



STATE OF TEXAS 0
 COUNTY OF HAYS 0

ON THIS THE 22nd 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
 DEBBIE GONZALES INGALSBE
 H. S. "SUSIE" CARTER
 RUSS G. MOLENAAR
 LINDA C. FRITSCHÉ

COUNTY JUDGE
 COMMISSIONER, PCT. 1
 COMMISSIONER, PCT. 2
 COMMISSIONER, PCT. 4
 DEPUTY COUNTY CLERK

WITH THE FOLLOWING MEMBER ABSENT: COMMISSIONER PCT. 3 WILLIAM "BILL" BURNETT WHEN THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

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

PRESENTATION BY ZANNA ACHEE ON FINANCIAL PLANNING, RETIREMENT, AND DIVERSIFICATION

[T1-25] Zanna Achee (representing Edward Jones Investments * Kyle, Texas) thanked Commissioner Carter for inviting her to make a presentation in Commissioners' Court. She spoke of building your financial future today through savings and investing. She explained assessing your financial situation, defining your goals, determining the amount of investment capital required to meet your goals, implementing the changes necessary to achieve your objectives, and monitoring your portfolio. [T1-454] After being questioned regarding this presentation in the public comment below Commissioner Carter stated that no tax money was used for Mrs. Achee's presentation - she asked her to come because she liked what she heard her say at other places - she is advocating conservative management of money and she thought it would be good for our county to handle our money in a conservative manner so that we don't keep raising people's taxes. She liked her idea of pay as you go and work on a cash basis because there are counties that don't have debt, they do pay as you go and there is no reason to keep raising taxes if you are conservative with your money.

PUBLIC COMMENT

[T1-314] Felix Reyna, Jr. spoke of increase in his **tax appraisal** (from \$148,000 last year up to \$162,000 this year) - he was told by the Central Appraisal District that the value of his house went up because property values in the neighborhood went up (current values are \$98 per square foot). He is opposed to the appraisal system being used. He will eventually be unable to pay his taxes. He spoke of having lived in Killeen and the people handling the money in Bell County were stealing county money for a lot of years until they were caught. He asked if the county was audited and why do we need so much money? He asked about the presentation that was made today - what does that have to do with county business? Did she get paid by tax money? [see response above from Commissioner Carter] Judge Powers advised Mr. Reyna that the court can not respond to his questions because of this being a public comment session and not a posted agenda item. He did advise that the Commissioners Court does not set property appraisal, only the tax rate. Judge Powers stated that he agrees with what Mr. Reyna is saying - he is frustrated about it also. Mr. Reyna asked what the court is going to do about it - on the letter he received from the CAD it states that the property tax burden is decided by the local elected officials - Mr. Islas (CAD) pointed his finger back to the governing bodies. He talked to the school board about it last night and he will be talking to the city council about it. Commissioner Molenaar asked Mr. Reyna to stay after the meeting to let the Judge and Commissioner answer some of his questions. Mr. Reyna stated that he wants to make sure that the court is aware of what is going on and he spoke of being treated like a criminal by the CAD and told that if you don't like it, you have the right to appeal it. He spoke of being a law abiding citizen and remembers the fellow in Luby's in Killeen - he was fighting an appraisal.

[T1-456] Charlie Johnson spoke of **bond issues** being proposed:

PROPOSITION NO. 1	THE ISSUANCE OF \$47,020,000 TAX BONDS FOR ROAD CONSTRUCTION AND IMPROVEMENT WITHIN HAYS COUNTY
PROPOSITION NO. 2	THE ISSUANCE OF \$3,500,000 TAX BONDS FOR HAYS COUNTY PARKS, OPEN SPACE AND RELATED PROJECTS

He supports the bond issue, he is a member on the steering committee for Hays County Citizens for Parks & Roads, and he asked everyone to vote FOR the bond issues and make Hays County a safer and nicer place to live and work. He spoke of growth that will continue to come to Hays County and he feels like the bond issue will help us keep ahead of the curve. He does not want to sit in gridlock like people in Austin, Texas right now.



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19509 APPROVE THE COMMISSIONERS' COURT MINUTES OF MAY 15, 2001

A motion was made by Commissioner Molenaar, seconded by Judge Powers to approve the Commissioners' Court Minutes of May 15, 2001 as presented by the Hays County Clerk. All present voting "Aye".

19510 APPROVE PAYMENT OF COUNTY INVOICES

Commissioner Ingalsbe spoke of her concern about payment to Southwest Initiatives Inc. (\$98,519.60) – this is not all for Hays County Juveniles. County Auditor Bill Herzog spoke of invoices that are sent out to other counties and we are reimbursed by those counties for their juveniles. He stated that he had contacted the Attorney General's office regarding payment before reimbursement and they said it was not a problem - we have never had a county not pay their invoice - this is based on a contract that the Juvenile Board entered into with each county using the Hays County facility. Special Counsel Jacqueline Cullom Murphy stated that she is sure the Juvenile Board would look at the contract if the court advised them of their concerns. Judge Powers spoke of the process being followed - he feels like the court is committed to make the payment by the 15th of the month to Southwest Initiatives. Jacqueline Cullom Murphy spoke of payment already being late this month and needs to be paid. Commissioner Ingalsbe stated that she does have an issue with paying out money before it is being received. Commissioner Carter agreed with Commissioner Ingalsbe. Commissioner Molenaar spoke of having contracts with the other counties. Bill Herzog spoke of having received some of the money at this point - it sometimes takes 30 days to receive payments from other counties. Judge Powers stated that he will request the Juvenile Board to address this issue.

A motion was made by Commissioner Molenaar, seconded by Judge Powers to approve payment of county invoices in the amount of \$271,531.29 as presented by the Hays County Auditor. All present voting "Aye".

State Shared Revenue	\$ 3,339.08	Public Safety Services	\$ 98,519.60	Auditor's Office	\$ 1,105.44
Treasurer's Office	\$ 513.55	Extension Office	\$ 696.37	Grants Administration	\$ 1,526.95
Juvenile Probation Office	\$ 278.73	Election Administration Ofc	\$ 3,070.61	Transfer Station	\$ 6,069.09
Environmental Health	\$ 393.01	Civic Center	\$ 59.65	Countywide Operating	\$ 5,243.78
District Clerk's Office	\$ 373.45	Sheriff's Office	\$ 9,994.91	Jail Operations	\$ 30,604.30
County Judge's Office	\$ 18.96	County Court at Law 1	\$ 190.00	Justice of the Peace 1-1	\$ 148.75
Justice of the Peace 1-2	\$ 182.94	Justice of the Peace 2	\$ 139.00	Justice of the Peace 3	\$ 75.09
Justice of the Peace 4	\$ 349.00	Justice of the Peace 5	\$ 36.03	Dept of Public Safety	\$ 235.62
District Court Operations	\$ 10,029.61	Co & JP Court Operations	\$ 81.00	Veterans Admin Ofc	\$ 709.90
Computer Services	\$ 443.32	DPS/L&W	\$ 120.00	Fire Marshal/EMC	\$ 163.56
TJPC CCAP Grant	\$ 70.00	Assoc Judge/Family Law	\$ 25.00	Special Counsel Ofc	\$ 125.00
Comm Court Expenses	\$340.50	CJD/VOCA Grant	\$ 145.00	Truancy Officer Grant	\$ 24.36
Waste Task Force Grant	\$ 70.50	Heritage Visitor Center	\$ 2,621.70	General Fund Credit	<\$537.26>
Road & Bridge Operations	\$ 81,211.96	Precinct 1	\$ 7.68	Precinct 2	\$ 43.30
Precinct 3	\$ 197.39	Precinct 4	\$ 77.00	R&B Gen Fund Credit	<\$15.47>
Anticipation Notes '95	\$ 113.40	Hays County Parks Fund	\$ 160.19	Rec Mngmnt/Co Clerk	\$ 2,327.19
Health Services Grants	\$ 173.00	Sheriffs Drug Forf Fund	\$ 1,151.28	Family Health Services	\$ 343.00
New Canaan Grant	\$ 43.67	Ace in the Hills Grant	\$ 185.24		

19511 APPROVE BUDGET AMENDMENT 01-24

A motion was made by Commissioner Molenaar, seconded by Judge Powers to approve Budget Amendment No. 01-24 as proposed by the County Auditor. All present voting "Aye".

AMENDMENT NO. 2001-24 FY 2001 BUDGET 5-22-01				
FUND NO. <u>01</u> FUND TITLE <u>GENERAL FUND</u>				
LINE ITEM - EXPENDITURES	APPROPRIATION	AMENDMENT		APPROPRIATION
	BEFORE	INCREASES	DECREASES	AS
	AMENDMENT			AMENDED
BUILDING MAINTENANCE (410):				
01-410-5458 Contract Janitorial	21,896	1,500		23,396
01-410-5492 Dripping Springs Utilities	3,000	1,600		4,600
01-410-5231 Medical Supply	350		(100)	250
01-410-5281 Janitorial Supply	21,005		(200)	20,805
01-410-5311 Travel	1,800		(200)	1,600
01-410-5481 Annex Utilities	19,000		(1,000)	18,000
01-410-5484 Courthouse Utilities	28,000		(1,000)	27,000
01-410-5499 Service Contract Elevator	7,500		(400)	7,100
01-410-5241 Bldg Maintenance Supply	28,000		(200)	27,800
		<u>3,100</u>	<u>(3,100)</u>	
<i>Transfer for needed expense</i>				



				AMENDMENT NO. 2001-24 FY 2001 BUDGET 5-22-01
FUND NO. 01 FUND TITLE <u>GENERAL FUND</u>				
<u>LINE ITEM - EXPENDITURES</u>	<u>APPROPRIATION BEFORE AMENDMENT</u>	<u>AMENDMENT</u> <u>INCREASES DECREASES</u>		<u>APPROPRIATION AS AMENDED</u>
CONSTABLE 3 (433):				
01-433-5212 Postage	200	1		201
01-433-5235 Law Enf Supply	185	200		385
01-433-5417 Law Enf Maintenance	350		(201)	149
01-433-5217 Fuel	1,200	875		2,075
01-433-5489 Telephone	800	100		900
COUNTYWIDE (414):				
01-414-5399 Contingencies	41,088		(975)	40,113
		<u>1,176</u>	<u>(1,176)</u>	
<i>Transfer fuel/telephone from Contingencies</i>				
FUND NO. 03 FUND TITLE <u>ROAD & BRIDGE GENERAL FUND</u>				
ROAD & BRIDGE OPERATIONS (438):				
03-438-5475 Equipment Rental	5,000	7,500		12,500
03-438-5357 Materials	1,898,893		(7,500)	1,891,393
<i>Transfer for needed expense</i>				

19512 APPROVE UTILITY PERMITS

A motion was made by Commissioner Molenaar, seconded by Judge Powers to approve Utility Permit #01468, #01469, & #01470 as submitted by the Hays County Road Department. All present voting "Aye".

PERMIT #	CO ROAD #/NAME	UTILITY COMPANY
01468	CR224	GTE
01469	CR140/Post Road	GRANDE COMMUNICATON
01470	CR117	BURY & PARTNERS INC.

19513 WOODBROOK SUBDIVISION * APPROVE PRELIMINARY PLAT [PCT. 2- 01-2-026]

[T1-724] Environmental Health Director Allen Walther advised that this 41 lot subdivision is located on FM2001 and will be served by individual on-site sewage facilities and a public water supply. He advised that it meets our requirements for preliminary approval and he gave that recommendation. A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to approve preliminary plat of "Woodbrook Subdivision". All present voting "Aye".

19514 APPROVE AN INTERLOCAL AGREEMENT WITH THE CITY OF KYLE AUTHORIZING THE ADVERTISEMENT, SALE AND TRANSFER OF JOINTLY OWNED LAND ON F.M. 150 IN THE CITY OF KYLE [T1-738]

Steve Harrison (City Manager of Kyle) appeared before the Court. He advised that recently the City of Kyle and Hays County have become aware that they are joint owners of property (2 1/8 acre) located on State Highway 150 near the County Barn (located in the City of Kyle). Adjacent property is being developed and there is an access easement through this parcel of land that was deeded to the City and County for storage of road materials. An interlocal agreement would allow the construction of a road through a portion of the property, and subsequent sale of the remaining portion. The construction of the road is desirable for public safety reasons and will belong to the City of Kyle. Mr. Harrison spoke of remainder of property (less the new access road) would be auctioned off and the proceeds would be divided equally between the co-owners (Hays County and City of Kyle). Commissioner Molenaar spoke in support of having the property appraised and marketed. Mr. Harrison spoke of agreement with developer to build road to city specifications. A motion was made by Commissioner Carter, seconded by Judge Powers to approve an interlocal agreement with the City of Kyle authorizing the advertisement, sale and transfer of jointly owned land on FM 150 in the City of Kyle. All present voting "Aye".



RE: Interlocal Agreement for the Sale of 2-1/8 acres of F.M. 150

Dear Honorable Judge Powers:

The City of Kyle, Texas (the "City") and the County of Hays, Texas (the "County") having determined that they are the co-owners of a 2-1/8 acre tract of land out of the John Pharass Survey located on F.M. 150 in Hays County, Texas (the "Property") agree to authorize the City to take such actions as are necessary to determine the appraised value, transfer a portion of the property and seek competitive bids for the remainder of the property. The City and County recently discovered the joint ownership of the Property and have reviewed the deed dated January 31, 1914 conveying the Property to the City and County. The deed limits the use of the property to a pit for dirt and gravel and as a right-of-way for the fee simple owner/successor to the C.F. Heidenreich deed (the "Successor"). The City and County do not find the property necessary to the public for use as a pit for dirt and gravel and are obligated to permit ingress and egress over the tract to the Successor. Therefore, conveyance of a specific portion of the property to the Successor for dedication as a public right-of-way and sale of the remaining property would better serve the interests of the public.

By this interlocal agreement, the City is authorized to permit the construction of a roadway and appurtenances thereto over a seventy-foot wide strip between F.M. 150 and the C.F. Heidenreich Property. A twenty-foot strip shall be conveyed to the Successor without charge and the additional fifty-foot of right-of-way shall be sold to the Successor for the appraised value for the construction of a seventy-foot wide public roadway and appurtenances thereto. The Successor shall be required to receive the prior approval of the City as to the location of the roadway, shall construct a roadway to the City standards and dedicate the roadway to the public upon completion. The City is hereby authorized to enter such agreements as are necessary to affect such an agreement with the Successor.

The City is further authorized to advertise for competitive bids the remaining portion of the Property. Upon receipt of the bids, the City shall tender a copy to the County for consideration. Should the City and County then agree as to the sale price for the remaining portion of the Property, the City and County will execute a deed transferring all ownership of the remaining portion of property to the successful bidder.

Any reasonable costs incurred by the City as a result of the appraisal of competitive bid shall be deducted from the sales. All profits shall be divided equally between the City and the County.

19515 RENEW PROFESSIONAL SERVICE AGREEMENT BETWEEN HAYS COUNTY AND SUNDAY AND ASSOCIATES, INC., WHICH EXPIRES ON JUNE 19, 2001 [T1-884]

Sunday and Associates Inc. provides professional services to assist the County with the procurement, implementation, reporting, and claims management of health and dental insurance for its employees. This company also assists in resolving claims and/or customer service issues and maintains a vision to the future for cost effective products and/or services as may be necessary or appropriate. The insurance committee voted to extend Sunday & Associates Inc.'s services. The premium is not going to increase for the upcoming year. This agreement may be terminated with or without cause by either party by providing written notice to the other party by certified mail. The termination shall be effective thirty (30) days after receipt of the notice. Mr. Sunday appeared before the court to answer any questions. Special Counsel Jacqueline Cullom Murphy advised the court of changes that need to be made to the agreement regarding dates: ≥ RECITALS second paragraph - change June 22, 2001 to May 22, 2001, ∅ SECTION 2. TERMS OF AGREEMENT – agreement shall begin on June 20, 2001 instead of June 22, 2001, < SECTION 5. PAYMENT – payment schedule: should be June 22, 2001 instead of June 222, 2001. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to renew Professional Service Agreement between Hays County and Sunday and Associates, Inc. which expires on June 19, 2001. All present voting "Aye".

CONSULTING AGREEMENT BETWEEN HAYS COUNTY AND SUNDAY AND ASSOCIATES, INC.

STATE OF TEXAS §
 COUNTY OF HAYS §

RECITALS

WHEREAS, Hays County desires to retain a professional insurance consultant to assist the County in the procurement of health insurance for its employees; and,

WHEREAS, the Hays County Commissioners' Court approved an Agreement, between Hays County and Sunday and Associates, Inc. at its regular meeting of ~~June~~ May 22, 2001.

NOW, THEREFORE, in consideration of the mutual promise and covenants contained in the agreement, it is hereby agreed as follow

SECTION 1. PARTIES

This consulting agreement is entered into between Hays County, Texas (hereinafter referred to as "County") represented by Hays County Judge Jim Powers and Sunday and Associates, Inc., Houston, Harris County, Texas (hereinafter referred to as Sunday and Associates) represented by Burke Sunday.



SECTION 2. TERM OF AGREEMENT

The term of this Agreement shall begin on June ~~22~~ 20, 2001 and extend for a period of one (1) year to expire on June 21, 2002.

SECTION 3. PERFORMANCE

3.1 Sunday and Associates, Inc., agrees to:

(a) Review the County's Current Health/Rx Plan

- (1) Meet with insurance committee and/or Commissioners' Court to discuss current/future plan cost (including projections), benefits, and areas of concern;
- (2) Prepare a review/study of insurance carrier/managed care delivery systems applicable/available to the County;
- (3) Review and analyze current financial resources and budget considerations;
- (4) If requested by the County, coordinate, manage and negotiate the 2001-2002 plan year renewal with the current carrier (Aetna), and other pertinent vendors, and communicated cost and benefits to the insurance committee and/or the Commissioners' Court.

(b) If requested by the County, Develop RFP Specifications

- (1) Prepare Request for Proposal (RFP) in accordance with section 262.030, Texas Local Government Code. RFP specifications will provide qualified vendors with all information, including historical data, claims, etc., needed to present their best effort.

(c) Underwriting/Selection Process

- (1) Screen and select those insurance carriers, third party administrators, managed care companies, and other professional vendors that will be provided with proposal specifications;
- (2) Respond to questions and inquires from insurance carriers, third party administrators, managed care companies, and other professional vendors during the proposal process;
- (3) Review and compare proposals received to determine conformity to specifications;
- (4) Negotiate, on behalf of the County, with those insurance carriers, third party administrators, managed care companies, and other professional vendors that are competitive to achieve the best benefits, costs, and contractual terms;
- (5) Make recommendations for placement of coverage for insurance services, retention, managed care services, and other related professional services as required.

(d) Implementation, Communication, and Plan Management

- (1) coordinate the enrollment and installation of contract[s], including employee communication of benefits, procedures [claim forms and claim filing], "managed care" network (including providers in such network[s]), and other necessary services to complete the enrollment and implementation of the plan;
- (2) coordinate with the appropriate personnel the insurance carrier, third party administrator, and other professional vendor's administrative procedures, financial reporting, and contract/service representatives;
- (3) monitor the performance of such insurance carrier, third party administrator, and other professional vendors and any other pertinent vendors;
- (4) review with the client, monthly and quarterly reports, including claims management and financial reporting, and to provide client an accurate and timely assessment of such reports;
- (5) assist in resolving claims and or services issues with various client departments and or insurance carrier, third party administrator, managed departments and or insurance carrier, third party administrator, managed care providers, and other related professional vendors;
- (6) maintain a vision to the future for cost effective products and or services as may be necessary or appropriate;
- (7) provide services not listed above as may be necessary or negotiated.

SECTION 4. STANDARD OF PERFORMANCE

Sunday and Associates shall use ordinary care and reasonable diligence in the exercise of its duties on behalf of Hays County, but shall not be liable for any mistake of judgment or other action taken in good faith or for any loss unless resulting from its own negligence.

It is hereby agreed by the Parties that Sunday and Associates shall perform the duties outlined in Section 3 above in a manner that includes full disclosure to the County of all pertinent information regarding insurance carriers, third party administrators, managed care providers, and other related professional vendors. Such disclosure shall include any information relating to complaints filed against the companies or action taken against them by the Texas Department of Insurance or the Texas Attorney General's Office. Sunday and Associates shall further disclose any financial relationship that it has with any insurance carrier, third party administrator, managed care provider or any other related professional vendors.

SECTION 5. PAYMENT

The County shall pay Sunday and Associates a total fee of \$24,500.00 (Twenty four Thousand Five Hundred Dollars) to complete the consulting services described in Section 3. The County shall make timely payments in accordance with the following schedule upon receipt of appropriate invoices for payment delivered to the Hays County Auditor.

Payment schedule:

June 22 22, 2001	\$6,000.00
August 20, 2001	\$6,000.00
October 29, 2001	\$4,166.00
January 20, 2002	\$4,166.00



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SECTION 6. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties and any changes or modifications to this Agreement must be approved by the Hays County Commissioners' Court.

SECTION 7. TERMIMINATION

This agreement may be terminated with or without cause by either party by providing written notice to the other party by certified mail. The termination shall be effective thirty (30) days after receipt of the notice.

SECTION 8. CODE OF ETHICS AND STATE LAWS

Sunday and Associates hereby agrees to comply with the Hays County Code of Ethics attached hereto and incorporated for all purposes and with all applicable state laws in the performance of this Agreement including, but not limited to, the Public Information Act and Open Meetings Act.

SECTION 9. VENUE

This Agreement shall be construed under and in accordance with the laws of the State of Texas and the venue for any dispute arising from the performance of this Agreement shall be in Hays County, Texas.

SECTION 10. INDEMNIFICATION

Sunday and Associates shall indemnify and hold harmless all employees and agents of Hays County from any and all claims, demand, damages, expenses, liabilities and injuries to persons or property arising from the negligent acts, errors or omissions of Sunday and Associates in performance of this Agreement to the extent allowable under the laws of the State of Texas.

SECTION 11. NOTICE

Notices provided for by this agreement shall be forwarded to the addresses below:

Sunday and Associates, Inc.
9000 West Bellfort, Suite 355
Houston, TX 77031

Hays County
111 E. San Antonio Street
San Marcos, TX 78666

PUBLIC COMMENTS REGARDING "LOST CREEK ROAD" IN PRECINCT 4

On April 27, 1999 the Court took action to authorize the condemnation of a sixty-foot right-of-way north of Bell Springs Road called "Lost Creek Road". Since that time the County hired a condemnation lawyer, Elly Dietz, who has been working on the acquisition of the property. She will be briefing the Court (in executive session) on the matter and asking the Court to adopt a Resolution, which determines the public necessity for the acquisition of the right-of-way. Prior to convening into closed executive session, the court allowed the following public comments: [T1-917] **Steve Randall** asked the court to ask themselves if this is really a public necessity or is this for the convenience of a very small group of people. He spoke of having been told by Attorney Elly Dietz that there were a couple of affidavits from residents of Lost Creek asking that this land be seized – she went on to explain that some of the residents are getting older, some now have small children and having to stop and open and close the gate on the existing easement is an annoyance – she further explained that these gates are also a nuisance to delivery personnel. He spoke of people knowing about the easements and their limitations when they bought the property and they went on to build their homes knowing these easements would not change. He stated that the spirit of the Texas Constitution does not permit a governing body to exercise eminent domain on a property for private use – yet this case has that appearance (a private road to a private subdivision). He spoke of other matters that are troubling him and he asked how much money has been spent and will be spent on legal fees, on improvements and maintenance of this road. [T1-969] **William Burns** spoke of issue being the layout of this roadway - he is particularly concerned about emergency vehicles (EMS & fire trucks) being able to get through this narrow gated opening. If his water well went dry there would be no way for a well driller to get through or other large vehicles with trailers (there is only 14 ft between the two I-beams). He was aware of this being an easement but now that he has a family he is concerned about the safety issues. [T1-1070] **Elaine Jacobs** gave a brief history of this issue (at least 5 years) She read from the Commissioners' Court Minutes dated Sept. 22, 1998 (R/159) based on a petition from 1996 - she spoke of people signing the petition that were not residents on this roadway. She spoke of a 1/12/99 neighborhood meeting that was held and petitions that were generated - that petition is the one currently being considered. She spoke of a new petition in which the property owners on Lost Creek Road, Bell Springs Road, or Oak Forest Road want to maintain the private ownership of that portion of Lost Creek Road, approximately one-tenth of a mile, which is an easement. She feels like this acquisition will benefit only a small amount of people. When she bought her property she was well aware of the easement and gate and she values the privacy, security, peace and quiet - she feels safer this way. She stated that this road goes to nowhere but private properties.



[T1-1249] Commissioner Carter stated that she was sent by an attorney who said "that in order to condemn private property the entity exercising condemnation authority must be able to show that the land is being condemned for a public, as opposed to a private purpose – there are cases out there that specifically define public and private purposes – generally a public purpose benefits the public as a whole and a private purpose benefits one person or a small group of people like a subdivision. Elaine Jacobs stated that she perceives it as a private need and she has never heard one good reason for a public need or public access. She stated that she has had a personal conversation with the Dripping Springs/Hays County Volunteer Fire Department Chief who did get his tanker truck out to her neighbors property and he stated that he had no problem getting his fire truck in. [T1-1283] Delora Frederickson advised that she has seen very large trucks coming and going from this easement with no problem and she is opposed to the condemnation. She sees no public need for this and she values her privacy and safety. [T1-1327] John Bridgman spoke of his attraction to the property being the gates to the property. He enjoys the privacy and does not mind opening the gates and he does not feel like there is a public necessity. Mr. Bridgman spoke of large vehicles that have accessed this roadway (fire trucks, RV, well drilling truck). [T1-1375] Jane Bridgman spoke of fire trucks not having problem getting through the gates as well as well drilling equipment - she spoke of it primarily being ranches in the area and there is no reason for the public to access this property except for the people living there. [T1-1413] Clay Pelton spoke of difficulties in accessing through the gates, unable to get postal service or UPS service, and he is concerned about access by emergency vehicles. Commissioner Carter spoke of possibility of putting in a solar gate with limited access. Mr. Pelton stated that this has been discussed and it would be costly to maintain and he is concerned about sabotage and the wiring shut of the gate. [T1-1486] Sharon Pelton voiced her concern about her house burning and she spoke of having to open and close gates - the road is in terrible disrepair and two cars cannot pass at the same time. [T1-1520] Mary Hodge Jeffers spoke of problems using the easement - there is no free uninterrupted access. She spoke of her family members being video-taped by Mr. Alexander and she spoke of gates being wired shut. Mrs. Jeffers stated that her husband is a truck driver and is unable to bring his truck to their home and she spoke of difficulty in opening and closing the gates in wet weather (mud puddles). She spoke of cows being on her property - they had no idea of the extent of the problems when they purchased their property. [T1-1643] Tonya Morton (purchased property from Stern) spoke of cows that get on her property and she spoke of vehicles that have to turn on her property because they cannot make the turn at the gate. She spoke of delay in getting Sheriffs Dept. personnel to her property because of the "private property" sign on the gate (they have to make several calls before law enforcement can find their property). She spoke of her son being ill and possibly requiring emergency medical assistance and she is concerned about delays in getting to her house - she spoke of difficulty in obtaining school bus access. Mrs. Morton spoke of desire to move additional mobile homes onto her property for family members and was denied by Mr. Alexander. She spoke of feeling uncomfortable and very unsafe because on several instances Mr. Alexander has been hiding behind a tree or sitting there watching her when she gets out to open the gate. Her main concern is her son (who needs a special ed school bus) and she would like un-prohibited access. She stated that when she bought the property she had been told that this easement would be taken eventually and she did not know, until her son started going to school, that school buses would not come down private easements. Commissioner Carter spoke of letter she got from someone that indicated that if the court approved this, they would like for their private road to be made into a county roads – would open the door for the taxpayers to pay for a lot of private roads being made into public roads for a few people at the expense of all the people. [T1-1897] Lee Ann Schriver (one of the original buyers) spoke of problem being maintaining the roads - she spoke of lawsuit several years ago trying to close the road. She spoke of Bell Springs Road going through his property that has been closed so that they no longer have access to Dripping Springs by that roadway. She feels like this is necessary due to growth in the area. [T1-2042] Randy Livingston (Attorney for Joe Alexander) spoke of problems Mr. Alexander has had over the years with people speeding through his property endangering and killing some of his animals - he sued the county and the court allowed him to put gates on his roadway and he spoke of other actions in this lawsuit. He stated that the people bought their property knowing they only had an easement, knowing that the gates were there, knowing the width of the gates, and knowing the inherent problems that existed with that. He feels like the hidden agenda is that two or three tracts with 200+ acres will become 1.5 to 2 acre lots and the area will be inundated with people and the rural atmosphere will be gone. Judge Powers stated that this is only an assumption and he asked why Mr. Alexander is video-taping people going in and out of that gate and why would he wire that gate shut. Mr. Livingston stated that there is no prohibition against him watching who goes in and out through those gates over his property – if he wants to video them, fine, because perhaps some of them leave the gates open and that causes the cattle to get on other peoples property – as far as wiring it shut, it should not be wired shut because its an easement and the people have the right drive up, open the gate, drive through, and close the gate. Mr. Livingston feels like there is a hidden agenda and it is an assumption – he spoke of case law regarding public necessity – this does not benefit the public as a whole. He feels like most of the problems addressed today can be resolved without condemning and taking away this mans land. Judge Powers asked if these issues can be resolved in a specified period of time. Mr. Livingston stated that there is access through Lot 3 of the adjoining subdivision (by purchasing) that would provide access to existing county roads. The court went into executive session.

19516 EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SEC. 551.071 TO MEET WITH LEGAL COUNSEL REGARDING THE ACQUISITION OF A PORTION OF LOST CREEK ROAD IN PRECINCT 4 AND THE ADOPTION OF A RESOLUTION DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF SAME

The court convened into closed executive session to meet with legal counsel regarding the acquisition of a portion of Lost Creek Road in Precinct 4. Upon completion of the closed session, the court reconvened into open meeting. [T1-2193] A motion was made by Commissioner Molenaar, seconded by Judge Powers to adopt a Resolution of the Commissioners' Court of Hays County, Texas, determining a public necessity to acquire certain property; giving notice of an official determination to acquire property for public access; establishing procedures for the acquisition of property; and appropriating funds. Commissioner Ingalsbe, Commissioner Molenaar, and Judge Powers voting "Aye". Commissioner Carter abstained. MOTION PASSED.



MAY 22, 2001

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RESOLUTION DETERMINING PUBLIC NECESSITY

A RESOLUTION OF THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS DETERMINING A PUBLIC NECESSITY TO ACQUIRE CERTAIN PROPERTY; GIVING NOTICE OF AN OFFICIAL DETERMINATION TO ACQUIRE PROPERTY FOR PUBLIC ACCESS; ESTABLISHING PROCEDURES FOR THE ACQUISITION OF PROPERTY; AND APPROPRIATING FUNDS.

WHEREAS, the Hays County Commissioners Court took action to acquire a 60 foot right-of-way north of Bell Springs Road called "Lost Creek Road" on April 27, 1999, and

WHEREAS, it is necessary to establish procedures for determining the establishment and approval of just compensation for the parcel to be acquired for public access; and

WHEREAS, there may be improvements located on some of the real property acquired for this project and such improvements may be required to be moved prior to the beginning of this project;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF THE COUNTY OF HAYS, TEXAS

PART 1: That the Commissioners Court of Hays County, Texas, hereby officially determines that there is a public necessity for, and the public welfare and convenience will be served by, the acquisition of the property described in the attached Exhibits "A" and "B" and it is the intention of Hays County to acquire the real property as set out and described in Exhibits "A" and "B" attached hereto and made a part of this resolution for all purposes of this project regarding public access.

PART 2: That the County is hereby authorized to contract with professional appraisers for appraisal services and with attorneys for preparation of title opinions needed in connection with acquisitions of the right-of-way for this project.

PART 3: That the contracted land agent or appraiser, is hereby authorized and directed to examine the independent appraisal report as it is submitted to said County to determine whether said appraisal report is supported by sufficient data. Based upon such examination of said appraisal report, the Land Agent, or other staff appraiser, shall make a recommendation to the County as to establishment and approval of the amount of the just compensation for said parcel.

PART 4: After consideration of said recommendation, the County shall establish and approve the amount determined to be just compensation for acquisition of the parcel.

PART 5: Upon establishment and approval by the County of the amount of just compensation for the acquisition, the County agent is authorized to communicate a written offer to the owner of said parcel for acquisition of said parcel at the full amount determined and established to be just compensation therefore, and to negotiate with said owner on behalf of the County.

PART 6: That the County is hereby authorized to execute all documents necessary to acquire the parcel of right-of-way needed for said project, on behalf of the County.

PART 7: That the cost of this acquisition is to be appropriated from the County's Right-Of-Way Funds.

PART 8: That this resolution shall take effect immediately from and after its passage.

ADOPTED BY THE HAYS COUNTY COMMISSIONERS' COURT ON THIS 22ND DAY OF MAY, 2001



Court was adjourned.

MINUTES APPROVED IN OPEN COURT ON THE 29TH DAY OF MAY, 2001

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

LEE CARLISLE, COUNTY
H A Y S COUNTY, TEXAS

