

Carroll County Quorum Court
Journal of Proceedings
Eastern District Courthouse
November 21, 2023

The Quorum Court of Carroll County met for its regular monthly meeting on Tuesday, November 21st at 5:00 pm with JP Matt Phillips leading the assembled in the Invocation and leading the Pledge of Allegiance. Notice of the meeting had been posted to the front door of the Courthouse, posted to the County Clerk's Facebook page, sent to the Press with two known members of the Press present, to Officials and Department Heads, and the Justices of the Peace. The meeting was audio recorded and made available on the County website. The recording was also requested by the local radio station which was fulfilled. After the meeting was gavelled to order, roll call was taken with all members of the Quorum Court present. Officials in attendance were the County Clerk, Sheriff, Treasurer, Collector, and Assessor along with Mike McKelvey, OEM. The gallery was once again filled with concerned citizens and Scout representatives.

The Journal Proceedings of the October 17th meeting was approved as amended with a motion by JP Jack Deaton and seconded by JP John Howerton. In Committee Reports, JP Deaton reported that the 2024 Budget was completed and would be tight, but manageable allowing for departments to take care of needs along with a few extras. JP Howerton asked to have an item "O" discussion added to the agenda which was granted by a voice vote having none respond in the negative. The motion had been seconded by JP Craig Hicks.

Public Comments were limited to three for the wind issue and three against as Judge Writer explained due to the heavy agenda. Richard Williams spoke about the land use plan and its applicability to the industrial turbines being built near Green Forest. Attorney Matt Bishop also spoke against the turbines saying they [Scout] were after the tax credits and if the Quorum Court would need to do their work on the front-end or it would be expensive later. Ed Maines was introduced as an author of the land plan and he said that the plan was designed as an environmental plan, but that it needed to be looked at deeper. He said he was a strong property rights person and that there was no zoning in it. He suggested that it was protective, to learn it, and to use it. He said this was a way to protect the average citizen who couldn't afford and was not able to fight large government or corporations. However, it only worked if it was enforced.

Mark W., a representative with Scout Clean Energy spoke for the turbines saying he's been in the business of wind for 16 years and stated he was surprised to see a moratorium ordinance. He felt that the land owners has asked the "tough questions" and signed contracts voluntarily and that they placed their trust in Scout. He said that the county was overreaching. When asked by JP Kellie Matt about the decommissioning, Mark said that Scout has a bond they have to do to remove the turbines and that Scout would be willing to list the county, but when asked if it would be up front, he said more likely in 5 to 10 years. He said that all of the studies about bird kills had been done and that they had to do post-construction monitoring and that Scout was committed to doing it right. JP Craig Hicks asked if the county should be paying for studies. JP Hicks continued by saying that the landowners are paying their taxes. JP Deaton asked Mark, "Why that area?" and the response was that the Dry Creek Substation was located nearby so there would be a way to transfer the generated power and the land owners wanted it. JP Deaton continued with the fact that Madison County has more wind and asked how the large trucks were going to get to the site. JP Harrie Farrow said that zoning was never under consideration and that Scout was using fear mongering tactics to stir up the public. Mark

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responded that any restrictions of land rights is zoning. JP Farrow asked about how the County would be added to the bond when there was no permitting process and asked if they would voluntarily do this. She also asked if there would be fire suppression systems on the turbines. JP Bruce Wright asked where Scout's financing was coming from and if tax credits were to be received and Mark responded with several banks and that tax credits would be part of the investment.

Truman Stark commented on the pending moratorium ordinance saying that it was not a moratorium if it had six month renewals. He pointed out that the EPA does studies and the county doing studies would cost considerable money. Arturo Cavillo insisted that those against the turbines had no proof of any of the problems they cite. He said he had recently paid his property tax from funds received by Scout and to date Scout's checks have not "bounced" and if his grass died and he had no way to feed his cattle, then he'd go and get government money for that as well. JP Jerry King asked why Mr. Cavillo was upset about any proposed setbacks and he responded that the setbacks were already there.

Anna Matthews spoke about the Spring Valley Road situation off Mill Hollow Road. She says that the road had been maintained for over 20 years and that the road should continue to be maintained with taxpayer money because it was "the right thing to do". JP Hicks informed Ms. Matthews that the road was listed as private and as such taxpayer funds could not be used. JP Farrow said that the city was scheduled to work on Mill Hollow & Main and that access through the area would be limited due to the city shutting down access on Mill Hollow. Eric Schuenemann said that the road was not a private road except for the bottom 167 feet. JP Deaton said that he has recently driven the road and insisted that road was not the required 40 feet and Mr. Schuenemann insisted that it was. JP Hicks said that if the Judge says it is a private road then the Justices needed to trust him.

Bobby Wilson sponsored by JP Bruce Wright had a PowerPoint presentation concerning the possible effects of industrial wind turbines to this area which included geological surveys and wind maps. JP Hicks said that the group against wind turbines had the right to go to court instead of the Quorum Court making the decision. JP Howerton thought that the presentation used deceptive practices as JP Farrow had said about the emails that Scout had sent this week.

JP Hunter Rivett introduced a student of his, Peyton Smith, and Mr. Smith talked about youth sports and sports being foundational to an area. He also wondered why there were no elite travel teams in Carroll County.

The Quorum Court did a second reading under Old Business concerning the job description change/title for a position at the Prosecuting Attorney's office. JP Craig Hicks made the motion to accept and JP John Howerton seconded. There was no discussion and the roll call vote was unanimously approved. JP Howerton made a motion to set aside the rules for a third reading which JP Jack Deaton seconded and the voice vote approved the motion. JP Hicks motioned to accept and JP Kellie Matt seconded. No discussion and the roll call vote was again unanimously approved.

In New Business, a resolution authorizing the Judge to approve the grant for a Peer Recovery Specialist and to set up the fund with the Clerk and Treasurer was approved with a motion by JP Deaton and seconded by JP Harrie Farrow. There was no discussion. The roll call vote was unanimous.

JP Deaton commented that the Sheriff's reimbursements stemmed from a contractual agreement with Holiday Island and to get the ball rolling, Sheriff Klatt used his budget and Communication fund to pay for the purchase of a patrol vehicle and for outfitting it. JP Deaton

made the motion and JP Wright seconded the motion. The roll call vote approved the appropriations.

The Circuit Clerk is remodeling her office space through the Recorder's Fee Fund (3006) and needed to appropriate funds for the completion of the project as well as funds for data conversion of records to move to e-recording. There was no discussion. JP Matt Phillips made the motion to approve with a second from JP Howerton. The roll call vote was unanimously approved.

The County Judge had made several equipment purchases and needed to appropriate and move funds between line items to pay for the equipment. A motion to accept was made by JP Phillips, seconded by JP Deaton, and a roll call vote approved the measure. There was no discussion.

Next was an ordinance with an emergency attached to change the number of allowable hours per pay period for two part-time positions approved under a previous ordinance. JP Hicks said that the situation had gone through the budget committee. JP Hicks motioned to accept, JP Wright seconded after the ordinance was read in its entirety by Clerk Doss. The "yea" votes were: JPs Deaton, Wright, Farrow, Phillips, Hicks, Matt, Pedraza, Hall, King, and Howerton. "Nay" vote was from JP Hunter Rivett.

A second ordinance with an emergency attached was also read in its entirety to designate the County Treasurer as the preparer of the Collector's Certificate. JP Deaton said during discussion that the Quorum Court was simply documenting what was already being done by tradition. JP Farrow said that she liked that over the last couple of years that these types of things were getting addressed. JP Deaton made the motion, JP Matt seconded the motion and the roll call vote was unanimously approved by: JPs Deaton, Wright, Farrow, Rivett, Phillips, Hicks, Matt, Pedraza, Hall, King, and Howerton.

The tax levy ordinance was passed with one "nay" vote after JP Howerton made the motion and it was seconded by JP Phillips. There was no discussion.

In a first reading by title only and subsequent ordinance (per Resolution 2016-8), a motion was made by JP Hicks and seconded by JP Matt Phillips to establish a full-time position called the Justice Involved Peer Recovery Specialist as per the grant agreement listed above. JP Hicks said that the Circuit Judge acknowledges that this is a one year position that he hoped would be funded by grant next year and that it would not automatically be funded after this year by the Quorum Court. The roll call vote passed the measure unanimously for its first reading.

JP Deaton made a motion to accept and JP Jerry King motioned the second for a first reading to establish the threshold for the capitalization of county purchases. JP Deaton said that this was another that needed to be made official.

JP Phillips also offered with the next first reading that paying CID officers for "street clothing" had been tradition, but not officially on the record after JP Rivett inquired as if it had been years. JP Phillips motioned to approve the first reading and JP Deaton seconded. The vote was unanimously approved.

The annual ordinance to approve the already budgeted local matching funds for 2024 was approved in its first reading. The motion was made by JP Phillips and seconded by JP Farrow.

The next annual ordinance establishes the salaries for the elected officials. It was approved on its first reading. The motion was made by JP Phillips and seconded by JP Howerton. JP Farrow asked if there was much of a change and JP Deaton responded that the state had mandated a 10% range increase, but as the county was already well within the range, it

approved a smaller percentage increase. The roll call vote passed the ordinance on its first reading.

The meeting turned to a proposed ordinance to set a moratorium on the construction of wind and solar industrial facilities in the county. The ordinance sponsors, JPs Wright and Matt motioned to accept. The discussion included JP Hicks saying that there is another route that those against wind can go and who is going to pay for more studies. JP Deaton noted "shall" and pointed out that while a similar moratorium had been challenged and upheld in New York, it needed to be noted that the city had a zoning commission and they were trying to build a substation. JP Farrow felt that this would be right for the county agreeing that it is a complicated issue that needed time to be understood. For citizens to sue would require damages and by then it would be too late. JP Farrow's view was to protect the whole of the county. JP Kellie Matt pointed out that the moratorium was for a year. JP King didn't want the county to be sued, but doesn't like the project. JP Farrow countered that if the county is sued, they'd have attorneys. Tony Rogers and Steven Simmons act as the County's civil attorneys stood up to say that the office was small and that they would have to retain outside counsel. Steven went further to explain the process of depositions, interrogatories, discovery, and document production. He pointed out that it was invasive and it would be the County Judge that would be sued. JP Farrow said that she would not be intimidated and not elected to be timid and afraid. JP Kings said that he had consulted several attorney friends that said lawyers can sue anyone and reminded the Justices that he had voted for the setbacks. JP Matt said that there was money in the Judge's budget for counsel. Judge Writer spoke up to say that the \$15,000 budgeted would cover about 50 hours. JP Deaton said that he didn't run from anything but that the moratorium was not the way to go and that he was working on other ways but would not elaborate when asked by JP Farrow. While an emergency was not attached, the voice vote was three in favor and eight against. The measure fell short on its first reading and would not be moved forward to the December meeting.

Lastly, the operating budget for 2024 was approved on its first reading with JP Deaton commenting that the tradition has been to introduce the new budget in November and pass it in December giving the Quorum Court time to study the numbers. JP Deaton motioned to approve the ordinance with JP Phillips motioned the second. It did pass on its first reading with all voting affirmatively.

JP Howerton opened the discussion of the Eastern District Courthouse options saying that it could be a new building located on county owned property at the Detention Center or continuing by saying that the Judge had offered the old Walmart building (44,000sf+) as an alternative. He said that the Judge could enter into a contract for the large space, but pointed out that the Quorum Court could choose not to fund, so JP Howerton wanted opinions. He said that the new build would have to go to bid and the Walmart building was offered verbally for \$3M and the Judge thinks it's a better option saying it also have revenue producing opportunities. Judge Jackson, Circuit Judge, did voice reservations about the location because of its proximity to Walmart. JP Hicks said that they were getting away from the goal of a need for a new courtroom as the old Walmart would be able to house all of the county offices. He pointed out that the land at the Detention Center was purchased for a future Justice Center so it needs to happen there. He also contends that the Circuit Court does not need to be in the most populous area of Berryville. He said recent commercial ventures with the schools had projects coming in between \$300-\$400sf. JP Farrow wanted to compare the financial situation of both options.

Under JP Comments, JP Farrow asked that during the ordinance discussions that if someone voted "no", she thought it important to know why the JP voted that way. The Judge's comments dealt with inventory disposals of a computer at the road department, a laptop at one of the libraries, and that the Circuit Clerk had purchased new desks for her Eastern District office and that the old desks would be kept by the county and reassigned elsewhere as needed. JP Phillips made a motion to adjourn the meeting and was accepted. The meeting adjourned at 7:15PM.

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