

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

Thursday, September 17, 2015
6:00 p.m.
Washington County Quorum Court Room

FILED
2015 DEC 18 AM 9:57
CLERK OF DISTRICT COURT
WASHINGTON COUNTY, OR

- 464.1 The Washington County Quorum Court met in regular session on Thursday, September 17, 2015. The meeting was called to order by County Judge Marilyn Edwards.
- 464.2 Judge Edwards welcomed Gary McHenry to the Quorum Court, appointed by the Governor to fill the JP vacancy for District 11.
- 464.3 B. Ussery led the Quorum Court in prayer and in the Pledge of Allegiance.
- 464.4 MEMBERS PRESENT: Daniel Balls, Harvey Bowman, Rick Cochran, Robert Dennis, Lisa Ecke, Ann Harbison, Sharon Lloyd, Tom Lundstrum, Eva Madison, Sue Madison, Joel Maxwell, Gary McHenry, Joe Patterson, Butch Pond, and Bill Ussery.
- 464.5 OTHERS PRESENT: County Judge Marilyn Edwards, County Comptroller Cheryl Bolinger; Interested Citizens; and Members of the Press.
- 464.6 ADOPTION OF THE AGENDA: Judge Edwards asked if there were any additions or deletions to the agenda.
- 464.7 **A motion was made and seconded to adopt the agenda as presented. The motion passed unanimously by voice vote. The agenda was adopted.**
- 464.8 APPROVAL OF MINUTES: Judge Edwards asked if there were any corrections to the minutes of the June 18 regular and July 9 special meeting of the Quorum Court.
- 464.9 E. Madison referred to the June 18 regular meeting stating in Paragraph 262.7 it should be "no" citizen comments. Further she stated a correction noted last time in Paragraph 281.1 it should read that they need to pass the ordinance on "three readings tonight".
- 464.10 **A motion was made and seconded to approve the minutes with these corrections. The motion passed unanimously by voice vote. The minutes were approved as corrected.**
- 464.11 COUNTY JUDGE'S REPORT: Judge Edwards stated that she has been working on the appointments to the Ordinance Review Committee the

Minutes of the Regular Meeting of the
Washington County Quorum Court
September 17, 2015
Page 2

Quorum Court created last month and will let those appointments be known next week.

- 465.1 Judge Edwards stated that the Harvey Dowell Bridge remediation started about one month ago and as of last Tuesday, the Stonewall Bridge was back to where it was in March before the piers were torn out. She announced that both of these bridges will be visited during the Public Works Committee road tour on September 28. She stated that cost figures as requested by J. Patterson will be sent out next week and can be discussed during the tour. She noted that they welcome any JPs who would like to go on the road tour.
- 465.2 Judge Edwards requested that County Attorney Steve Zega give a brief update on the letter that everyone received from Mr. George Braswell, Road Department employee.
- 465.3 County Attorney Steve Zega stated that after Labor Day and some back and forth with Mr. Braswell's attorney and following his e-mail to the Quorum Court members asking to let the events unfold, he believed that they had this issue resolved; however, that was not the case. Thereafter, they asked Mr. Braswell's attorney to avail him to talk to Chief of Staff George Butler and himself about the letter and asked to record the meeting so there would be no misunderstandings about who said what to whom and while Mr. Braswell's attorney first agreed, he changed his mind about availing Mr. Braswell at all.
- 465.4 S. Zega reported today a motion was filed in Federal Court in the ongoing lawsuit to essentially compel Mr. Braswell's attendance at an interview in front of the Federal Judge. He explained the reason for that was so no one would feel pushed around, coerced, intimidated, etc., and noted when you investigate allegations made by someone, the logical first step is to talk to that someone and so far they have not been able to do that.
- 465.5 E. Madison asked why County HR Director Lindsi Huffaker was not involved in these interviews because it seems that would be the appropriate way to handle this, and why has it been elevated to a level where attorneys are interviewing him; to which S. Zega responded stating that Mr. Braswell did not make any allegations about HR policies or issues about promotion or harassment. He made straight allegations that the Road Department was violating the law which is why he and Mr. Butler are involved who, besides Judge Edwards, is the person in charge of the Road Department.

Minutes of the Regular Meeting of the
Washington County Quorum Court
September 17, 2015
Page 3

- 466.1 E. Madison stated typically HR is the investigative wing in these situations, even with allegations of illegal activity. She stated one of her concerns is that S. Zega is an attorney of record in the case defending the County and Judge Edwards.
- 466.2 S. Zega stated that the letter from Mr. Braswell was addressed to Judge Edwards and the Quorum Court, so Mr. Braswell elevated the matter at that point and then refused to talk to his boss or any representative of his boss which is problematic. He further noted that these are not HR allegations or issues, but rather allegations that the Road Department is not property equipping, flagging and signing for people working in right-of-ways, not contacting Arkansas One Call, and not obtaining highway permits.
- 466.3 E. Madison stated that she disagrees, noting that previously Mr. Braswell sent a letter to this Quorum Court and Judge Edwards and nothing happened, so the difference in the way they are responding to him concerns her. She further shares in some of Mr. Braswell's concerns about why this meeting is not happening. It seems odd to her that they seem to be saying that they cannot do anything about this problem because Mr. Braswell will not talk to them.
- 466.4 Chief of Staff George Butler stated they spoke with Mr. Braswell's supervisors as they had assumed that Mr. Braswell made these same allegations to them. His supervisors indicated that there were a couple of instances where he was claiming that protocol was not being followed with emergency vest and flagging rules when in fact they were being followed. There was an incident where Mr. Braswell was caught not wearing his emergency vest. Mr. Butler stated that without talking to him, he can only assume that Mr. Braswell was talking about these same instances and has another take on them or may be talking about other incidences. He further explained the reason County Attorney Steve Zega is involved is because Mr. Braswell is suing the County Judge, Road Superintendent Donnie Coleman and Assistant Road Superintendent Shawn Shrum. He stated that they have investigated all they can without talking to Mr. Braswell, unless they interview every single person at the Road Department which would be unnecessary and disruptive to the Road Department. G. Butler noted that Mr. Braswell is known for taking notes the whole time he is out on a jobsite, so he assumes he has the allegations documented.
- 466.5 S. Madison stated she is a little worried that they have not done anything about these allegations; to which G. Butler responded they have Arkansas One Call protocols in place, and have always had protocols about wearing

Minutes of the Regular Meeting of the
Washington County Quorum Court
September 17, 2015
Page 4

emergency vests, when flagging is required, etc. He further reiterated that his supervisors reported allegations Mr. Braswell had made which were unfounded and that he was incorrect in his perception of the situation.

- 467.1 S. Madison reworded her question whether the Road Department is exercising every due diligence available to be sure that their employees are safe and that they are following safety equipment, Arkansas One Call protocol, and are confident that they do not have a problem; to which G. Butler responded that they are absolutely confident of this. He stated that there was one incident where road crews were out and word got back that they were not wearing their safety vests and did not have signage out. Road Superintendent Donnie Coleman immediately went to this site, found that to be the case, and those employees were written up for it.
- 467.2 J. Maxwell stated since it looks like Mr. Braswell is not going to willingly meet and they are having to take this to a higher legal level, would there be any wisdom in starting the week-long process to get the e-mail answers to the questions so they can avoid a longer delay; to which G. Butler responded stating that it has reached the point of absurdity in his opinion that Mr. Braswell can make public allegations like that and not have to answer some simple questions from his superiors. While these are not issues in the lawsuit, they need to be cognizant to the fact that he is suing the County. He stated that they could compel him and he could refuse to come and then be subject to consequences, noting that any other employee that would refuse to do that would have been fired on the spot.
- 467.3 J. Maxwell asked whether in light of the fact that the circumstances are somewhat different and to protect the County from any liability, if there was a way to get the answers to the questions via e-mail and if that would expedite the process would that help them limit their liability. They are in a very unique situation where some of Mr. Braswell's allegations have proved troublesome for them in the past; so in trying to make sure that if there is any validity to his allegations, that they have assessed and addressed them or assessed them and found them not worthy of being addressed, his concern is to protect the County from being at risk for some lawsuits in process. He wants to avoid any unnecessary lawsuits from Mr. Braswell or for whatever laws they have allegedly broken in these new items he has brought forward.
- 467.4 G. Butler stated that they could do that, but it is rather cumbersome and absurd that they would have to do it that way.

Minutes of the Regular Meeting of the
Washington County Quorum Court
September 17, 2015
Page 5

- 468.1 County Attorney Steve Zega addressed J. Maxwell stating that the first two allegations of Arkansas One Call and the safety issues turned out to not have merit as far as they can determine. The third issue raised about permits had merit and, after they investigated this, they acted to correct that situation. He noted that there has been no adverse employment action taken against Mr. Braswell because he raised these allegations, so from a liability perspective from Mr. Braswell, he cannot stop his lawyer from amending his complaint, but he can say that the County has not done anything to him to justify that. He stated the only thing that they are trying to do is to find out the specifics of what is in his letter. This is not so much a legal issue as it is a policy issue. He questioned whether they really want to set themselves up as a county for an employer making it so that you have to ask an intermediary every time you want to talk to one of your employees. S. Zega stated that none of these current allegations that Mr. Braswell has raised are in his federal lawsuit and they asked his lawyer to be present out of a courtesy to him and to make sure that they were not quizzing him about issues in the lawsuit. He stated that he is confident that the County is not exposing itself to further liability by insisting that Mr. Braswell talk directly to them about his allegations.
- 468.2 R. Dennis stated that he wants to make sure that they show respect to every Washington County employee or associate that ever brings a complaint forward, whether they think they are right or wrong, noting that he has been a whistle blower in the past and ended up losing his job over it. He stated if they do not do this, those who know of things that are wrong will not come forward with them. He stated because Mr. Braswell communicated the letter to all of them, he attempted to talk to him by phone but they never connected, and questioned whether because of FOIA, he is responsible to report that back to the Quorum Court.
- 468.3 S. Zega addressed R. Dennis stating that the phone call is not a record unless recorded so it would not fall under FOIA. Secondly, he does not have to report his contacts with constituents or people who bring him issues to Judge Edwards or anyone else; however, in situations where there is something elevated as in this circumstance, he would hope that any JP or the Judge would let him know about any such conversation just out of courtesy. He further stated that constituents within and out of their districts can call and speak to any JP and they have the right to do that.
- 468.4 COMMITTEE REPORTS: E. Madison, Chair of the County Services Committee, reported that they met briefly on August 31 following the Special Quorum Court meeting. Sophia Stephenson, Director of Environmental Affairs, reported on activities of the office, followed by a

Minutes of the Regular Meeting of the
Washington County Quorum Court
September 17, 2015
Page 6

brief report from her on planning with the uncontested issues that came out of the last Planning Board meeting to be addressed at this meeting.

- 469.1 H. Bowman, Chairman of the Public Works Committee, reported that the Committee met on August 31 and heard a report from Buildings & Grounds Director Ron Wood on what is going on with work on the Historic Courthouse and that it would cost about \$14,520 to perform the needed repairs. They did check for black mold and found no problems. Mr. Wood further reported to the Committee that the new cameras that had to be replaced for security put a lot of pressure on his budget, but unless something breaks or comes undone, they should be okay. He reported that they discussed plans for the upcoming road tour with seven JPs being signed up to attend.
- 469.2 B. Pond, Chairman of the Personnel Committee, reported that the Committee did not meet this month due to lack of an agenda.
- 469.3 T. Lundstrum, Chairman of the Jail/Law Enforcement/Courts Committee, reported that the Committee also did not meet this month due to lack of an agenda.
- 469.4 AN EMERGENCY ORDINANCE RATIFYING A CONDITIONAL USE PERMIT GRANTED BY THE PLANNING AND ZONING BOARD: B. Pond introduced **An Emergency Ordinance Ratifying A Conditional Use Permit Granted By The Planning And Zoning Board**, and County Attorney Steve Zega read the ordinance. The Planning Board granted a Conditional Use Permit on August 27 for White River Café. This ordinance contains an emergency clause making it effective immediately upon passage.
- 469.5 B. Pond stated that this is a very low impact business of a carryout café in an existing building with ingress and egress by the public to be on and off of Guy Terry Road, not off of Habberton Road. He stated that they are in short supply of any type of café in this area and would be welcomed. He noted that the café will receive approval by the Health Department once they have met all standards.
- 469.6 **B. Pond made a motion to adopt the ordinance. A. Harbison seconded.**
- 469.7 A. Harbison stated that she was at the Planning Board meeting when this was discussed and reported it is very low impact with no complaints and something that can benefit the community.

Minutes of the Regular Meeting of the
Washington County Quorum Court
September 17, 2015
Page 7

- 470.1 Citizen Comments: There were no citizen comments made.
- 470.2 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 470.3 VOTING FOR: B. Ussery, D. Balls, H. Bowman, R. Cochran, R. Dennis, L. Ecke, A. Harbison, S. Lloyd, T. Lundstrum, E. Madison, S. Madison, J. Maxwell, G. McHenry, J. Patterson, and B. Pond. **The motion passed unanimously. The ordinance was adopted.**
- ORDINANCE NO. 2015-69, BOOK NO. 10, PAGE NO. 247**
- 470.4 AN EMERGENCY ORDINANCE RATIFYING A CONDITIONAL USE PERMIT GRANTED BY THE PLANNING AND ZONING BOARD: J. Patterson introduced **An Emergency Ordinance Ratifying A Conditional Use Permit Granted By The Planning And Zoning Board**, and County Attorney Steve Zega read the ordinance. The Planning Board granted a Conditional Use Permit on August 27 for Reed Commercial Building. This ordinance contains an emergency clause making it effective immediately upon passage.
- 470.5 J. Patterson stated that this is a commercial building being built east of Sonora on Highway 412 with nothing unusual, lot size appropriate, sewer inspected, etc.
- 470.6 **J. Patterson made a motion to adopt the ordinance. B. Pond seconded.**
- 470.7 Citizen Comments: There were no citizen comments made.
- 470.8 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 470.9 VOTING FOR: B. Ussery, D. Balls, H. Bowman, R. Cochran, R. Dennis, L. Ecke, A. Harbison, S. Lloyd, T. Lundstrum, E. Madison, S. Madison, J. Maxwell, G. McHenry, J. Patterson, and B. Pond. **The motion passed unanimously. The ordinance was adopted.**
- ORDINANCE NO. 2015-70, BOOK NO. 10, PAGE NO. 253**
- 470.10 OTHER BUSINESS: Judge Edwards reminded everyone of the next Special Quorum Court meeting scheduled for Tuesday, September 22, at 5:30 p.m.

Minutes of the Regular Meeting of the
Washington County Quorum Court
September 17, 2015
Page 8

- 471.1 CITIZEN COMMENTS: Lorraine O'Neal, Fayetteville resident, addressed the Quorum Court and inquired about the road tour that is planned asking whether citizens were allowed to accompany the court on this tour.
- 471.2 Judge Edwards responded to Ms. O'Neal stating that this road tour is for the JPs and questioned liability for citizens to attend.
- 471.3 E. Madison stated that it should be considered a meeting when they are assembled; to which Judge Edwards stated that this is correct and is a meeting and Ms. O'Neal could drive her own car. She further verified that this road tour will be on September 28 and leave from the Road Department at 1:00 p.m. She further gave Ms. O'Neal directions to the Road Department.
- 471.4 ADJOURNMENT: The meeting adjourned at 6:37 p.m.

Respectfully submitted,


Carly Sandidge
Quorum Court Coordinator/Reporter