



MAY 15 , 2001

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VOL S PG 121

STATE OF TEXAS ①
 COUNTY OF HAYS ①

ON THIS THE 15TH DAY OF MAY, A.D., 2001, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

JAMES L. POWERS	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
H. S. "SUSIE" CARTER	COMMISSIONER, PCT. 2
WILLIAM "BILL" BURNETT	COMMISSIONER, PCT. 3
RUSS G. MOLENAAR	COMMISSIONER, PCT. 4
LEE CARLISLE	COUNTY CLERK

WHEN THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Judge Powers called the meeting to order and gave the invocation. Commissioner Carter led the Court in the Pledge of Allegiance to the Flags.

19494 ADOPT A PROCLAMATION RECOGNIZING THE WEEK OF MAY 14-18, 2001, AS "PEACE OFFICERS' MEMORIAL WEEK"

Dennis Gutierrez spoke of event to be held Thursday at noon on the courthouse grounds. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Molenaar to adopt a Proclamation recognizing the week of May 14-18, 2001 as "Peace Officers Memorial Week". All voting "Aye".

PROCLAMATION

STATE OF TEXAS *
COUNTY OF HAYS *

WHEREAS, each year peace officers tragically lose their lives in the line of duty; and

WHEREAS, a National Memorial Service is held annually in Washington, D.C., to honor these officers and families, and in 1963, President John F. Kennedy proclaimed May 15th as National Peace Officer's Memorial Day; and

WHEREAS, States' Auxiliaries have been marking the occasion with memorial services of their own jurisdiction, and through the efforts of the Grand Lodge Ladies Auxiliary, the First National Peace Officer's Memorial Service was performed on May 15, 1982 on Capitol Hill in Washington D.C.; and

WHEREAS, the Hill Country Fraternal Order of Police Lodge No. 23 has made a commitment to share, support, and serve the law enforcement community, and actively contributes to and supports this worthwhile endeavor;

NOW, THEREFORE, be it proclaimed by the COMMISSIONERS' COURT of HAYS COUNTY, TEXAS that the week of May 14-18, 2001 be recognized as

"PEACE OFFICERS' MEMORIAL WEEK"

and do hereby call upon the citizens and officials to participate in observance of this special occasion..

PROCLAMATION ADOPTED on the 15th day of May 2001.

19495 APPROVE THE COMMISSIONERS' COURT MINUTES OF MAY 8, 2001

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to approve the Commissioners' Court Minutes of May 8, 2001 as presented by the County Clerk. All voting "Aye".



19496 APPROVE PAYMENT OF COUNTY INVOICES

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to approve payment of county invoices in the amount of \$367,390.30 as presented by the County Auditor. All voting "Aye".

Licenses & Permits	\$ 35.00	Public Safety Svcs	\$ 70.00	Fines	\$ 857.84
Auditor's Office	\$ 498.78	Treasurers Ofc	\$ 3,012.78	Extension Office	\$ 353.94
Grants Admin Ofc	\$ 80.03	Juvenile Prob Ofc	\$ 965.98	Election Admin Ofc	\$ 58.92
Indigent Care	\$ 73.83	Transfer Station	\$ 6,371.27	Bldg Mtc Dept.	\$ 6,005.07
Environmental Health	\$ 1,072.86	Civic Center	\$ 441.08	Countywide Oper	\$ 25,059.86
Tax A/C Office	\$ 1,890.28	Jail Operations	\$ 12,349.24	County Judge's Ofc	\$ 418.12
District Attorney's Ofc	\$ 1,594.16	J.P. 1-2	\$ 184.95	J.P. 2	\$ 298.18
J.P. 3	\$ 19.85	J.P. 5	\$ 581.58	DPS	\$ 1,391.48
Constable 1	\$ 107.00	Constable 3	\$ 24.88	Constable 5	\$ 306.67
District Court Oper	\$ 6,298.32	Co & JP Court Oper	\$ 2,068.37	Veterans Adm Ofc	\$ 27.45
Computer Services	\$ 7,330.88	DPS/L&W	\$ 508.04	Assoc Judge/Family Law	\$ 13.67
Animal Control	\$ 25.00	Bulletproof Vest Grant	\$ 1,585.00	VOCA Grant	\$ 116.93
VAWA Grant	\$ 89.56	Truancy Officer Grant	\$ 5,930.85	911 Addrs Mtc. Grant	\$ 107.22
Juv Accountability Grant	\$ 1,256.28	Juv Justice Alt Ed Grant	\$ 337.60	R&B Operations	\$ 239,071.27
Precinct 2	\$ 308.44	Precinct 3	\$ 401.30	Precinct 4	\$ 197.76
Road Reconstruction	\$ 24.10	R&G General Credit	<\$19.31>	General Fund Credit	<\$200.71>
Sheriff Abandoned Veh	\$ 423.90	Anticip Notes '95 Proj	\$ 33.61	County Parks Fund	\$ 1,337.36
Records Mng/Co Clerk	\$ 7,434.58	Health Svcs Grants	\$ 214.07	Law Library Fund	\$ 2,156.25
Courthouse Security	\$ 29.95	Medical & Dental Insur	\$ 2,665.00	Sheriffs Drug Forf Fund	\$ 5,660.63
Family Health Svcs	\$ 923.91	Stellar Plastics Grant	\$ 2,072.63	Court Reprtrs Svc Fund	\$ 7,085.71

19497 APPROVE BUDGET AMENDMENT 01-23

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to approve Budget Amendment No. 01-23 as proposed by the County Auditor. All voting "Aye".

AMENDMENT NO. 2001-23 FY 2001 BUDGET 5-15-01				
FUND NO. 01 _____				
FUND TITLE <u>GENERAL FUND</u>				
LINE ITEM - EXPENDITURES	APPROPRIATION BEFORE AMENDMENT	AMENDMENT INCREASES	DECREASES	APPROPRIATION AS AMENDED
CAPCO/911 ADDRESSING MAINTENANCE GRANT (727):				
01-727-5346 Worker Comp	45	30		75
01-727-5718 Software	-0-	2,400		2,400
01-727-5719 Equipment	2,964		(1,464)	1,500
01-727-5311 Travel	2,000		(966)	1,034
		<u>2,430</u>	<u>(2,430)</u>	
<i>Transfer for balance of equipment</i>				
JOHNSON/HERITAGE VISITOR CENTER (745):				
01-745-5219 Other & Supplies	1,050	10,000		11,050
REVENUE:				
01-386-7745 Other Grants	-0-	DECREASE: 10,000	INCREASE: 10,000	
<i>Budget new funds received</i>				
LAW LIBRARY (447):				
12-447-5219 Other	500	300		800
12-447-5716 Furnishings	4,350		(300)	4,050
<i>Transfer for office supply/postage</i>				

19498 APPROVE UTILITY PERMITS

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to approve Utility Permit #01467 on CR126 issued to Goforth Water Supply Corp. All voting "Aye".

**19499 APPROVE REFUND OF DOUBLE PAYMENT ON TAXES**

Tax Assessor-Collector Luanne Caraway presented the following application for tax refund: \$2,905.17 double payment on Lot 18A Blk A Fieldstone Subdivision. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to approve refund of double payment on taxes as presented by the county Tax Assessor-Collector. All voting "Aye".

19500 AUTHORIZE PURCHASE OF A USED TRUCK FROM GENERAL SERVICES COMMISSION FOR BUILDING MAINTENANCE

Maintenance Supervisor Ron Knott requested authorization to purchase a used truck for his department from the General Services Commission - \$450 is available in the unspecified misc. equipment line item. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to authorize purchase of a used truck from General Services Commission for the Building Maintenance Department. All voting "Aye".

19501 APPROVE SPECIFICATIONS FOR THE 2ND PHASE OF CEDAR OAKS MESA WATER SYSTEM FOR 66,000 GALLON GROUND STORAGE TANK AND AUTHORIZE HEJL, LEE & ASSOCIATES TO SOLICIT FOR BIDS AND ADVERTISE

A copy of the specifications and plans are available for review in the Purchasing Office. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to approve specifications for a 66,000 gallon ground storage tank for the second phase of Cedar Oaks Mesa Water System Project and authorize Hejl, Lee & Associates to solicit for bids and advertise. All voting "Aye".

19502 [01-4-139] RESUBDIVISION OF DEERFIELD ESTATES SECTION 2 LOT 40 * PUBLIC HEARING AND FINAL PLAT APPROVAL [T1-95]

Judge Powers declared the public hearing open - no input was received and the public hearing was closed. Environmental Health Director Allen Walther spoke of division of this lot and creation of a conservation easement (Lot 40B) - he gave staff recommendation for final plat approval. A motion was made by Commissioner Molenaar, seconded by Commissioner Carter to approve final plat of "Deerfield Estates Section Two Resubdivision of Lot 40". All voting "Aye".

19503 [01-4-041] RESUBDIVISION OF HIDDEN CREEK, PHASE 1, LOTS 3 & 4 * PUBLIC HEARING AND APPROVE FINAL PLAT [T1-111]

Judge Powers declared the public hearing open - no input was received and the public hearing was closed. Environmental Health Director Allen Walther advised that these two lots will become 3 - he gave staff recommendation for approval of final plat. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve final plat of "Hidden Creek Phase I Resubdivision of Lots 3 & 4". All voting "Aye".

19504 [01-4-040] REPLAT OF RIVER MOUNTAIN RANCH, SECTION 1 LOTS 68 & 69B * APPROVE PRELIMINARY PLAT [T1-127]

Environmental Health Director Allen Walther spoke of variance granted April 24, 2001 for Lot 69B's request for relief from the one single-family residence. He gave staff recommendation for approval of preliminary plat. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve "River Mountain Ranch Section 1 Replat of Lots 68 & 69B". All voting "Aye".

19505 [01-4-043] REPLAT OF HILLVIEW ADDITION, PORTION OF LOT 20 * APPROVE PRELIMINARY PLAT [T1-140]

Environmental Health Director Allen Walther gave staff recommendation for preliminary approval of replat of Lot 20 of the Hillview Addition (creates Tract A = 3.27 acres & Tract B = 2.00 acres). A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve preliminary plat of "Hillview Addition Replat of Part of Lot 20". All voting "Aye".

19506 APPROVE SAN MARCOS CITY HALL AS AN EARLY VOTING SITE FOR THE HAYS COUNTY SPECIAL BOND & SAN MARCOS RUN-OFF ELECTION TO BE HELD JUNE 2, 2001 [T1-160]

Commissioner Burnett advised that the City of San Marcos will be having a run-off election on June 2, 2001 to elect City Council Member Place 2, therefore, our joint agreement made on April 24, 2001 will take effect and we will need to approve City Hall as a temporary branch for said election. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve San Marcos City Hall as an early voting site for the Hays County Special Bond and San Marcos Run-off Election to be held June 2, 2001. All voting "Aye".



19507 ACCEPT "PEALE ROAD" (LOCATED IN THE SPRING HOLLOW SUBDIVISION) FOR COUNTY ROAD MAINTENANCE [T1-179]

Sam Davis spoke of the Spring Hollow Subdivision being 10 miles west of San Marcos - he asked the county to take over 3/10 mile of road (Peale Road) off Fischer Store Road. He explained that Peale Road extends into Comal County providing access to an "unnamed subdivision". Mr. Davis spoke of 819 acres that was developed over 25 years ago that is partially in Comal County (created an unnamed 16 tract subdivision) and Hays County (created the Spring Hollow Subdivision = 52 lots) - the "no name subdivision" has 13 residences at this time and they stimulate 36% of the traffic on the first one tenth of a mile of Peale Road. He stated that they have talked to the people in the "no name subdivision" and asked them to help out and they have ignored them - he has talked to Comal County Commissioner Moe Schwab and he gave no help, no hope, and only cursory conversation. Mr. Davis advised that this small portion of their road system is a drain on the funds available for road maintenance (roads are private in Spring Hollow Subd). He spoke of shape, size, and location of Lot 52 Blk 2 of Spring Hollow Subdivision appears to be originally thought of as a double-wide entry way into Comal County - but the developer of the Comal County subdivision (after negotiating purchase of Lot 52 & part of Lot 16 of Spring Hollow) changed their mind and decided to arbitrarily extend Peale Road past the platted culdesac and used Peale as their entry into their subdivision and save themselves a lot of money - and stick the Spring Hollow Subdivision property owners with their cost. He stated that they know the Hays County Commissioners' Court did not create this problem but it is within their power to straighten it out. He passed out cost estimate to make necessary improvements [\$11,543.04]. A petition was presented to the court:

The tax paying residents and property owners of Spring Hollow Subdivision located in Hays County, respectively request your review and action on this signature petition.

Our request to the court is as follows:

The 'Spring H Property Owners Association' hereby petition the court for Hays County to accept the deed for approximately 3/10 miles of "Peale Road", a private road in Spring Hollow Subdivision, Hays County, Texas. We request the county to provide a basic chip seal surface for this vital arterial road within Hays County which accesses Spring Hollow Subdivision and many other residents in Comal County.

We offer background information and facts on this situation and why we believe the county should accept responsibility for this important arterial road.

BACK GROUND INFORMATION:

Spring Hollow Subdivision was formed in 1977 out of five hundred ninety six (596.06) acres of ranch land. This contained approximately 2.9 miles of private subdivision roads. A property owners association was formed shortly afterwards and has endeavored to maintain these roads with an assessed yearly fee per lot for twenty-three (23) years.

Major problems existed from day one with the subdivision roads as explained here:

1. The developer sold lots across the county line in Comal County which were not included in the original Springs Hollow Subdivision. The developer provided access to this area through Hays County and Spring Hollow Subdivision via "Peale Road" rather than separate access as was originally platted. These Comal County property owners are not bound legally to contribute any road maintenance fees and will not do so, and we, the Spring H Property Owners Association have no authority to collect such a fee.
2. Peale Road joins Fischer Store Road (County Rd. #181) as an arterial road that provides the only access for fire and sheriff department, medical emergency, mail and all vehicle traffic to these non-association and non-Hays County residents who live in Comal County. This situation has existed for twenty plus years and grows more serious each year.
3. Cottonwood Road, north of Fischer Store Road has property owners/residents that are legally part of Spring Hollow Subdivision - as originally platted. Cottonwood Road abuts Fischer Store Road directly across from Peale Rd. A section of this road was believed to be a Spring Hollow private road for fifteen (15) years or more and has been used a major access road to hundreds of acres of land sold or being sold by a private developer for years, this Cottonwood in its entirety was and is used as an access road to miles of land from Fischer Store Rd. to Highway 2325 through a large residential subdivision. In 1996, the Spring H Property Owners Association determined that the section of Cottonwood Road thought to be in Spring Hollows Subdivision was never deeded to the Association, and thus discontinued maintenance on that section. The property owners on Cottonwood with some input from SHPOA resolved this unfortunate situation, whereas Hays County accepted Cottonwood Road in its entirety as a county maintained road after a nominal payment to the County by the Developer.
4. The Spring H Property Owners Association petitioned a prior Commissioners Court in 1993 for County ownership/maintenance of all Spring Hollow roads. This was done under the state law allowing county property owners to tax themselves to repay the up front costs. This agreement was not finalized at the last state of implementation because the county raised the amount of the cost, which had been previously agreed upon.

We sincerely believe that "Peale Road" must be a major concern to the county. This is absolutely the only access to provide fire, law enforcement, emergency medical, mail or any essential service to Hays and Comal County residents on Peale Road. The SHPOA cannot and should not be asked to carry the monetary burden and liability exposure to maintain Peale Road as necessary for the well being of these property owners in another county.

Hays County's resolution of the Cottonwood Road problem is applauded as it corrected a serious arterial road problem and an accidental injustice previously done to the Spring Hollow Subdivision by the developer.

We, the residents/property owners signing this petition respectively ask that you extend the same consideration to 3/10 miles of arterial "Peal Road" as given to Cottonwood Rd. This petition is presented by Spring H Property Owners Association on behalf of our home and property owners with their approval as attested by the petition signatures.



[T1-286] Bud Thompson (Spring Hollow Subd. resident) spoke of limited budget to maintain the roads for their neighbors. He spoke of lack of arterials - they have tired to increase their road assessment fees but it is not sufficient (\$50 per lot in 1976 - they have voted to increase it to \$150 this year). Not all property owners are paying this fee. Commissioner Burnett felt like the roads in the subdivision are in fairly decent shape. They only want the Hays County portion of Peale Road accepted for county maintenance (3/10 mile). The unnamed subdivision does not have a road maintenance fee. Sam Davis advised that there are three residences on Peale Road paying for road maintenance and 13 other people are using this roadway and not paying a maintenance fee. [T1-438] Bill Powell spoke in support of the petition - he spoke of history of this roadway - they have thought of legal action (ie installing a barrier at end of Peal Road) and they have decided to go to the court and get the county to take over ownership of this road. [T1-499] Sam Davis spoke in support of this petition. Commissioner Burnett spoke in support of the petition - this road would be put in our matrix and graded like any other road in the county. Road Engineer Supt. Jerry Borcharding spoke of this being a gravel/caliche road and it will eventually need to be paved. Commissioner Burnett stated that he has visited with Moe Schwab and some Comal County residents and was unable to get any help at all. [T1-553] Commissioner Carter stated that she is opposed to private roads in subdivisions and she spoke of similar situations in her precinct. Commissioner Carter spoke of need to bring the road to current county standards before the county takes it into the county road system - she suggested holding a road district bond election in that subdivision. Commissioner Burnett spoke of this being a situation in which Comal County residents are using a Hays County subdivision road. Jerry Borcharding advised that this road does not meet county standards - drainage work is needed - the r-o-w width is sufficient. Judge Powers felt like we have an opportunity to correct a wrong. Commissioner Molenaar advised that with our rules, this will not happen again. [T1-649] Pat Davis advised that through a road bond election they would have to pay taxes for people in Comal County that are trespassing - it has become a financial burden for the property owners. Sam Davis spoke of school buses and emergency vehicles that use this road. [T1-547] A motion was made by Commissioner Burnett, seconded by Judge Powers to accept 3/10 of a mile of Peale Road as dedicated county right-of-way, include it in our road matrix, pending donation of \$2,000 from the Spring Hollow Property Owners Association. Commissioner Ingalsbe, Judge Powers, and Commissioner Burnett voting "Aye". Commissioner Carter abstained. Commissioner Molenaar voting "No". MOTION PASSED.

19508 APPROVE MODIFIED CONTRACT WITH STOKES CONSTRUCTION FOR THE CONSTRUCTION OF THE NEW HEALTH DEPARTMENT FACILITY IN SAN MARCOS

[T1-701] On April 3, 2001, the court awarded the bid for construction of the new Health Dept. to Stokes Construction in accordance with Section 262.0305 Texas Local Government Code, which allowed the county to negotiate a modification to the contract. Before the modified contract can be effective, the Commissioners' Court must approve the contract. The original bid was \$1,118,111 and the new cost is \$1,030,963. The next lowest bidder was 12% higher than the original bid. Randy Fromberg presented a drawing of the facility - the negotiated contract reduces the original bid by \$87,000 (in deductions). It is estimated that this project will be complete in 270 calendar days from the signing of the contract. Commissioner Molenaar asked about rain days and delays, inspections, etc. for the project and stated that he would like for all records to be kept regarding rain days, etc. so we don't fall short on this project. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to approve the modified contract with Stokes Construction for the construction of the new Health Department Facility in San Marcos. All voting "Aye".

Clerk's Note: Agenda Item #16 RE: PROFESSIONAL SERVICE AGREEMENT BETWEEN HAYS COUNTY AND SUNDAY AND ASSOCIATES, INC. was pulled for further review. No discussion and no action was taken.

Court was adjourned.

MINUTES APPROVED IN OPEN COURT ON THE 22ND DAY OF MAY, 2001.

**JAMES L. POWERS, COUNTY JUDGE
H A Y S COUNTY, TEXAS**

**LEE CARLISLE, COUNTY CLERK
H A Y S COUNTY, TEXAS**

