale get about 2.5 million of the 1.1 mil and the county only gets about 38% or about 500,000, if they moved ½ mill from road fund to general, then they would get all of it or approximately \$1.5 million. She stated that she was not making a motion to amend the millage ordinance, but asked that the court take a look at and start thinking about that. She noted that while no one likes increase in taxes, this is one way that they could shift some of the burden back to the county because we have roads to build and our road fund is not what it needs to be because of the amount of work that they have and number of bridges that they have that are impaired in some way.
- 192.6 E. Madison stated that she has talked to Mayor Jordan and does not believe that either the City of Fayetteville or City of Springdale would go along with this because this is the way that it has always been. She noted for those who have districts in the city, they have to think about that our constituents rely on that money as well. She appreciates that A. Harbison brought it up, but doesn't believe that it is a good idea to shift around millage just to take more of our share and punishing the cities which she doesn't believe is fair.
- 192.7 R. Bailey stated that Mayor Sprouse and the Springdale Chamber would not approve of this, pointing out that the cities don't get a whole lot of benefit from the road tax and just because so many of them live in the city, they will pay the majority of this and therefore, it just wouldn't be fair. He stated that the cities still have to build roads and put a police department out there and to

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take it away from them when they have paid the majority of the road tax anyway, is not fair.

- 193.1 B. Fitzpatrick stated that she would be a lot happier if Fayetteville and Springdale got 50% just like everyone else does, but they get 80% and that means when all is said and done, the County gets the blame for a 1.1 mil road tax and gets about 1/3 of it. She stated that she still would not want to do this because they are already telling the road department that they have to live within their budget and if they reduce their budget by moving it into general, they won't have any roads left in the county.
- 193.2 A. Harbison addressed the comments made to her suggestion, stating that Washington County provides services for all of the citizens in Washington County when they come in this courthouse, but yet their money is cut from rural roads and rural services. She stated that they have an Animal Shelter that was dumped on them by the City of Fayetteville, so they had to build a shelter at a cost of \$2 million and costs \$600,000 or more a year to operate the shelter. She stated that Springdale is getting ready to say they don't want to cover the rural area around Springdale any longer because it is not economically feasible for them to do so, so they are going to dump it back on the county. A. Harbison stated that they need to be good citizens and good neighbors to each other, but the county provides all the services for all the people in Washington County except for streets and roads and the cities come in and get their cut of that. She stated that her main concern is that there are small cities like Prairie Grove, Lincoln, West Fork, Greenland, Winslow and Elkins would loose some money and they don't have very large budgets. However, she thinks this is something that really needs to be discussed and looked at and if necessary, some new legislation proposed.
- 193.3 R. Bailey stated that he believes Springdale has been a good neighbor to the county over the years with rural ambulance service for which they hope to break even, but sometimes don't and it costs them a lot of money. He stated with the growth they have had, they just can't do it anymore and it is not fair to their citizens to pay for the county and that is what is going to happen eventually.
- 193.4 Citizen Comments: There were no citizen comments made.
- 193.5 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**

- 194.1 **VOTING FOR:** R. Aman, R. Bailey, H. Bowman, D. Bryant, C. Clark, R. Cochran, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, and B. Ussery. **VOTING AGAINST:** J. Firmin. **The motion passed with fourteen members voting in favor and one member voting against the motion. The ordinance was adopted.**

**ORDINANCE NO. 2014-68, BOOK NO. 9, PAGE NO. 476**

- 194.2 **AN ORDINANCE RECOGNIZING REVENUES AND APPROPRIATING MONIES FOR THE EXPENDITURES IN EACH FUND FOR WASHINGTON COUNTY, ARKANSAS, FOR THE YEAR 2015, AND ADOPTING A BUDGET FOR THE VARIOUS DEPARTMENTS REFLECTING THE LINE ITEM EXPENDITURES THEREOF:** C. Clark introduced **An Ordinance Recognizing Revenues And Appropriating Monies For The Expenditures In Each Fund For Washington County, Arkansas, For The Year 2015, And Adopting A Budget For The Various Departments Reflecting The Line Item Expenditures Thereof**, and County Attorney George Butler read the ordinance.
- 194.3 C. Clark stated that she is proud to say that this only the second time that they got a budget done by November as there were some tense times in Decembers past when they didn't think they would get it done. She thanked all members putting in time, effort and energy and while it is not perfect, she thinks that it is a very good budget.
- 194.4 **C. Clark made a motion to adopt the ordinance. R. Cochran seconded.**
- 194.5 **R. Aman made a motion to amend the ordinance to fund ORT with only \$22,000 instead of \$122,000 and put \$100,000 back into the Road Fund. A. Pond seconded.**
- 194.6 Judge Edwards noted that a representative from ORT is in attendance tonight to provide their bi-monthly report and if there were no objections, she would like to recognize him at this time.
- 194.7 Joel Gardner, Executive Director of Ozark Regional Transit, addressed the Quorum Court reporting in the past year Washington County has provided ORT \$122,970 and they have done some wonderful things for the citizens of Washington County with that money. He stated in 2014, ORT as an organization had made some pretty drastic changes to better serve Washington and Benton Counties and of those things, they ceased a management contract that they found to be overbearing and demanding for the funding sources, and they hired him as an internal Executive Director. He

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noted that they obtained the original funding through the one cent sales tax turnback from Washington County, Bentonville, Fayetteville, City of Rogers, and City of Springdale.

- 195.1 Mr. Gardner stated that ORT added three new fixed routes; one each in Fayetteville, Springdale and Rogers and also added the new rural fixed route which connects West Fork through Greenland, up into Fayetteville, up to Farmington, Lincoln and Prairie Grove and they have had excellent ridership on that, increasing the service by an additional 3%. He further reported that ORT did some in-house retraining; they have maximized their growth efforts; they have taken the demand response model that are the smaller vans that transport people in the more rural areas with door-to-door service that either connects them to the route or to their destinations, increasing that service by 38%.
- 195.2 Mr. Gardner reported that ORT has added 21 new jobs in 2014 with this funding; 4 in maintenance, 3 office staff, and 14 operators. He stated that they have utilized their 5339 Grant to go ahead and take two vehicles where the engine on one and transmission on another had ceased up, and they parlayed that into the purchase of four new used vehicles, with 3 of the 4 now on the road as it takes time for them to install their intelligent transportation information. He stated that they have effectively, with the assistance of Razorback and the Northwest Arkansas Regional Planning Commission, been able to garner \$696,000 for rolling stock from the Federal Highway Administration, moved that over to Federal Transit Administration, and they are about to buy additional rolling stock with that. Mr. Gardner stated that ORT has done everything they can to be extremely frugal, to be great stewards of taxpayer's money, and to grow the services in Washington and Benton Counties.
- 195.3 Mr. Gardner explained that there are three types of services that ORT provides. First, they provide the fixed route with the bus going up and down the road continuously picking people up at predetermined spots; second, the ADA Para-transit which is a federal requirement for them where anybody with an ADA-qualifying event receives the curb-to-curb service that either gets them either from their home or to the bus stop or from their home to their destination, so long as it is within a ¼ mile barrier; and third, the demand response for anybody outside that ¼ mile barrier on a come as you are with no prerequisite, first come first serve which is where they have seen the great growth and development in Washington County. He reported in the two models, just in Springdale and Fayetteville alone, Fayetteville had 2,952 trips, Springdale had 3,144, and Washington County or the addresses that they can't really attribute to any particular city, had 204 individual trips in the unincorporated areas of Washington County.

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- 196.1 Mr. Gardner stated that in the demand response trips in Washington County, the ADA para-transit trips, the fixed route trips and the total trips for 2014 so far this year have been 182,826 trips in Washington County alone; in Benton County 66,000 trips; in Carroll County 27,000, so the greatest amount of service ORT is providing is within Washington County.
- 196.2 Mr. Gardner addressed reducing ORT funding by \$100,000, noting that some on this court will say that it really doesn't impact the people they serve. Mr. Gardner challenged them as they are driving up and down any roads in the county to look to the left and look to the right and note how many distracted drivers there are out there at any point in time. He stated that the accidents that are occurring now-a-days used to be attributed to drunken driving, but now can be more attributed to distracted driving from cell phone use. He stated when they question what ORT service is doing for them, 182,826 trips in Washington County that could potentially be taking distracted drivers off the road. He reported that on a regular basis, ORT runs students all the way from West Fork up to Bentonville to NWACC or to the University of Arkansas and provide them a safe environment to travel up and down Hwy. 49 in groups of 40, 20 or 10 where they can use wifi on their buses to do their homework or surf the internet, so they are not a hazard to constituents, but to the court members personally. Mr. Gardner stated when talking about what the \$100,000 will do for any particular road in Washington County, it could potentially removed hundreds, if not thousands of trips per year of people who could be distracted driving; provide people with an opportunity to save money and provide them an opportunity to get to college, to get to work, or to those locations that they need to go. He stated that public transit in Northwest Arkansas is no longer, and has not been for the last two years, a service only for the elderly, the disabled, and is not a charity case for people that have not, but public transit is for people looking for other opportunities other than driving their own vehicles now or in the future, to get to events and beat the traffic. He stated that \$100,000 today invests into the future of public transit in Northwest Arkansas.
- 196.3 In response to a question from Judge Edwards, Mr. Gardner stated that the total of 182,826 riders to date in 2014 in Washington County includes all riders in Washington County as a whole. He pointed out that everyone here represents citizens within Washington County, not just rural or cities.
- 196.4 R. Aman stated that he personally does not want to pay for ORT picking up students to take them to the University or shopping and if he felt it in his heart, he could pay the fee himself. He stated that he has talked to his constituents and many of them are not in favor of the ORT bus coming through town and a couple stated that the location where ORT stops wasn't convenient for them.



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- 197.1 Mr. Gardner addressed R. Aman noting when looking at growth and development, when companies are coming into Northwest Arkansas, they use a study technique garnered from the Northwest Arkansas Counsel, and the things that they are looking at is accessibility to airports, the quality of the roads, public transportation so that their workers can get back and forth to work and one of the areas that Northwest Arkansas is falling short on is public transportation.
- 197.2 R. Aman stated that he doesn't have a problem having a bus system in Northwest Arkansas, but doesn't believe that everyone should have to pay for it, rather the person using the service should pay for it.
- 197.3 B. Ussery reported that his son rides an ORT bus everyday to NWACC, as do many of his friends, as it is very convenient for them and he believes it is a great service. He stated that right now, the service is more beneficial for those living in the cities, but also believes it is beneficial for all citizens and gets people where they need to go who otherwise would have to make other arrangements and it would be a lot more costly for his son to go to school if he had to pay for gas and he is grateful for that.
- 197.4 R. Bailey stated that he serves on the facilities board in Springdale, and they have created 48% of the jobs in the last four years, and pointed out that one of the main things these companies look at when coming into a city is the transit system. He stated that he doesn't like to pay taxes either, but is willing to considering that Fayetteville and Springdale have that many riders and further, that is just the way it is. He stated that he does not want to make this a county/city deal and pointed out that in the last six years, one of the things that this Quorum Court has done is to support services in rural areas, roads and bridges, but the cities need this transit service and ORT has made an effort to get it out into the county which has never been done before.
- 197.5 D. Bryant stated that what they do as a group is to provide for their county and public transportation is part of that element and the people who live out in the county probably do so because they can't afford to live in the city, many don't have transportation to work and they want to work and she believes they should honor that. She addressed a comment made by R. Aman that a lot of times when he sees those buses, they are empty, but pointed out that you can't see in the windows of ORT buses to see if they are empty.
- 197.6 B. Fitzpatrick stated that she fully supports public transit and does from multiple points of view – for businesses that are looking for places that have public transit; from the point of view of her own son who when he was working different jobs around the area and lives in southeast Fayetteville, was looking

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at paying \$90 a month taking his truck or a monthly pass using transit which he did. She stated from the point of view of those who occasionally use public transit, it has to be there because you can't occasionally use something that isn't there as it is an infrastructure like the roads themselves. She pointed out that she doesn't use the roads on the east side of Washington County, but she pays for them anyway because it is a good thing that they are there. B. Fitzpatrick stated that she uses ORT anytime she goes to the eye doctor because they dilate her eyes and she can't drive afterwards. She reported speaking to the mayor of one of the smaller area towns who told her that public transit is a godsend because there are people in his town who would never be able to make their doctor appointments if not for transit and there are a number of folks such as returning veterans who for one reason or another can't drive, need to be working and rely on transit. She pointed out that they have 182,000 riders for \$122,000 which is less than one dollar per trip. B. Fitzpatrick stated they can do a little bit by all putting this money together and get a big benefit for everybody or pay more to deal with things like food stamps and welfare or pay even more when they go to jail because they couldn't think of anything to do other than something that was illegal, so she would rather pay for the transit.

- 198.1 H. Bowman stated that he has gone from being very negative about the public transit program to far more center of the road, and he really appreciates the positive things that ORT has done. He inquired about what is being done so that ORT can provide service to and from the airport.
- 198.2 Mr. Gardner responded to H. Bowman stating that currently the time frame for ORT to get from point A to point B at the Airport as a fixed route would be impossible to be one time; however, they can provide this service on the demand response service. He explained that one thing about a public transit system is that it is reliable, on time, and always there. He has made multiple trips to the Airport himself, and for one reason or another, he always gets behind a gravel truck and ends up going 10 mph and couldn't even begin to come close to drive the posted speed limits. He stated until the roads get developed and things start moving out to the Airport, one of their future plans is to provide a direct connect from a park and ride location or common area so that people who just need to drive through and either drop off or pick up a family member, it can be done without negatively impacting the Airport or their car rental fees. Currently, he stated that the length of time, 30 minutes to 45 minutes, on any given time his experiences have been that he can't be consistent with the time frames.
- 198.3 H. Bowman stated that he thinks the attitude about traveling to the Airport as far as time requirement to actually get there, to get into line and get onto your plane, etc., it would appear to him that ORT could go ahead and cut some

more slack as far as variance in time travel to provide some trips to the Airport. He stated that he hates to drive to the Airport and leave his car while he is gone. He further pointed out that Carroll County participation with ORT seems to be down dramatically from 2013 and questioned the situation there.

- 199.1 Mr. Gardner responded to H. Bowman that the balances in Carroll County and Berryville go hand-in-hand, as they pay only for the services that they receive. He noted that there is no drain from Carroll County on any other funding sources whatsoever. He stated if you look at the Berryville growth and development vs. the Carroll County loss in development, it has balanced out. Realistically, he stated that the difference could be the death of a couple of people or the movement of a couple of people from that almost unincorporated area that is not quite Berryville into the Berryville addresses. He stated that he knows that there has been some actual fiscal location and movement of people from the residences where they were in 2013 and 2014 and he also knows that there have been some deaths of some of the people in the more rural areas and that has caused that to drop off. He pointed out that the Berryville portion of it has jumped up and more than compensated for the loss.
- 199.2 H. Bowman stated his appreciation to Mr. Gardner for all of the changes that he has made and he hopes the ORT continues the efficiency factors to try to maximize Washington County's benefit for the dollars spent.
- 199.3 J. Patterson inquired about the advertised free rides on the buses; to which Mr. Gardner responded that the Community Development Block Grant managed by a department within the City of Fayetteville that garners passes through ORT and what they do with those passes is totally up to them. He stated that just like any of the other social services they sold the City of Fayetteville the passes and how they divvy them out is totally up to them.
- 199.4 A. Harbison stated that she basically supports transit and for businesses to grow, they have to have a public transit system. However, she pointed out that their County budget is very, very lean and it looks to her like starting next year they could be anywhere from \$9 million to \$15-\$20 million in the hole. She stated that she represents rural Washington County and in just her area, there are probably 15 bridges that need to be replaced because when the State inspects those bridges and puts limited weights on them, then those bridges are impaired and practically all the bridges in south Washington County are impaired. Therefore, even though she supports the idea of public transit and she supports ORT, with this tight of a budget, she will be voting against this because she believes that Washington County needs this money more for roads than they do for public transit.

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- 200.1 T. Lundstrum stated that he too appreciates what Mr. Gardner has done for ORT since taking it over. He reported several years ago, he was taken to coffee by the gentleman who preceded him at this job to try to sell him on supporting his program. If memory serves him right, the fee at that time was 75 cents and this gentleman claimed that they just wanted to get it so that they could break even; however he claimed that each ride cost ORT \$15. T. Lundstrum suggested that instead of charging a fee of 75 cents a ride, charge \$15 a ride and then they would break even. He stated that you can't say that something isn't welfare when it is as heavily subsidized as this program is. He stated that he wouldn't have any problem supporting mass transit at all if they would charge a reasonable fee for their services rather than depending on everybody in the county to pay for other people's rides.
- 200.2 In response to a question from T. Lundstrum, Mr. Gardner stated that ORT charges \$1.25 for a one-way trip from Springdale to NWACC, but from the money they get from NWACC, if you are an NWACC student with an ID card holder, they ride for free because NWACC funds it.
- 200.3 T. Lundstrum stated that \$2.50 for a round trip fee from Springdale to NWACC and back is an extremely low price to which Mr. Gardner responded as far as public transit goes, there fees are pretty much right in the middle of the road. T. Lundstrum stated that every transit system out there is heavily subsidized by the government and this includes 80-year-old widows paying taxes too and those are the people that he is concerned about a lot of times because they have just about taxed this country to death. He stated that taxes, as well as regulations and other things that go with it, are really hurting our country. He further noted that NWACC has a parking deck that is ten times as big as the one at our Courthouse with hundreds of parking spaces filled with new cars those kids are driving, so the vast majority of their students are not wanting to ride the bus. He stated you would think at the price ORT is charging the buses would be full as if you have forty people on a forty passenger bus at \$1.25, it would come a lot closer to paying for the route than if there were only a handful of people on the bus. T. Lundstrum stated that he has looked in the ORT bus windows when the sun is on the other side, and can see right through them and that they are empty or occasionally with 5-6 riders.
- 200.4 In response to a question from T. Lundstrum whether there would be a way to increase the prices a little bit; Mr. Gardner stated that the only way that they could increase the prices would be to go through a series of public comment periods, then go through the Board and they have to authorize it, and this was an item on the agenda for the Board when he first came to the area.

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- 201.1 T. Lundstrum noted that in talking about safety, they just took 30 plus people to the hospital the other day over mass transit when the trains collided, so mass transit can be very dangerous too. He stated that his main concern is that everyone is paying for it and he will be supporting the amendment to the ordinance.
- 201.2 C. Clark stated that she pays a lot of taxes for three companies and every time she pays her taxes, she closes her eyes and envisions that she is confident she knows where her tax dollars are going to go and she ignores the places she doesn't want them to go. She stated that their monthly sales tax and county sales tax pay a lot of their salaries every month so she is perfectly content that some of those tax dollars go to mass transit because it helps people. She addressed the idea of putting this \$100,000 into their Road Department, stating that all four roads through the county come from roads in the cities, but ½ cent sales tax has just provided this county with 1.294 million in anticipated revenues next year which is above and beyond what they started with six years ago when they came on this board because they passed the sales tax to support their roads. She stated that the \$100,000 they are wanting to cut from mass transit will certainly not build a bridge which she wasn't aware were such a critical issue until last year, but all it will do is deny people transportation who are using transportation.
- 201.3 B. Clark stated more importantly, this would be breaking a contract they made in good spirit with ORT this year when they asked ORT to show them what they were going to do and how it was working and they would give them an addition for a year, and every quarter Mr. Gardner has come before them and given his report on the new route put in across the county and shown them that ridership has increased. She stated that everybody is not taking a bus, but she did as a student at LSU and it saves college students a fortune, so maybe if it catches on around here and in college they ride a bus, when they get older and move into the cities, they will continue that practice and our carbon footprint goes down, etc. C. Clark stated that it truly distresses her that they have a contract with these folks that the Quorum Court will look at next year to see if what they put in place is working, so why are they taking this preemptive strike now. She further stated that \$100,000 is not a lot and certainly won't save the road budget which is already getting a new infusion of funding from the state. She reported when they voted on this in the Finance Committee, the vote was tied and she got to break that tie and she hopes she can do the same tonight because this is not money they need to take out of this budget right now. Rather, they can look at it next year when they can truly sit down and have a dialogue, look at all of the numbers, hear from some of the people, and then take it out if they choose to, but she hopes that they don't.

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- 202.1 R. Bailey stated that it just comes down to priorities and anyone who has served with him on this Quorum Court knows how conservative he is in spending money. He stated that he hates to make it a county and city deal but it looks like that is what it is going to be.
- 202.2 R. Cochran stated that Mr. Gardner came in as the new Director of ORT and showed them a new vision, asked the Quorum Court for support which they voted on a while back and he hates to see that they are considering taking support away from ORT given what they have seen their track record was for this past year. He stated that it is amazing what has been done to consolidate, re-route and expand routes with the same money or a little bit more and he applauds Mr. Gardner for his efforts and supports him in what they have already contracted with ORT to go through this next year and he believes that with his continued effort, it will be very easy to approve similar funding in years to come.
- 202.3 County Attorney George Butler responded to a question from C. Clark that this motion to amend the ordinance would need 8 votes to pass.
- 202.4 B. Pond stated that he has never not supported public transit and there was one time when ORT wanted ¼ cent sales tax and he had never voted against such a request, but he did on that one, not because he is opposed to ORT, but because ¼ cent was a little bit too much money. He stated this time he will be voting to support R. Aman's motion, not because he opposes ORT, but it has to do with so many rural people that he represents and their county roads and bridges. He recalls bringing up roads and bridges when a lady came to one of his committees wanting to build an animal shelter and he explained to her that the county had so many people that needed their transportation system of roads and bridges improved and it was difficult for him to get interested in an animal shelter. B. Pond pointed out that they are talking about county bridges that ORT would not be able to get one of their buses across as the weight limit wouldn't support it.
- 202.5 J. Mardis asked if they vote to accept this amendment to the ordinance, whether that would break their contract with ORT, to which County Attorney George Butler stated that it wouldn't. The contract was just for one year.
- 202.6 J. Mardis stated that he will not be supporting the amendment because they need to stick with the contract that they have and then next year, they can address these issues again.
- 202.7 R. Aman stated that last year when they asked for more money, ORT was wanting to expand into western Washington County and still provide service

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to the rest of the county. He stated that the figures for para-transit show only 64 rides so the \$22,000 remaining could possibly take care of that.

- 203.1 Mr. Gardner responded to R. Aman, stating if he is talking about the ADA demand response and that is just people who had an ADA-qualifying event that live within that  $\frac{3}{4}$  mile barrier. He stated if the \$122,970 decreases, it will extremely limit his capability of providing the fixed route which provides the ADA demand response that goes with it, he doesn't know what their board would decide to do with the \$100,000 shortage, but he can't run a \$140,000 route on \$22,000. He further stated the demand response line and fixed route in 2014 of 159 compared to 8 in 2013, they are talking about several thousand time increase in what they have been able to do with just five times the money and that was just in the city of West Fork.
- 203.2 Mr. Gardner further addressed B. Pond's concerns about the rural bridges, they do have the vehicles that weigh only 5,000 pounds or 8,000 pounds that do a lot of the servicing for the rural demand response that can still access those bridges, but without the funding, he doesn't know what he will do as far as providing service to those areas.
- 203.3 E. Madison stated that you can't increase ridership on public transit unless you have reliable public transit and this route has only been in effect for less than one year. Therefore, if the funding is going to be subject to this kind of debate every year, no one will ever be able to depend on this route and they will never actually see the route truly at its best, so they need to continue to give this a chance.
- 203.4 Mr. Gardner stated one of the things that has really started to drive this is the commitment by his staff to the consistency of the route, the guarantee that the timeliness is going to be there, and safety is what builds ridership because people have to learn to trust that they will be there.
- 203.5 B. Fitzpatrick noted that the para-transit demand response service is within  $\frac{3}{4}$  of a mile from the nearest fixed route so if they pull a fixed route, then the para-transit service goes away too.
- 203.6 Mr. Gardner concurred with B. Fitzpatrick's statement, adding that the only thing that would remain would be the demand response model.
- 203.7 Citizen Comments: There were no citizen comments made.
- 203.8 **With no further discussion, Judge Edwards called for a vote on the motion to amend the ordinance.**

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- 204.1 **VOTING FOR:** R. Aman, A. Harbison, T. Lundstrum, J. Patterson, and B. Pond. **VOTING AGAINST:** R. Bailey, H. Bowman, D. Bryant, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, E. Madison, J. Mardis, and B. Ussery. **The motion to amend failed with five members voting in favor and ten members voting against the motion to amend.**
- 204.2 Judge Edwards stated that they were now back to the original motion to adopt the ordinance.
- 204.3 E. Madison thanked C. Clark as their chair for her hard work this year on the 2014 budget and she was given a round of applause.
- 204.4 **Citizen Comments:** There were no citizen comments made.
- 204.5 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 204.6 **VOTING FOR:** R. Bailey, H. Bowman, D. Bryant, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, and B. Ussery. **VOTING AGAINST:** R. Aman. **The motion passed with fourteen members voting in favor and one member voting against the motion. The ordinance was adopted.**

**ORDINANCE NO. 2014-69, BOOK NO. 9, PAGE NO. 514**

- 204.7 **COMMITTEE REPORTS:** J. Patterson, Chairman of the County Services Committee, reported that the committee met on November 3 and received a report from the Washington County Planning Office and Animal Shelter. They further discussed an ordinance amending Washington County Code 2.2 regarding smoking and they voted to forward it onto the Full Quorum Court with a do-pass recommendation.
- 204.8 E. Madison, Chairman of the Public Works Committee, reported that that this committee met on November 3 and had a lively discussion about the use of County vehicles that focused on the cost of county employees using county vehicles to get to and from home. She stated that they talked about rules perhaps that could be imposed for use of county vehicles as well as time-keeping in the Road Department. She reported that they left the meeting with this issue still open for discussion and their next meeting will be with the county department heads who have take home vehicles who will justify why their employees take them home.
- 204.9 B. Pond, Chairman of the Personnel Committee, reported that this committee did not meet this month due to lack of an agenda.



- 205.1 T. Lundstrum, Chairman of the Jail/Law Enforcement/Courts Committee reported that this committee did not meet due to lack of an agenda.
- 205.2 C. Clark, Chairman of the Finance and Budget Committees stated she had nothing further to report.
- 205.3 AN ORDINANCE AMENDING WASHINGTON COUNTY CODE 2.2 REGARDING SMOKING: E. Madison introduced **An Ordinance Amending Washington County Code 2.2 Regarding Smoking**, and County Attorney George Butler read the ordinance that is on first reading and being recommended by the Public Works Committee.
- 205.4 He pointed out that language in the ordinance that was stricken through was being repealed and language that is underlined is the new language.
- 205.5 E. Madison stated that this was something that came out of the Public Works Committee's discussion about county vehicles as they noted an inconsistency between the county ordinance and employee handbook regarding smoking and then in the course of that, they found other things that needed to be updated as they no longer allow smoking in any respect at the County Jail. She stated in some respects this is making them compliant with State law and the no smoking law that passed in the state. E. Madison further stated once the ordinance was proposed, it was brought to her attention that there were people who wanted more included, such as the use of e-cigarettes and any tobacco product. She reported after these amendments were made at the committee meeting, Human Resources Administrator Lindsi Huffaker thanked her for making these clarifications in the handbook because they had had some questions come up about what are the boundaries of smoking.
- 205.6 **E. Madison made a motion to suspend the rules and place the ordinance on second reading by title only. C. Clark seconded. The motion passed unanimously.**
- 205.7 County Attorney George Butler read **An Ordinance Amending Washington County Code 2.2 Regarding Smoking** by title only.
- 205.8 **C. Clark made a motion to suspend the rules and place the ordinance on third and final reading by title only. J. Mardis seconded. The motion passed unanimously.**
- 205.9 County Attorney George Butler read **An Ordinance Amending Washington County Code 2.2 Regarding Smoking** by title only.
- 205.10 **E. Madison made a motion to adopt the ordinance. C. Clark seconded.**

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- 206.1 H. Bowman stated that he has spoken to some County Road Department employees regarding this issue and believes if they are working around people in the outdoors, such as road crews, truck drivers, etc., many of these people have a tobacco habit of some kind, whether it be chewing tobacco or cigarettes, to limit all of that kind of activity on the job is overkill and pushing the limits in his opinion. He stated that they impose a great deal of pressure on some of their road crews especially and while he hates smoking and is totally supportive of this rule when it comes to smoking indoors, but he doesn't know if they can enforce this when it comes to other employees such as road crews. He stated that they are going to be imposing a lot of difficult circumstances on some of their crews working outdoors and thinks they need to rethink this.
- 206.2 In response to a question from R. Cochran about whether this ordinance as it reads includes exterior outside activities; County Attorney George Butler stated that it reads, "Smoking will not be permitted in County owned vehicles," which is state law.
- 206.3 R. Cochran stated that a company he used to work for that had 2500 trucks on the road all the time and while it was illegal to smoke within the vehicle, it did not prescribe what they did outside the vehicle, as when they are on the dock. He stated that he doesn't see this as limiting the outdoor activities of road crews and therefore, doesn't understand H. Bowman's objection.
- 206.4 B. Fitzpatrick stated that this amendment does not prevent people who are outside of an enclosed area from smoking, but if they are in an enclosed area, it is state law that they can't smoke and this is just putting their ordinance in line with that.
- 206.5 A. Harbison stated that the ordinance refers to "county owned vehicles", and asked if that included graders, bulldozers and tractors; to which County Attorney George Butler responded that "county owned" means any motor vehicle owned or controlled by the county. He stated that the question then becomes what is considered a "motor vehicle" and there are some motor vehicle definitions in state law and they have had to look at that to know what they have to insure and whether a piece of heavy equipment was capable of being self-propelled on the road.
- 206.6 A. Harbison stated that they are talking about vehicles that move on public Highways to which County Attorney Butler responded that this is not defined in their ordinance, but the way it is defined by the state for insurance purposes, they look at whether the vehicle is capable of being self-propelled to move along highways. He stated that unless they define that in this ordinance or exclude something from this ordinance, he wouldn't be able to

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give her an absolute yes or no. He further noted that the way it is defined by the state for insurance purposes may not be controlling.

- 207.1 A. Harbison stated that she does have a problem with people using tobacco in enclosed vehicles, but if someone is working on a tractor brush hogging and that kind of thing, she wouldn't have a problem with that. She believes that they should amend the ordinance to exclude those situations discussed.
- 207.2 H. Bowman suggested that they amend language in Article 1(c)(3) to read, "Smoking means holding a lighted pipe, cigar, or cigarette of any kind, or lighting, or emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind, and includes use of any tobacco product and electronic cigarettes," because that definition excludes the use of any kind of tobacco, including chewing tobacco, in company vehicles.
- 207.3 E. Madison stated that state law requires that they don't have a choice because the Arkansas Department of Health has interpreted the Arkansas Clean Indoor Air Act to state, ". . . smoking is prohibited in all vehicles and enclosed areas, owned, leased or operated by the State of Arkansas... including its political subdivisions," of which we are one. She stated that if they allow people to smoke in their vehicles, if it is a county-owned vehicle, think about the person that gets the vehicle next, comparing this to renting a car or motel room that has been smoked in. She stated that is what they would be subjecting county property to if they make exceptions to this rule and in talking to Lindsy Huffaker, she appreciated the expansion of smoking to include these other things. She does not want to see a chew cup from someone who dips tobacco in a county vehicle or on a desk where the public is present. E. Madison stated that she didn't realize that this would be so controversial, but believes that this is something that they have to do to be compliant with state law; that inclusion of tobacco products and e-cigarettes is compliant with what HR wants; and further, is consistent with the wellness efforts that they have been trying to encourage in the county.
- 207.4 T. Lundstrum stated that he smoked 2-3 packs of cigarettes per day for 18 years and quit in 1977 and while he loved them while he was smoking, he can't hardly stand to be around it now. He believes when you smoke in any kind of enclosed environment, you create an unhealthy environment and maybe the same employee on the road crew doesn't run those tractors every time which not only is unhealthy, but is unpleasant. He added that besides it being state law, this should be a pretty simple thing to approve.
- 207.5 C. Clark stated that she doesn't like to see people texting when driving, nor does she like to see them smoking when driving, because that means they are distracted and she doesn't want someone on a big bulldozer deciding

they want to take a smoke. She reminded the court that they pay for the county health insurance and someone who gets lung cancer from smoking creates a major claim. She noted that employees are given breaks and smokers tend to take more breaks and then they want to rule break. She stated as a child of two smokers, she is adamantly opposed to it.

- 208.1 R. Aman stated maybe they should ban donuts in the Sheriff's vehicles due to too much sugar, stating he believes they have gone too far with this. He can't support this ordinance either and while he can understand banning smoking in buildings, but not on tractors, etc.
- 208.2 B. Pond concurred with R. Aman about all that sugar. He stated that he doesn't know why they are doing this because it is already against state law and he doesn't see the sense in duplicating it.
- 208.3 Citizen Comments: There were no citizen comments made.
- 208.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 208.5 VOTING FOR: H. Bowman, D. Bryant, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, and B. Ussery. VOTING AGAINST: R. Aman, R. Bailey, and B. Pond. **The motion passed with twelve members voting in favor and three members voting against the motion. The ordinance was adopted.**

**ORDINANCE NO. 2014-70, BOOK NO. 9, PAGE NO. 524**

- 208.6 AMENDMENT TO THE EMPLOYEE HANDBOOK: E. Madison stated in conjunction with the previous agenda item, the Public Works Committee is recommending a proposed amendment to the Smoking Policy. Changes to the Employee Handbook must be approved by a majority vote of the full Quorum Court.
- 208.7 **E. Madison made a motion to amend the Employee Handbook to make it consistent with the Smoking Ordinance. C. Clark seconded.**
- 208.8 **With no further discussion, Judge Edwards called for a vote on the motion to amend the Employee Handbook.**

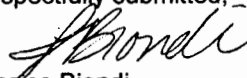
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- 209.1 **VOTING FOR:** R. Bailey, H. Bowman, D. Bryant, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, and B. Ussery. **VOTING AGAINST:** R. Aman. **The motion passed with fourteen members voting in favor and one member voting against the motion. The Employee Handbook was amended.**
- 209.2 **OTHER BUSINESS:** Judge Edwards stated that the County Judge's Report was left off the agenda tonight in error and she has a couple of board reappointments for the court to consider.
- 209.3 Judge Edwards stated that she is requesting the following board members be reappointed to their positions on the County Planning Board: Daryl Yerton, Kenley Haley, and Cheryl West. She stated that all three individuals are an asset to the Planning Board and have agreed to being reappointed for another 4-yaer term.
- 209.4 Judge Edwards reported that the Board of Directors of Washington Regional Medical Center has requested Quorum Court approval of Dr. Gareth Eck to serve an additional six-year term as a member of the WRMC Board of Directors beginning January 1, 2015.
- 209.5 Judge Edwards stated that the term of Mr. Phil Phillips, Jr., one of Washington County's two representatives on the NWA Regional Airport Authority will expire on December 31. She noted that Mr. Phillips has been a valuable asset to the Authority and she is asking for confirmation of his reappointment fo9r another 6-year term.
- 209.6 **A motion was made and seconded to approve and confirm the board reappointments. The motion passed unanimously by voice vote. The board reappointments were confirmed.**

**CITIZEN COMMENTS:** There were no citizen comments made.

**ADJOURNMENT:** The meeting adjourned at 7:30 p.m.

Respectfully submitted,



Jessica Biondi  
Quorum Court Coordinator/Reporter