

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

Thursday, March 19, 2015
6:00 p.m.
Washington County Quorum Court Room

2015 APR 20 PM 1:50

FILED

- 104.1 The Washington County Quorum Court met in regular session on Thursday, March 19, 2015. The meeting was called to order by County Judge Marilyn Edwards.
- 104.2 Judge Edwards welcomed Sharon Lloyd who had been appointed by the Governor to fill the vacancy in JP District #2 and she was given a round of applause by the court.
- 104.3 J. Patterson led the Quorum Court in a prayer and in the Pledge of Allegiance.
- 104.4 MEMBERS PRESENT: Daniel Balls, Harvey Bowman, Rick Cochran, Robert Dennis, John Firmin, Ann Harbison, Sharon Lloyd, Tom Lundstrum, Joel Maxwell, Joe Patterson, Butch Pond, and Bill Ussery.
- 104.5 MEMBERS ABSENT: Lisa Ecke, Eva Madison, and Sue Madison.
- 104.6 Judge Edwards noted that L. Ecke was out-of-town.
- 104.7 OTHERS PRESENT: County Judge Marilyn Edwards, County Chief of Staff Dan Short, County Comptroller Cheryl Bolinger; Interested Citizens; and Members of the Press.
- 104.8 ADOPTION OF THE AGENDA: Judge Edwards asked if there were any additions or deletions to the agenda.
- 104.9 R. Cochran stated that he had an addition to the Finance Report, of Appropriation Ordinance #6.10; and A. Harbison, an Ordinance #9.1 calling a special election on the question of the levy of the annual dues of the West Fork Rural Fire Department.
- 104.10 **A motion was made and seconded to adopt the agenda with the two additions. The motion passed unanimously by voice vote by those present. The agenda was adopted as amended.**
- 104.11 APPROVAL OF MINUTES: Judge Edwards asked for approval of the Minutes of the February 12 Special Meeting and February 19 Regular Meeting of the Washington County Quorum Court.

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- 105.1 D. Balls stated that E. Madison and S. Madison were absent due to a death in the family and E. Madison had given him her corrections to the minutes.
- 105.2 D. Balls stated that E. Madison noted an error in paragraph 40.2 at the end of the fourth line should read, ". . . Ms. Richey responded that 40 **parcels** should be fully under reclamation . . ."
- 105.3 D. Balls stated that E. Madison reported in paragraph 80.5, it is her **E. Madison** speaking instead of S. Madison.
- 105.4 D. Balls stated that E. Madison reported in paragraph 82.5 the 6th line from the bottom should read, ". . . expenditures are leveling out and slowing down and they anticipate **no** big things . . ."
- 105.5 D. Balls stated that E. Madison reported in paragraph 100.9, in line three the Assessor's should be replaced with **Circuit Clerk's** 663 fund . . ."
- 105.6 **A motion was made and seconded to approve the minutes as corrected. The motion passed unanimously by those present by voice vote. The minutes were approved as corrected.**
- 105.7 FINANCE REPORT: R. Cochran reported that they had a fairly short agenda tonight with eight appropriation ordinances and two resolutions from the Finance and Budget Committee.
- 105.8 AN ORDINANCE RECOGNIZING AND APPROPRIATING FUNDS OF \$9,896 IN THE GAME AND FISH EDUCATION FUND FOR 2015: R. Cochran introduced **An Ordinance Recognizing And Appropriating Funds Of \$9,896 In The Game And Fish Education Fund For 2015**, and County Attorney Steve Zega read the ordinance.
- 105.9 R. Cochran explained that this grant program is administered by the County and the schools will apply to the program for equipment, trips or other expenses related to the HOFNOD Program. He noted based on their request, priority is being given to the equipment category that the County apportions to the various cities.
- 105.10 **R. Cochran made a motion to adopt the ordinance. J. Firmin seconded.**
- 105.11 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 105.12 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R.

Cochran. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2015-13, BOOK NO. 10, PAGE NO. 146

- 106.1 AN ORDINANCE APPROPRIATING THE TOTAL AMOUNT OF \$556,785 FROM UNAPPROPRIATED RESERVES TO VARIOUS PERSONAL SERVICES LINE ITEMS FOR 2014; AND APPROPRIATING THE TOTAL AMOUNT OF \$2,161,856 FROM UNAPPROPRIATED RESERVES TO VARIOUS BUDGET LINE ITEMS FOR 2014: R. Cochran introduced **An Ordinance Appropriating The Total Amount Of \$556,785 From Unappropriated Reserves To Various Personal Services Line Items For 2014; And Appropriating The Total Of \$2,161,856 From Unappropriated Reserves To Various Budget Line Items For 2014**, and County Attorney Steve Zega read the ordinance.
- 106.2 R. Cochran explained in the first Article of the ordinance the bulk of the appropriation is for adjustments for the year end longevity checks that they paid to employees that were not included in their 2014 budget and was corrected in the 2015 budget process with some money for lump sum vacation benefits paid in the fourth quarter. He further explained that the funds addressed in Article 2 is primarily transfers out for their dental fund, monies used at the jail and for food, medical, and hospital line items and is all 2014 money and does not affect their \$6.5 million appropriated reserves in order to get their books balanced and closed for 2014.
- 106.3 **R. Cochran made a motion to adopt the ordinance. A. Harbison seconded.**
- 106.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 106.5 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The ordinance was adopted.**
- 106.6 **ORDINANCE NO. 2015-14, BOOK NO. 10, PAGE NO. 148**
- AN ORDINANCE ADJUSTING CARRYOVER REVENUES IN VARIOUS FUNDS FOR 2015: R. Cochran introduced **An Ordinance Adjusting Carryover Revenues In Various Funds For 2015**, and County Attorney Steve Zega read the ordinance.

- 107.1 R. Cochran explained in this ordinance is their carryover revenue amounts over and under budget which does directly affect their unappropriated reserves with items affecting them the most being County General usage of \$917,991; Jail Operations & Maintenance usage of \$117,407; and Road usage of \$341,724. He further noted that overall this changed their unappropriated reserves results with a reduction of about \$693,000.
- 107.2 **R. Cochran made a motion to adopt the ordinance. R. Dennis seconded.**
- 107.3 R. Cochran responded to a request to further expand on his explanation, stating that Article 1 is "reduced" carryover revenues or money that they spend and withdrew from reserves and Article 2 is "additional" carryover revenues or money that was budgeted but not completely spent with the net affect being approximately 693,000 reductions in carryover reserves.
- 107.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 107.5 **VOTING FOR:** R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The ordinance was adopted.**
- ORDINANCE NO. 2015-15, BOOK NO. 10, PAGE NO. 156**
- 107.6 **AN ORDINANCE APPROPRIATING THE AMOUNT OF \$31,656 FROM THE GENERAL FUND TO THE SHERIFF-WORK RELEASE BUDGET FOR 2015:** R. Cochran introduced **An Ordinance Appropriating The Amount Of \$31,656 From The General Fund To The Sheriff-Work Release Budget For 2015**, and County Attorney Steve Zega read the ordinance.
- 107.7 R. Cochran explained that this funds their work release program from the General Fund for 2015 and normally would have done this last month, but missed it.
- 107.8 **R. Cochran made a motion to adopt the ordinance. A. Harbison seconded.**
- 107.9 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 107.10 **VOTING FOR:** R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2015-16, BOOK NO. 10, PAGE NO. 157

- 108.1 AN ORDINANCE APPROPRIATING THE AMOUNT OF \$1,980 FROM THE GENERAL FUND TO THE PLANNING BUDGET FOR 2015: R. Cochran introduced **An Ordinance Appropriating The Amount Of \$1,980 From The General Fund To The Planning Budget For 2015**, and County Attorney Steve Zega read the ordinance.
- 108.2 R. Cochran explained that this is a situation where the Planning Department had purchased and was invoiced file cabinets in November of last year and then the vendor credited it back but did not re-invoice until this year. The money was approved but not spent last year and is now being brought forward to pay for these file cabinets.
- 108.3 **R. Cochran made a motion to adopt the ordinance. A. Harbison seconded.**
- 108.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 108.5 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2015-17, BOOK NO. 10, PAGE NO. 158

- 108.6 AN ORDINANCE APPROPRIATING THE AMOUNT OF \$25,393 FROM THE ROAD FUND TO THE ROAD BUDGET FOR 2015: R. Cochran introduced **An Ordinance Appropriating The Amount Of \$25,393 From The Road Fund To The Road Budget For 2015**, and County Attorney Steve Zega read the ordinance.
- 108.7 R. Cochran explained that last year they stripped this department of capital purchases from their budget so this is something that will affect their reserves. He stated that the two items being requested are a straw blower for \$10,415 that is used to seed the road sides that comply with state regulations on storm water. Noting that they are presently spreading straw and seed by hand, this equipment will actually reduce their cost to do the job. He stated that the other item is a body spreader for \$14,977 which will be installed on an existing truck and is used to spread quarter-inch chips when they have inclement weather, noting that they want to make this purchase now in order to make the small modifications that will be required to have it in service next winter. R. Cochran reported that they presently have six spreader trucks; two are 1987 and 1991 models.

- 109.1 **R. Cochran made a motion to adopt the ordinance. J. Firmin seconded.**
- 109.2 H. Bowman questioned whether they had decided that some line items could be changed to use funds from one area to another where needed; to which Judge Edwards responded that she is not sure that they can transfer capital outlays from one area to another.
- 109.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 109.4 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2015-18, BOOK NO. 10, PAGE NO. 160

- 109.5 AN ORDINANCE ANTICIPATING AND APPROPRIATING THE AMOUNT OF \$15,000 IN THE LAW ENFORCEMENT GRANT FUND FOR 2015: R. Cochran introduced **An Ordinance Anticipating And Appropriating The Amount Of \$15,000 In The Law Enforcement Grant Fund For 2015**, and County Attorney Steve Zega read the ordinance.
- 109.6 R. Cochran explained that this was discovered after their Finance Committee regularly scheduled for last month and Rick Hoyt, Enforcement Major with the Sherriff's Office, found that there was money that they could get with a time limit which has almost expired, so they must get it passed in order to take advantage of the funds. He stated that these funds will allow them to purchase a vehicle used in drug enforcement with no cost to the county.
- 109.7 **R. Cochran made a motion to adopt the ordinance. B. Pond seconded.**
- 109.8 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 109.9 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2015-19, BOOK NO. 10, PAGE NO. 160

- 109.10 A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GLOBAL FIRE PREVENTION GRANT APPLICATION: R. Cochran introduced **A Resolution**

Authorizing The Submittal Of A Global Fire Prevention Grant Application, and County Attorney Steve Zega read the resolution

- 110.1 R. Cochran explained that this was to approve authorization to submit the grant.
- 110.2 **R. Cochran made a motion to adopt the resolution. B. Pond seconded.**
- 110.3 Citizen Comments: There were no citizen comments made.
- 110.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**
- 110.5 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The resolution was adopted.**

RESOLUTION NO. 2015-07, BOOK NO. 3, PAGE NO. 101

- 110.6 A RESOLUTION AUTHORIZING THE COUNTY JUDGE TO APPLY FOR A DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION GRANT ON BEHALF OF THE WASHINGTON COUNTY DRUG COURT: R. Cochran introduced **A Resolution Authorizing The County Judge To Apply For A Department Of Health And Human Services Administration Grant On Behalf Of The Washington County Drug Court**, and County Attorney Steve Zega read the resolution
- 110.7 R. Cochran explained that they are in their third and final year to receive this grant.
- 110.8 **R. Cochran made a motion to adopt the resolution. J. Firmin seconded.**
- 110.9 B. Ussery noted since this is the last year that they can apply for these grant funds, and questioned when they should begin looking into how they will fund this next year; to which Assistant Grant Administrator Renee Biby responded that the county currently has this three year grant and the goal is to be sustainable at the end of the grant.
- 110.10 Tracy Risley from the Washington County Sheriff's Office explained that this grant has a new component in it and stagger times for them because in the initial language it left it to the Judge's discretion as to what they were doing with the medical assisted treatment. He further stated that they struck that and reissued the grant with an extended deadline to April 10th and this brand

new grant has the medical assisted treatment and lasts for three years at \$325,000 a year, and again moving toward sustainability.

- 111.1 Citizen Comments: There were no citizen comments made.
- 111.2 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**
- 111.3 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. **The motion passed unanimously by those present. The resolution was adopted.**

RESOLUTION NO. 2015-08, BOOK NO. 3, PAGE NO. 102

- 111.4 R. Cochran stated that the next ordinance (#6.10) is related to the ACT 663 fees owed to the State and asked County Attorney Steve Zega to bring them up to speed on what he has learned on this issue.
- 111.5 County Attorney Steve Zega stated that at the invitation of Representative Neal, he traveled to Little Rock last week and a meeting was arranged with the Department of Finance and Administration folks, a member of the Governor's staff, Mr. Neal, and himself. He referred to a letter attached to the ordinance that he received the day before yesterday from Paul S. Louthian, CPA, and Fiscal Division Manager and also Jacob Bleed's boss and briefly summarized the meeting. He stated that the Department of Finance and Administration does not have statutory authority, according to them, to negotiate either the amount or time which delinquent fines, fees, costs, etc. may be repaid to them. He noted that they were concerned on several issues, the primary one being that they did not wish to be brought in front of the Legislature and asked why they negotiated with Washington County to reduce something or pay-off plan when they had no legal authority to do so. He noted they did state because they had already offered Washington County a year pay out, they would honor and abide by that.
- 111.6 County Attorney Steve Zega stated that this ordinance that they drafted this afternoon was suggested after the meeting as a solution which R. Cochran can explain further. He noted that their legislative delegation work very hard on our behalf, especially Representative Neal, who has worked many hours and made many phone calls that he has not been privy to and he believes that they have done their best on this particular issue.
- 111.7 R. Cochran explained that he asked for this ordinance because he felt that there was a time frame that the State may withdraw their payment plan and they discussed the option of a lump sum amount; payments in May and

December when they have more revenue; and a monthly payment. He stated that they need to give County Attorney Steve Zega the authority to respond and advise the State what they are going to do. He also noted that the court should feel free to discuss and amend this ordinance as they would in the Finance Committee.

- 112.1 T. Lundstrum asked about amending Article 2 of the Ordinance to be made in twelve equal monthly payments rather than the other options so that they can see what their 2015 cash flow is going to look like before they remove these large sums of money out of their reserves for two large payments. Further, if the State is in agreement with that he would suggest that their payments start this month and his calculations are that they would be approximately \$85,000 a month.
- 112.2 AN ORDINANCE APPROPRIATING THE AMOUNT OF \$1,000,034 FROM THE GENERAL FUND TO THE 2015 GENERAL SERVICES BUDGET FOR THE REPAYMENT OF ACT 663 MONIES OWED TO THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION: R. Cochran introduced **An Ordinance Appropriating The Amount Of \$1,000.034 From The General Fund To The 2015 General Services Budget For The Repayment Of ACT 663 Monies Owed To The Arkansas Department Of Finance And Administration**, and County Attorney Steve Zega read the ordinance.
- 112.3 **T. Lundstrum made a motion to amend Article 2 for 12 monthly payments. J. Firmin seconded.**
- 112.4 Joel Maxwell stated that he thought the clock started about one month ago and asked if they had time to make 12 monthly payments; to which County Attorney Steve Zega responded that their formal written offer was made to the county on March 16th and the way he read that was 12 months from the date of the letter.
- 112.5 H. Bowman suggested that they just give them a million dollars in December so that they can take a look at their budget through the year and if they know they will have to make that payment before the year is over, it maximizes their flexibility throughout the year.
- 112.6 A. Harbison stated that she likes both H. Bowman and R. Cochran's ideas because they know they have an influx of revenue in May because the lending institutions pay their taxes and in November which gives them the opportunity to have not quite as big of a hit at one time. However, she stated that she can also see the benefit of paying it out in 12 monthly payments and likes that option better.

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- 113.1 County Attorney Steve Zega noted that the figure he comes up with for 12 equal monthly installments is \$83,336.43.
- 113.2 In response to a question from T. Lundstrum regarding interest, County Attorney Steve Zega stated that his figure is principal only and reported that they touched briefly interest and penalties at their meeting and the State representatives just shrugged their shoulders, so he let it die with that.
- 113.3 In response to a question from J. Patterson regarding whether they were going to set the money to the side, S. Zega stated that this is what Article 1 accomplishes as they are essentially appropriating the funds out of unappropriated reserves now and setting it in this account and then if T. Lundstrum's amendment passes, they will pay out \$83,000 at a time.
- 113.4 J. Maxwell asked if there were any potential negative postures from the state towards them if they choose to do a lump sum at the end of 12 months; to which County Attorney Steve Zega responded that he does not know. He further gets the sense, but not from any factual statements, that if the county were to say to the state that they will give them a million dollars in December 2015 or March 2016, he doesn't believe that they would like that answer and it would put them back into negotiations. Attorney Zega further reported that he discussed with J. Cochran the option of paying the state one million on March 16, 2016 or in 12 months and they don't know what the state's reaction would be. He noted that they had discussed two large lump sum payments or spreading it out like T. Lundstrum suggested to essentially keeping them from coming back on the county and giving them some more negative consequences. Referring to the letter of March 16, 2015, he noted that it summarizes their position on the issue at the meeting a week ago, but there are other aspects to that that he doesn't believe are relevant to this discussion, but he would discuss off line.
- 113.5 R. Cochran stated that they have covered the gambit of possible bill payments options that have been discussed; the county owes the money and he is not sure paying over a longer period of time is wise to have good relations with the state. He noted that they do have money they can hold from the county in other areas such as money coming in for our jail fees and turn backs. He believes that paying it half and half would give them a big chunk early a couple of months from now and then holds them back until the end of the year to pay the remaining amount which takes it out of putting it into their budget situation for 2016, though \$240,000 to \$250,000 would go into next year. He stated that he is open to however the court wishes to do this and noted to the public that this is how they work in their normal Finance & Budget Committee meetings and invited them to attend.

- 114.1 A. Harbison stated that the state seems to be trying to work with the county and she really doesn't want anything to go over into 2016 because that complicates their budget, so she will support the original amendment which she sees as being fairer than taking money into 2016.
- 114.2 B. Pond stated that he likes T. Lundstrum's idea of 12 equal payments as it sounds like the state is good with that option. He noted that they will have the money set aside anyway and he believes the state receiving their first payment soon will show good faith. He also noted that they could also decide to pay it off towards the end of the year which the state would probably also be agreeable with.
- 114.3 B. Ussery stated that he believes the sooner they are locked in with the state the better off they will be and if they do the 12 monthly payments, it would be a lot harder for the state to change their mind later on.
- 114.4 R. Cochran pointed out that since this is an appropriation ordinance, they will need 2/3rds or 10 votes to pass this ordinance.
- 114.5 **With no further discussion, Judge Edwards called for a vote on the motion to amend Article 2 of the ordinance to 12 monthly payments.**
- 114.6 **VOTING FOR:** R. Dennis, J. Firmin, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, H. Bowman, and R. Cochran. **VOTING AGAINST:** A. Harbison and D. Balls. **The motion passed with ten members voting in favor and two members voting against the motion to amend the ordinance. The ordinance was amended.**
- 114.7 **R. Cochran made a motion to adopt the ordinance. The motion was seconded.**
- 114.8 County Attorney Steve Zega explained that as amended, Article 2 of the Ordinance will now read, "The Washington County Treasurer is hereby directed and authorized to disburse these sums in twelve (12) equal monthly installments of \$83,336.42 to the Arkansas Department of Finance and Administration, beginning in April 2015." and a "yes" vote agrees with this plan.
- 114.9 R. Dennis stated that he knows that this ordinance is going to pass; however, he is going to vote against the ordinance as a protest vote because he believes it is unfair the way the State pays them for prisoners at their jail.
- 114.10 J. Maxwell stated as a point of clarification, he believes that if they do 12 monthly payments will actually only span 11 months so that they don't carry as much into 2016 for the budget.

- 115.1 J. Firmin pointed out that the last vote was 10-2, so they need to be aware that if they don't pass this tonight, they will be back to square one.
- 115.2 A. Harbison stated that she will be supporting this ordinance as amended and explained her no vote was only for carrying this into 2016.
- 115.3 T. Lundstrum concurred with B. Pond that by spreading these payments out, if their revenue is strong the rest of this year, they could pay it off in October or November which he would be in favor of doing and everyone would be happy. However, if their revenue is weak or even weaker, it will give them some relief by paying it out.
- 115.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance as amended.**
- 115.5 VOTING FOR: J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Maxwell, J. Patterson, B. Pond, B. Ussery, D. Balls, H. Bowman, and R. Cochran. VOTING AGAINST: R. Dennis. **The motion passed with eleven members voting in favor and one member voting against the motion. The ordinance as amended was adopted.**
- ORDINANCE NO. 2015-20, BOOK NO. 10, PAGE NO. 161**
- 115.6 R. Cochran thanked County Attorney Steve Zega for his hard work and going to bat for the County.
- 115.7 COUNTY JUDGE'S REPORT: Judge Edwards stated at the request of the Washington County Bar Association, she is recommending that Zoe Naylor be appointed to the County Law Library Board to fill the position previously held by Susan Fox who resigned February 1, 2015. Mrs. Naylor is a law partner with the Balla & Naylor Firm in Fayetteville. This appointment will expire in 2017.
- 115.8 **A motion was made and seconded to confirm the appointment of Zoe Naylor to the Washington County Law Library Board. The motion passed unanimously by those present by voice vote. The appointment was confirmed.**
- 115.9 Judge Edwards noted that she has a difficult Road Department report to give the court, stating that she has been in government for 45 years and has never had anything quite this difficult to address. She stated that she would show a video that she saw for the first time yesterday that each member of the court needs to be aware of.

- 116.1 A video was shown on which Jeff Williams was speaking and reporting that on October 6th 2014, he was at a bridge that the Washington County Road Department was constructing between Prairie Grove and Lincoln, referred to as the Stonewall Bridge. He pointed out one of the pillars that would be supporting this bridge which was a 4 ft. concrete structure that is reinforced with #4 rebar. He noted the purpose for the rebar was to provide additional structural integrity and is what is called for in the engineering schematic and plans for this bridge, not a guideline, but what is required for the construction of this bridge as defined by the engineer who put the plans together to accommodate small cars or passenger trucks. He noted the importance of having this done correctly for the structure of the bridge was to prevent it from possibly collapsing, injuring, or killing someone in the process. Mr. Williams reported that the issue that was brought to his attention by folks who are familiar with this construction was the fact that there were many shortcuts occurring in the construction of this bridge that were being directed from the Director of the Road Department in order to speed up the project or save a little bit of money. He stated the problem with these shortcuts is that they create safety issues and clear violations of engineering plans. He pointed out one shortcut being taken was that instead of reinforcing with rebar, they were simply drilling holes into the top of the concrete a number of inches and then insert the rebar so that in fact only a few inches of rebar goes down into the form structure and the remainder is not reinforced with rebar. Mr. Williams pointed out that a citizen of the county may be driving over this bridge and because of past traffic or the weight that they are carrying in the vehicle they are driving; it could cause the structural integrity of the structure that holds up the bridge to crack, collapse, and cause injury or death. He stated that these types of shortcuts should never occur in any project, especially when it is being done intentionally.
- 116.2 Judge Edwards stated that she is very disturbed by what she has seen and concurs that this is a terrible mistake to make, that this should have never been done this way as safety is always the number one consideration. She stated she can't imagine why if they knew about this since October 6, 2014, why it wasn't brought to either her attention or the attention of a JP or representative of the Road Department so that this could be investigated. She noted that they will be meeting and having a major investigation on this issue, as well as stopping all activity on the Stonewall Bridge. The County's Engineer has been contacted and is working very close with them to inspect the Molly Wagner Bridge as well as the Stonewall Bridge. She further reported that they will also be examining the Tilly Willy Bridge to ensure that it is stable and secure and until that is established, she has set a 3 ton limit on this bridge because she can't allow school buses, ambulances or fire trucks to cross the bridge. Judge Edwards reported that the piers on the Stonewall Bridge are being torn down today so that they can start rebuilding them,

noting that they weren't very far along on this bridge due to inclement weather.

- 117.1 Judge Edwards stated that she has visited with Assistant Road Superintendent Shawn Shrum regarding the group of employees that work in this area for the Road Department and what she has realized today is that she doesn't have any trained professionals to build bridges. She is further requiring that their engineer checks every move that is made to ensure that it is correct. She noted that she is unable to answer a lot of questions at this time, pointing out that the Stonewall bridge is the one that she is in the lawsuit over and the only reason they learned about this video is that the attorney working against the county on that lawsuit had to provide the video to County Attorney Steve Zega as evidence. Judge Edwards stated that the safety of this community has always been her number one priority and with her 45 years of service, she has nothing to gain by doing something of this nature.
- 117.2 T. Lundstrum stated that he is concerned because of the lawsuit that they are involved in and the impact it may have on their budget before the year is over because apparently this is the bridge that the supposed whistle blower complained about sometime in the past.
- 117.3 J. Maxwell asked for clarification purposes whether it was these types of construction techniques that the lawsuit was specifically addressing; to which County Attorney Steve Zega responded that there are allegations concerning techniques within the lawsuit complaint that then relate to the real substance of the lawsuit, the allegation of retaliation and discrimination against the individual who said these practices were going on. Attorney Zega stated that they clearly deny retaliating against this individual and stand by that denial and based on what he knows that is a forthright denial and not made up. He stated to answer J. Maxwell's question the best he can, he would say that yes the substance that the video touches on concerns allegations made in the lawsuit complaint.
- 117.4 R. Cochran stated that he appreciates having the opportunity to view this video that does concern him. He also questioned why an individual who knew that there was a substandard issue in the construction would wait until now to bring it forward and let the county continue to spend money and finish out a bridge sounds to him like a set-up which he hates to see especially since this was a candidate for County Judge.
- 117.5 H. Bowman asked when the whistle blower came forward with his formal complaint; to which County Attorney Steve Zega responded that it was around Christmas 2014. He further noted that this individual claims to have brought these issues to the attention of other county officials prior to filing his lawsuit, but they are not specified in the complaint.

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- 118.1 H. Bowman noted that the video was made in October 2014, and questioned whether he claims to have made complaints previous to that time; to which County Attorney Steve Zega responded that he does not know that. H. Bowman stated that with this type of acquisition, it is imperative that an immediate follow-up investigation would have taken place by the County to determine exactly what was really happening on the jobsite rather than deferring to a later date.
- 118.2 Judge Edwards addressed H. Bowman stating that she simply can't comment on these issues at this time because of the lawsuit.
- 118.3 B. Pond concurs and is very concerned that someone who was capable of making this video to demonstrate this disaster waiting to happen did not come to them before the bridge was completed.
- 118.4 Judge Edwards addressed B. Pond stating that the Stonewall Bridge is not completed, other than the piers that they are starting to tear out today. She stated that they will be completely rebuilt and she is having the Harvey Dowell Bridge investigated before she will allow school buses, ambulances or fire trucks to cross them.
- 118.5 B. Pond stated his appreciation that Judge Edwards advised the Quorum Court of this matter as soon as she became aware, just as she has done with the million dollar discrepancy with the Department of Finance and Administration. He appreciates her open door policy and everything being transparent.
- 118.6 Judge Edwards reiterated that she found out about this yesterday and had the County Engineer in her office first thing this morning to answer any questions before she delivered the information to the Quorum Court tonight.
- 118.7 B. Ussery stated that he is kind of in this industry and noted that they were led to believe that there wasn't any rebar; however, it is a common practice to tie things together by using 6 inches of rebar to tie one thing to another and it does not mean that it is substandard, but only a different method of doing this. He stated if there is no rebar used, then they have a serious problem, but if they reinforced that when they put that in, then they were using the rebar to tie two sections together, that will be a whole different issue and something that needs to be addressed.
- 118.8 **R. Dennis made a motion for a recess. The motion passed unanimously by voice vote.**
- 118.9 **A recess was taken at 7:09.**

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- 119.1 County Attorney Steve Zega reported that he has spoken to R. Dennis and alleviated his concerns.
- 119.2 COMMITTEE REPORTS: In the absence of E. Madison, Vice-Chair J. Firmin reported that the County Services Committee met on March 2nd and heard a report from Planning Director Juliet Richey from the Washington County Planning Office. Ms. Richey further reported that the Planning & Zoning Board heard one Preliminary Plat request for a 13 lot single-family subdivision off Gulley Road change to 12-residential lots on 15 acres near Lake Sequoyah. She further reported on a potential wind-farm development around Elm Springs. The committee heard a power point presentation from the Illinois River Watershed Partnership, concerning the Oklahoma/Arkansas watershed and this is a coalition trying to prove the water quality in order to meet certain standards. J. Firmin stated that the committee heard a report on community sewer systems from Assistant Grant Administrator Renee Biby and some issues with generators for which there have been a couple of meetings and discussions. The committee further heard an update on the E-Fax Project where they are trying to eliminate the main fax line to AT&T and go to an online fax which would save the county \$8,000 per month, but are still attempting to disengage from AT&T service.
- 119.3 H. Bowman reported that the Public Works Committee did not meet this month due to lack of an agenda.
- 119.4 B. Pond reported that the Personnel Committee met on March 9 and heard the routine report from Blair Johanson, Salary Consultant for Washington County. He stated that they had another discussion on an Ordinance amending Washington County Code pertaining to Justice of the Peace being paid mileage compensation for when they perform wedding ceremonies, etc. and will further discuss this ordinance at the next Personnel meeting.
- 119.5 T. Lundstrum, Chairman of the Jail/Law Enforcement/Courts Committee, reported that this committee met on March 9 at the Juvenile Detention Center and JDC Director Jeane Mack gave the committee a tour of the facility following their meeting. He noted that the JDC has a problem with the size of their lobby area and will be addressed at a later date. Chief Deputy Jay Cantrell reported that there was nothing significant to report on enforcement and adult detention at the County Jail with everything running smoothly.
- 119.6 R. Cochran, Chairman of the Finance and Budget Committee stated that the Finance and Budget Committee received a financial report from County Treasurer Bobby Hill that their main three funds, County General was lower by \$300,000; Road Fund was higher by \$350,000; and Jail Fund was higher by \$250,000. The one cent tax revenues for the county were up 7.5% which is the best one cent tax revenues since 2010 in total and they have had an

eleven month trend of tax revenue exceeding the same month for the prior year. The Jail sales tax revenue was up 9.5% over this month last year, the best month ever; and the ½ cent sales Road tax was also up 9.5% over the last year. R. Cochran stated that none of their unappropriated reserves were committed to any spending until tonight and with what they appropriated, this fund is just under \$5 million. He noted that the summary of regular expenditures from the General Fund, Road Fund, and General Operations are on track for the year at 19%, 15%, and 17% of their yearly budgeted amounts.

- 120.1 R. Cochran further reported that the committee had discussion on the Act 663 money owed to the State of Arkansas. They received an update on the meeting of the Washington County Regional Ambulance Authority meeting and since Springdale has plans to discontinue service outside their city limits in the year 2016, the cities of Johnson, Elm Springs and Tontitown are faced with having to come up with a fairly large sum to establish ambulance service in their area and presently the county is subsidizing that area. R. Cochran stated he has plans to invite the Mayors of those three towns to their Finance & Budget Committee meeting to perhaps help them along on this matter.
- 120.2 AN EMERGENCY ORDINANCE DESIGNATING THE RURAL FIRE DEPARTMENTS OPERATING WITHIN WASHINGTON COUNTY, ARKANSAS, AND DESIGNATING THE GEOGRAPHICAL AREAS WHICH THOSE FIRE DEPARTMENTS SERVE: A. Harbison introduced **An Emergency Ordinance Designating The Rural Fire Departments Operating Within Washington County, Arkansas, And Designating The Geographical Areas Which Those Fire Departments Serve**, and County Attorney Steve Zega read the ordinance which was on final reading.
- 120.3 County Attorney Steve Zega noted that immediately after this, they will be considering Ordinance #9.1 which is the ordinance to place the fire dues for West Fork Rural Fire Department on their tax bill. He reported that JP J. Maxwell has been visiting with him about this and they have determined that each of the currently existing Rural Fire Departments exist as non-profit corporations and all exist as 501C3 as well and there are several really good reasons for them to do that, including that they can receive tax exempt donations. J. Maxwell provided him with an Attorney General's Opinion from 2011-195 that talks about the ability of a county to give money to and obtain money for, which is the appropriate matter of concern, non-profit corporations. Attorney Zega stated at the risk of regurgitating that AG's opinion and the string of AG's opinions that go behind it for at least a decade, the long and short of it is that the Attorney General has opined that it is not constitutional for a county to obtain money for a non-profit corporation with a list of Supreme Court precedents behind that based on Article 12, Section 5 of the

Arkansas Constitution and of which apparently the Supreme Court has been in the recent business at least of strictly construing.

121.1 County Attorney Zega continued stating that there was a lot of what he considered to be legal handwringing in that opinion for the reason that it is not an uncommon practice at all across Arkansas for fire departments, especially non-full time municipal departments to organize themselves as a non-profit. He noted that the handwringing in that decision talked about that fire departments take in their legal form in Arkansas something that he became educated on by reading that particular AG's opinion and one of those forms is presented to them in this ordinance. He further explained that pursuant to A.C.A. §14-20-108, the Quorum Court has the authority to designate rural fire departments and to designate those departments as rural fire departments in order that they may operate as such. However, in order to act in an abundance of caution because of the AG's opinion furnished by J. Maxwell, the statutory language that he has read, and the constitutional provisions in the cases that he has read since then, he felt like this was the best possible option to pursue tonight if in fact it is within the Quorum Court's desire to go ahead and pass the ordinance putting the fire department dues on the ballot for West Fork for a special election. Attorney Zega reported that the County's Director of Emergency Management John Luther as well as fire departments have brought up to him several times, at least eight of the fire departments are already collecting fire department dues on the tax bills. He doesn't know what this means for them because no one has judicially tested this, but because he believes that it was the census of this court that they wanted to support the fire department ordinance coming before them for the third and final reading tonight, he believes this is in the best interest of not only the West Fork Fire Department, but for the other fire departments currently existing in the County.

121.2 County Attorney Zega stated that there is what he considers to be a better solution that comes in A.C.A. §14-84-204 which is to say that they are allowed as a Quorum Court to organize these fire departments into Rural Fire Protection Districts, one of the several forms that he discovered rural fire departments may take in Arkansas. He noted the problem with that is that there are 18 fire departments and he believes legally they would have to pass one ordinance for each department and then they have to hold a public hearing as a Quorum Court in each district in the geographic boundaries that have been drawn on the map and wait for people to object to the ordinance. He suggested that this is something that they may need to look at very seriously and he will bring it to the County Services Committee for discussion very soon, but for a stop gap measure, this is the best that they can do tonight.

121.3 **A. Harbison made a motion to adopt the ordinance. B. Pond seconded.**

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- 122.1 A. Harbison stated that she believes it is important that they do this stop gap ordinance so that West Fork can go on and hold their election if the Quorum Court so votes tonight. She noted that rural fire departments are very, very important to the rural areas of Washington County; they work hard and deserve the Quorum Court's support.
- 122.2 T. Lundstrum asked whether the issue of this being a voluntary bill or not been settled as his concern has always been with liens being placed on people's property because they are not paying these dues which he does not want to see happen.
- 122.3 County Attorney Steve Zega responded to T. Lundstrum stating that he believes the position of the fire departments of rural Washington County is that they are voluntary. He stated whether this is on the tax bill or not, if fire department dues are not paid, a levy can be placed on property in a lien and theoretically, they can foreclose on homes under the Arkansas Statutory scheme. He noted that there are some bills winding their way through the legislative session that are attempting to fix that issue, but he is unaware of these. He can only say that the way the law is discussed today, they are discussed as voluntary, but then talked about in terms of liens and levies on property; however, it doesn't sound very voluntary to him if they can lien on his property.
- 122.4 T. Lundstrum stated that he would have to be personally assured of that before he can support this ordinance. He stated that he has served on the Tontitown Fire Department Board and is familiar with the problem that they have, but part of the problem is of their own making in his opinion because they have such low fees and then put fires out for \$400-\$400 if they don't belong to their system which doesn't give anyone the incentive to join and pay dues. He believes if they would say that it will cost \$3,000 to put out a fire at their property if they don't join and pay their dues, then people would pay their dues without all of this. He stated that if they are collecting this through their county tax collector, he doesn't want to see them putting liens on people's property because they aren't paying a \$30-\$40 fire bill.
- 122.5 A. Harbison encouraged everyone to vote for this ordinance tonight because they already have 8 fire departments with dues that are doing this and they need to correct it and get it right. She reported that Emergency Management Director John Luther brought up the issue to her that it is a law in Arkansas because of the equipment that the fire department has, it lowers insurance rates and basically if they don't pay their fire department dues, they don't get that rate. She noted that while some may not agree with this, it has never been enforced. She stated that people need to understand the work that these volunteer fire departments put into saving lives and property in the county.

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- 123.1 B. Pond stated the only time he hears Fire Department Board members, Fire Chiefs and some firemen talk about putting a lien on property is when in fact they have gone out and put out a fire for someone who is not a member and bill them for putting out the fire. He pointed out that they are not just putting out the fire for the guy with the house fire because those fires spread from one property to the next very fast. He stated that he is totally in favor of voluntary fire departments and not for people just not paying the bill for a fire department putting out a fire on their property and he can further see a time when a lien might need to be levied. He pointed out the other part of this is that the county is not in the lien business and as a matter of fact, the collector has no power to force anyone to pay that portion of their tax bill where the voluntary fire department fee is attached.
- 123.2 County Attorney Steve Zega stated that B. Pond brought up some really good points that he needs to clarify. He addressed liens and levies and stated that while his reading of the law says that the fire departments have the legal authority to do that, he also understands from speaking to Mr. Luther and some other Fire Chiefs that in the history of Washington County, it has never happened that a lien or levy was put on someone's house for non-payment of dues. He noted that part of that he suspects is the desire not to anger the community frankly and part of it has to do with the second part of B. Pond's comments which is equally true; that Collector David Ruff can't force someone to pay this fee in the sense that he would send County Attorney Zega an unpaid tax bill that they were turning into the state as an unpaid tax bill and having them forfeit the land or having him sue for someone's car for example. What they do falls to each individual fire department and frankly, he has been led to believe that they just don't have the time to chase that kind of bookkeeping.
- 123.3 County Attorney Steve Zega addressed A. Harbison's point about the ISO rating, stating if they are in that district and not paying their dues, they are not supposed to get that discount on home insurance. He stated that he wants them to understand he is not telling them one way or the other about their conscience on this particular ordinance, but felt that it should be brought before them before they vote on the West Fork Election ordinance.
- 123.4 T. Lundstrum concurs with County Attorney Steve Zega's statements and wholeheartedly supports rural fire departments, noting when he was the Mayor of Elm Springs, they used Tontitown Fire Departments and believe they are one of the finest small town fire departments in the country and did an excellent job. However, sitting on that Board he came within an inch or two of losing his mind when they started to discuss fees and so forth; seeming to him that it would be fairly simple to get them all together somewhere and have them decide what kind of fees they are going to charge and give people some incentive to pay those fees. He reiterated in Tontitown,

they paid a \$100 lifetime membership to the Tontitown Fire Department and then paid a \$30 yearly fee, so in ten years you have paid \$300; or you don't pay any fee at all and in ten years his house catches on fire, the fire department comes out and puts the fire out, charging you \$300. He stated that there is just no incentive to pay the \$30 fee and some of this would be simple to change. He honestly believes that these rural fire departments are too inexpensive and forgiving and could go up on their rates and make life a lot more bearable for all of them, and give people an incentive to join their organization which helps finance these fire departments.

- 124.1 A. Harbison asked if they could have public comment on this issue as she knows that there are people in the audience from rural fire departments and she would like to hear from them how important the collection of these fees are.
- 124.2 J. Maxwell stated that he has several constituents that have been marked delinquent on their taxes when they paid their taxes, but didn't pay the fire dues which in that district are around \$50 a month. He concurs with T. Lundstrum that they shortcut the system when they give incentives for bad behavior and not for good behavior, so this may be the better long term solution.
- 124.3 J. Maxwell noted that he had Court Secretary Karen Beeks forward to all JPs an email with documentation for those who hadn't researched or weren't privy to the information. He stated that the concern they came up with had nothing to do with fire departments or fire protection; rather, the primary concern for discussion was twofold, especially in light of the video they saw tonight, etc. The concerns are whether as a county they are going to know when they do something that the AG has rendered in several opinions that they know is outside the boundaries of what the AG is recommending. Further, in light of what they saw tonight, are they going to put their county at risk for something financially when they have both the 663 that they have to deal with, as well as the bridge to rebuild? He stated especially in light of the fact that currently this is recognized as an issue across the state, and Representative Hammer at the state level has brought some legislation before the state trying to get rural fire departments, regardless of their designation of either non-profit or fire protection areas, to make this resources available to them at the county level.
- 124.4 J. Maxwell stated that they have a solution coming that would resolve this if they are just patient and let that happen and by doing that would take the county out of any risk and remove any of this discussion and figure out a way to find a solution to a difficult problem, especially in light of the fact that they have several fire departments already in this place. He stated that it should be obvious that the county wants to fund the safety of our citizens extremely

well, make sure that they are ready for whatever situation arises, but that they want to do this in a way that is judicious and not putting their county finances or as legislators that make ordinances, not putting them on the wrong side of following one.

- 125.1 B. Pond stated that if he were to come to the Collector's Office to pay his taxes, but refuse to pay the fire dues listed as volunteer on the tax bill, if they mark him delinquent for not paying the fire dues when he paid all the rest of his taxes, they made a mistake at the Collector's Office, unless something has changed that he is unaware of. He stated that they don't want anyone listening to mistakenly believe that they could be marked delinquent for simply not paying the fire dues and if this has been done, then someone made a mistake. Further, he stated that he is going to be very careful because each one of these rural fire departments has their own board with local representation who decide how much their annual fee will be, and they decide what situation might come up where they would place a lien on someone's property, and he wants to be very careful not to overstep his bounds and not tell anyone of those boards what they should or should not be doing.
- 125.2 In response to some of J. Maxwell's statements, County Attorney Steve Zega stated that he read the proposed bill Representative Hammer has brought and frankly doesn't believe it will solve the problem that they are talking about here tonight. He explained the ultimate issue is Article 12, Section 5 of the Arkansas Constitution which will take a vote of the people of Arkansas to change and can't be fixed legislatively in his opinion which is one of the reasons he drafted this particular ordinance to say essentially that what they would all be then doing is establishing these not only as non-profits, but also as rural fire departments in accordance with A.C.A. §14-21-108 and why he eventually believes they need to organize them as fire protection districts. He stated he is not convinced that this will solve the problem either, but he is real convinced that what Representative Hammer has before the Legislature isn't going to solve the problem that they are looking at tonight just because it is a Constitution provision that they are talking about.
- 125.3 County Attorney Steve Zega stated with respect to the county's liability, if someone did choose to bring a lawsuit on this and wins, it will not come out of the County's General Fund, but this money is in the bank accounts of these rural fire departments. He noted that they would be liable against some injunctive relief to stop collecting it and stop putting it on the tax bills, but he doesn't see the county's financial exposure as particularly vast as a county. He stated he suspects one reason that this has never been judicially tested is that there are not many folks who want to be known as that person who sued the fire department to keep them from getting dues.

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- 126.1 J. Maxwell stated to the point that in order to address the specific problem addressed in AG Opinion 2011-195, they will have to amend the Constitution, if that legislation fix the problem, how will the county's legislation here tonight fix the problem either; to which County Attorney Steve Zega responded that he is not suggesting that it will fix the problem, but suggesting that it might be cheap when looking for a sleeping bag and might be the best they have.
- 126.2 J. Maxwell stated that this ordinance doesn't seem like it changes the status of these fire departments from a non-profit 501C3 and so as such, they will be covered under the current law which would still put them in a position of going outside the bounds of what the AG said was appropriate to collect those liens. While he appreciates Attorney Zega's reassurance that there would be no financial remuneration against the county, it looks like they are going to make a move to collect funds for a non-profit with fore knowledge that he believes would be somewhat difficult to defend if they were in that position.
- 126.3 County Attorney Steve Zega responded to J. Maxwell, stating that the entire reason he is asking them to designate them as rural fire departments is that they will be the only organization right now as non-profits and rural fire departments in accordance with A.C.A. §14-21-108 which is one of the things that the AG's opinion seemed to say would be an okay way to do this at this business and why he is suggesting this to them.
- 126.4 B. Pond stated if they can no longer contract out with any non-profit organizations; to which County Attorney Steve Zega responded that they can contract out with a non-profit and that is actually raised in those AG opinions as well. He stated if they are getting value from a non-profit, there is no problem and they are getting value from their fire departments. Attorney Zega further explained that Washington County currently does contract with a big board over the smaller departments, but he is suggesting that is apples to oranges for this particular discussion.
- 126.5 A. Harbison stated that County Attorney Steve Zega has worked hard on this, has read the AG opinions and she believes they should listen to what he is saying. She reiterated that the AG opinion states if they were organized into and had maps of areas, then the County could approve and basically collect funds for them and this is what they are trying to do here. She explained that they are trying to help the 8 fire departments who have already done this and also so that West Fork can go ahead and have their election, but if they don't pass this, she doesn't know that they should go on and pass their election in June.
- 126.6 R. Dennis stated that words mean things and it seems like the word "voluntary" is what causes the problem. He reported receiving a tremendous

amount of feedback on this issue from his constituents and everybody is for paying it, but they don't like the word "voluntary," especially if they will not be able to take it off their tax bill if they have a reason to. He stated that his constituents were told they did not have to pay it and the county would not collect it, but the Fire Chief can put a lien on their home which upset the constituents. He reiterated that the "voluntary" connotation bothers people because they are being told it is voluntary when it is not. He concurs with T. Lundstrum stating if it were up to him, he would charge everybody \$100 because the Fire Department has saved him twice and he owes them.

- 127.1 J. Maxwell stated in keeping what A. Harbison mentioned in listening to our County Attorney, he addressed an email sent to him, A. Harbison, and Director of Emergency Services John Luther from County Attorney Steve Zega that read the Quorum Court has the ability to designate the geographic area outside the cities and towns that a voluntary fire department serves, but this is not the best solution in light of the AG's opinion that J. Maxwell furnished to him, but may be all that they can do at this point. He stated that his concern is if they even have questions about whether this is a good thing to do, are they moving into something that they are knowingly putting themselves at risk on.
- 127.2 Citizen Comments: Glenn Morgan, past Treasurer and Board member of the Lincoln Fire Department, addressed the Quorum Court stating that the reason he is here is to support West Fork's ordinance and to discuss the fact that when Wedington's dues were added to the property tax bills, it greatly enhanced the revenue they received as a result and everyone understands why that happened. As it relates to the legality question, he stated that after reading the AG opinion, there is an issue as it relates to the Constitution and this will be hard to overcome. As far as Wedington is concerned, is the Treasurer and basically enhanced their ability to address T. Lundstrum's issue to receive those dues, so they didn't really have to worry very much about which residents had paid because people paid their dues and most of them told him they always wanted to join the fire department, but just didn't and in some cases, had no idea that they had to join and dues were required if they came from the city out to a rural area. He stated once they were made aware, they know that this is a necessity and didn't mind actually paying the dues.
- 127.3 Mr. Morgan stated as far as lawsuits, he doesn't believe they will ever see them and his attitude is if they don't want to pay the fire department, don't pay the fire department's various dues. He reiterated that by putting fire department dues on tax bills, it has greatly enhanced Wedington's ability to serve the area; has kept Wedington from coming to the Quorum Court asking for additional money because they were able to raise those funds out in their

- 128.1 local area. He noted that two current board members were with him tonight and they were there when the vote took place and supported it and he supported it based on the fact that this was the method that they had at the state level to pursue an increase in their revenues at Wedington.
- 128.2 In response to a question from T. Lundstrum regarding the amount charged for going out and putting out a house fire; Mr. Morgan stated that it depends, but generally state law specifies that they have to charge at a market level and this means depending on what equipment and how many personnel they have. He stated that they do have methods of calculating that and typically it can run for a small fire at \$150 up to a case he is aware of where they charged \$1,000 for a large structure fire when they were not a member, noting that it would have cost them nothing additionally had they been a member.
- 128.3 T. Lundstrum stated that he doesn't want to appear as someone opposed to these rural fire departments where these volunteers do a great job for nothing, but he doesn't understand why fire dues are built into city and town's tax bills, but they don't do it with the rural fire departments. He stated that even \$1,000 to put out a \$300,000 house is awfully cheap, so there is no incentive for people to join the rural fire departments.
- 128.4 Mr. Morgan responded to T. Lundstrum stating if they end up following the AG's opinion, it is his belief if they go to full fire protection districts, the amount that goes on the tax bill from the assessment made as a result of that will not be voluntary, but will be a tax like any other tax and be required to be paid and be declared delinquent if not paid.
- 128.5 T. Lundstrum stated that this makes perfect sense to him, noting that he lives in Elm Springs and he has always paid his fire department dues. He reported that then Tontitown came around and charged the City \$60,000 a year for fire protection, after which all individual dues disappeared. He concurs with R. Dennis in that if the tax bill says "voluntary", then he doesn't have to pay them if he doesn't want to, even though the rural fire department will come out and put out a fire just like the big city boys do and save children, animals, etc. He reiterated that this has got to be worth something to the citizens and they should be paying for it.
- 128.6 Mr. Morgan further stated he believes the reason why the rural fire departments have not pushed the voluntary side of it was due to previous AG opinions which said as long as that was voluntary dues and not an assessment or tax that they were okay with it.

- 129.1 T. Lundstrum stated that since the bigger cities don't have a problem with a tax, so he doesn't know why the smaller communities are prohibited from taxing; to which Mr. Morgan responded because it is a city and they are non-profit.
- 129.2 R. Dennis asked whether it says "voluntary" or "tax" on the Wedington tax statements; to which Mr. Morgan responded he believes it says "Wedington Fire Dues" and does not say "voluntary". R. Dennis further asked about Lincoln since that is where the problem came from; to which Mr. Morgan responded as far as he knows, the county is basically makes it the same on all rural tax statements for the fire departments that collect at the county.
- 129.3 J. Maxwell stated that the question at the state level is that they are sort of voluntary, but that it comes back to where to our Tax Collector marking people delinquent here and at least in the public's eye, they didn't feel that it was voluntary and now perhaps there has been a bit of a change on that as well as some of these constituents stories can be confirmed. He stated at the end of the day, he believes that there is a lot of confusion and questions left on the table about whether it is voluntary, how do they opt out, and how long does the opt out or opt in apply to.
- 129.4 H. Bowman questioned whether they could pass an amendment to this that it be clear that the county cannot issue this other than a voluntary and that the billing would not be represented as due but voluntary and not allow them to place liens on the property if not paid.
- 129.5 County Attorney Steve Zega responded to H. Bowman stating that they cannot do this for a couple of reasons; one, they are now talking about #9.1 and not #9.0 and they have combined these discussions. He explained that to do this would throw this back on first reading because they are voting on a ballot title that has been read three times and is substantive. Secondly, he stated with respect to liens and levies, those are provided for in state statutes and they cannot override state statutes.
- 129.6 H. Bowman asked if they go ahead and pass this tonight and turn around next month and issue an amendment that would preclude anybody from filing a lien against properties where there has been unpaid dues; to which County Attorney Steve Zega responded that he doesn't believe they can do that because it is provided in a state statute and the county does not have the authority to tell the rural fire departments that they can't do that. Further, he reiterated that he has been told multiple times that this has never happened, but it is clearly provided in the statute that they could.

- 130.1 A. Harbison stated that they are discussing #9.0 and #9.1 at the same time which is confusing the issue. She stated that this really does not have to pass for them to go ahead and pass the ordinance for West Fork to hold their election for fire dues.
- 130.2 **A. Harbison called for the question on #9.0.**
- 130.3 Steve Harrison, President of West Fork Rural Fire Association, addressed the Quorum Court and stated that they do not want the county to do anything that is not legal. However, what they do understand and are asking for with this vote is the dues are just that and for whatever reason the fire departments that have done this already have seen an increase in their membership dues which helps the fire department to help pay for trucks, equipment, fuel, etc. He also confirmed that there have not been any liens filed on anyone's homes for not paying dues and they are bound to respond to anyone's emergency fire or medical emergency whether they are a member or not and that will continue.
- 130.4 Mr. Harrison stated that they can't charge just anything and have tried to across the county, come to somewhat of an equal amount. He pointed out that they could charge \$3,000 or \$4,000 to go put out their fire, but they also don't have to pay that, and while they could take them to court or place a lien on their home, this just doesn't happen. He believes that they could price themselves out of getting any funding whether it is through dues or a fee for fire call, regardless they still cannot go.
- 130.5 Mr. Harrison noted when asked Mr. Morgan indicated that Wedington Fire Department doubled the amount of their yearly income off of memberships since it being sent out with the tax bills. He stated they are unsure why this is the case; whether people are just paying more attention if it is on the tax bills than they do when the fire department sends it to them.
- 130.6 J. Maxwell questioned if they pass #9.0 will they effectively be making this a tax that will be assessed once these become fire protection districts; to which County Attorney Steve Zega responded referring to language in A.C.A. §14-21-108, as follows: "The Quorum Court of each county upon request filed with the Quorum Court by one or more volunteer fire departments in the county may adopt an ordinance authorizing a designated county official to collect and remit to the volunteer fire department the annual or quarterly dues charged by the volunteer fire department in consideration of providing fire protection to unincorporated areas of the county." He further addressed the delinquency issue and the part of the resolution that they are talking about with this particular statute stating as follows: "The County Collector shall report delinquencies to the volunteer fire department for collection," with "dues" stated numerous times.

- 131.1 County Attorney Steve Zega continued stating in the event that these turn into rural fire protection districts, different statutes, procedures and ordinance, and they are not talking about assessing a tax with either of these ordinances tonight.
- 131.2 In response to a question from S. Lloyd whether he was setting it up to do it that way; County Attorney Steve Zega stated that it would be up to the Quorum Court at some point later down the road. He is only recommending that the county declare these to be fire departments under A.C.A. §14-21-108 which is different from the other statute he discussed A.C.A. §14-284-204 where they can turn them into fire protection districts and this is not what they are doing tonight. He further responded to S. Lloyd's comment that Attorney Zega is laying the groundwork for it, stating that he is recommending that as another entirely different step and not as a foundation. He explained that this ordinance will not in any way limit local fire departments' authorities and they will still be their own authorities.
- 131.3 J. Firmin stated the way he understands this is if they do turn them into fire protection districts, they would have to ask for another vote; to which County Attorney Steve Zega responded that there are 3-4 ways they could do it. He stated that the county will pass the ordinance, go out to Nob Hill as a Quorum Court, wait for a majority of residents of Nob Hill to say whether they want this or not but if a majority doesn't show up, and then it becomes an ordinance. He stated that he recommended this partially as a comprehensive way of talking about the problems that they were rising, but that is not what is before them tonight at all.
- 131.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 131.5 H. Bowman asked what exactly they were voting on; to which County Attorney Steve Zega explained that there are two different ordinances and they haven't considered the second one yet. He stated that this vote is on #9.0 to designate them as rural fire departments, and since it contains an emergency clause, it will take 10 votes to pass.
- 131.6 **VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Patterson, B. Pond, B. Ussery, D. Balls, R. Cochran, and R. Dennis. VOTING AGAINST: J. Maxwell and H. Bowman. **The motion passed with ten members voting in favor and two members voting against the motion. The ordinance was adopted.****

- 132.1 T. Lundstrum stated that he wanted badly to vote with J. Maxwell and H. Bowman on #9.0, but they already have eight fire departments doing this and it doesn't seem right to give them permission and to not give West Fork permission to do it to start with. He stated that he doesn't like this and if something doesn't get straightened out to work better where they are in compliance with the AG Opinion, etc., somewhere down the road he will look like he is against rural fire departments and he would appreciate them getting together to see what can be worked out. He noted that he voted to pass ordinance #9.0 just to support their rural fire departments because he understands that it is bringing in more revenue which is needed, but he doesn't like the way that it is all arranged.
- 132.2 H. Bowman stated that he thinks as a Quorum Court they have an opportunity to sponsor a deal where they ask all rural fire departments to come together to discuss these issues and try to bring some specificity and apply the laws that County Attorney Steve Zega presented and J. Maxwell has researched so well, to try to bring some consistency to this, they could improve the entire situation.
- 132.3 J. Patterson told a story about when the Springdale, Nob Hill, Goshen, Hickory Creek, and Lowell Fire Departments came out to fight his house fire and saved the main part of the house and he believes the \$25 dues he pays is some of the best money he has ever spent and he is a member of Nob Hill Fire Department who was one of the first to start this.
- 132.4 B. Pond stated that he may sound like a broken record, but wants to re-emphasize that these fire departments are volunteer and the small amount of dues that appears on tax bills is not required to be paid and this will not cause delinquency on their taxes. However, he addressed T. Lundstrum and his comments about dues and fees charged not being enough money, stating that they need to keep in mind that these firemen are volunteers and they don't come to put out a fire on a non-members property to try to make money because as non-profit they are simply trying to cover their expenses and give an incredible service to the community. He further pointed out that by not paying the dues, his insurance would be more than double, so it is cheaper to just pay the dues.
- 132.5 T. Lundstrum stated that he believes B. Pond missed the whole point of what he was saying which was that a little higher fee for non-members would give them an incentive to pay their dues, not that they have to charge a huge ridiculous amount. He stated that they get incentive by getting the dues put on the tax sheet because people will pay them if the county is collecting.

- 133.1 **R. Cochran made a motion to suspend the rules and read the ordinance by title only. B. Pond seconded. The motion passed unanimously by voice vote by those present.**
- 133.2 AN ORDINANCE CALLING A SPECIAL ELECTION ON THE QUESTION OF THE LEVY OF THE ANNUAL DUES OF THE WEST FORK RURAL FIRE DEPARTMENT AND PRESCRIBING OTHER MATTERS PERTAINING THERETO: A. Harbison introduced **An Ordinance Calling A Special Election On The Question Of The Levy Of The Annual Dues Of The West Fork Rural Fire Department And Prescribing Other Matters Pertaining Thereto**, and County Attorney Steve Zega read the ordinance by title only. This ordinance is being requested by the West Fork Rural Fire Department and is on third and final reading.
- 133.3 **A. Harbison made a motion to adopt the ordinance. J. Patterson seconded.**
- 133.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 133.5 VOTING FOR: R. Dennis, J. Firmin, A. Harbison, S. Lloyd, T. Lundstrum, J. Patterson, B. Pond, B. Ussery, D. Balls, R. Cochran, and R. Dennis. VOTING AGAINST: J. Maxwell and H. Bowman. **The motion passed with ten members voting in favor and two members voting against the motion. The ordinance was adopted.**

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- 133.6 H. Bowman asked those present from rural fire departments whether it would be helpful to them if the Quorum Court put together a meeting and invited them to all come together to try to put together some consistent guidelines for the fire departments.
- 133.7 County Attorney Steve Zega responded stating that he had actually discussed that with the Director of Emergency Management John Luther and the Washington County Rural Fire Department Board meeting after tonight's ordinance. He stated that they didn't talk about bringing the Quorum Court in on that, but he saw no reason they couldn't do that. He noted that he was planning on attending the next Washington County Fire Department Board meeting for that exact purpose.
- 133.8 Steve Harrison noted that the next Washington County Rural Fire Department Board meeting is on the Tuesday, April 28 at the Sheriff's Annex and extended an invitation to anyone interested in attending. He stated that the

Board meets every quarter as an entire rural fire association, which includes all of the county fire departments.

- 134.1 S. Lloyd asked if anyone who didn't pay these dues were listed as delinquent on any of their tax bills; to which responded and there have not been any complaints made.
- 134.2 B. Pond stated that if someone has paid all of their real estate and property taxes, but is listed delinquent for not paying their fire dues, that is a mistake and something that they should be discussing with the County Tax Collector.
- 134.3 OTHER BUSINESS: Judge Edwards thanked the Quorum Court for allowing her to come before them and discuss the issue with the bridges because she has been very distressed over this.
- 134.4 CITIZEN COMMENTS: Jonathan Hanby, resident of Washington County in unincorporated land outside of Elm Springs, addressed the Quorum Court regarding Dragonfly Industries that wants to build a wind farm on 311 acres located directly behind his property and several other neighbors' homes. He noted that this is a start up company with experimental windmills that have not been build anywhere else in the county and their plans on the website show that they want to place these windmills within 300 feet of homes. Mr. Hanby stated that this company plans on requesting that they be annexed out of the county and annexed into Elm Springs and it is believed the reason for this is to circumvent the County Planning Board who has signaled that they will have a lot of questions and experience with wind farms attempting to come to the area and believe that the County Planning Board will make it rough for them to obtain approval.
- 134.5 Mr. Hanby stated his understanding that they can annex into Elm Springs freely and if this is the case, questioned if there is a way to combat that. He stated he has spoken to the Elm Springs City Council at the Planning Commission in Elm Springs and it appears that some members of the local government have already made a decision based on one presentation and are not listening to their concerns. He stated that they have health safety concerns due to nose pollution and infrasound that causes health problems, as well as depreciation of property values and the belief that since these wind mills would be placed so close to their homes, that they would never be able to sell them. He stated he realizes it is not the Quorum Court's job at this time to be involved or make any decisions on this, but are asking for any suggestions for how they may combat the company's efforts to annex to Elm Springs because due to this loop hole, and as citizens of Washington County, are asking how the Quorum Court may be able to protect them.

- 135.1 Judge Edwards stated that nobody has approached her about this proposed wind farm to date and the only thing she knows about it is what has been written in the newspaper. She stated that she would certainly give all aspects due consideration on something like this.
- 135.2 T. Lundstrum stated that he has spoken to Mr. Hanby who lives in his district and he has been told that if this 300 acres wants to voluntarily be annexed with the county and annex into the city that the County Judge would have the authority to stop that and asked if County Attorney Steve Zega knows that to be the case. He further stated that they may need to talk to the Northwest Arkansas Regional Planning Commission who deals a lot with these issues.
- 135.3 County Attorney Steve Zega responded to T. Lundstrum stating that it is common that they have rural parts of the county to be annexed into cities for whatever reason and the County Judge has to decide to do that, but like anything coming out of the County Court, she is not the last word and the parties would have the right to appeal any decision she made. He stated that he doesn't believe he can speak legally on a petition he hasn't seen or give the County Judge advice on something that is not yet before her, so it is a little premature tonight for him to talk to this issue specifically. He noted that the procedure is that it will come before the County Judge at some point and will also go to Elm Springs as the accepting city has to say they want it and the losing county has to agree for it to go away.
- 135.4 Lisa Lovell, resident in the Tontitown city limits, addressed the Quorum Court on the windmill farm issue, stating that they were annexed, not voluntarily, into Tontitown. She stated that she has a list of questions about this proposed wind farm and will send those to the Quorum Court to seriously review. She believes that this company is trying to come in and experiment on them, pointing out that these are not windmills, but rather 100' towers with two jet engine turbines on top of each and none exist anywhere in the world and this company is proposing placing 41 of these on 40 acres as phase one and are unaware of the remaining phases being planned. Ms. Lovell urged the Quorum Court to use any power they have to stop this now, get the questions answered, and not let them experiment on them and their property.
- 135.5 Judge Edwards stated that if Ms. Lovell will send her questions to her office, she will see that all JPs receive copies.
- 135.6 A gentleman in the audience invited everyone to a town hall meeting to discuss the situation with the CEO of Dragonfly Industries in Elm Springs on March 31st at the City Hall.
- 135.7 ADJOURNMENT: The meeting adjourned at 8:38 p.m.

Respectfully submitted,


Carly Sandidge
Quorum Court Coordinator/Reporter