



STATE OF TEXAS ?  
 COUNTY OF HAYS ?

ON THIS THE 23<sup>RD</sup> DAY OF OCTOBER 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**  
**WILLIAM "BILL" BURNETT**  
**RUSS G. MOLENAAR**  
**LINDA C. FRITSCH**

**COUNTY JUDGE**  
**COMMISSIONER, PCT. 1**  
**COMMISSIONER, PCT. 2**  
**COMMISSIONER, PCT. 3**  
**COMMISSIONER, PCT. 4**  
**DEPUTY COUNTY CLERK**

WHEN THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

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

**19840 APPROVE THE COMMISSIONERS' COURT MINUTES OF OCTOBER 16, 2001**

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve the Commissioners' Court Minutes of October 16, 2001 as submitted by the County Clerk. All voting "Aye".

**19841 APPROVE PAYMENT OF COUNTY INVOICES**

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve payment of county invoices in the amount of \$223,257.56 as presented by the County Auditor. All voting "Aye".

Public Safety Svcs	\$ 272.00	Fines	\$ 342.00	Auditor's Office	\$ 919.05
Treasurer's Office	\$ 269.51	Extension Office	\$ 510.75	Juvenile Prob Ofc	\$ 568.73
Election Admin Ofc	\$ 601.02	Comm & Soc Svcs	\$ 7,725.00	Indigent Care	\$ 5,472.47
Bldg Mtc. Dept.	\$ 15,738.95	Civic Center	\$ 2,661.33	Countywide Oper	\$ 16,571.70
Tax Assessor/Collector	\$ 480.23	District Clerk's Ofc	\$ 336.81	Sheriff's Office	\$ 8,316.89
Jail Operations	\$ 37,854.42	County Judge's Ofc	\$ 65.03	Human Resources	\$ 103.74
Co Court at Law 1	\$ 190.00	District Attorney Ofc	\$ 2,202.59	J.P. 1-1	\$ 183.52
J.P. 1-2	\$ 1,724.17	J.P. 2	\$ 453.06	J.P. 4	\$ 145.00
J.P. 5	\$ 156.59	DPS	\$ 861.44	Constable 1	\$ 6.79
Constable 2	\$ 50.00	Constable 3	\$ 116.07	Constable 4	\$ 231.10
Constable 5	\$ 142.74	District Court Oper	\$ 4,247.87	Comm Precinct 2	\$ 29.21
Comm Precinct 4	\$ 172.00	Veterans Adm	\$ 627.45	Computer Services	\$ 728.32
DPS/Lic & Weights	\$ 191.57	Fire Marshal/EMC	\$ 516.78	District Court Rpttrs	\$ 67.37
TJPC CCAP Grant	\$ 10,584.32	Historical Comm	\$ 14.25	Assoc Judge/Family	\$ 28.95
Animal Control	\$ 45.00	Comm Court Exp	\$ 340.50	CJD/VOCA Grant	\$ 493.71
CJD/VAWA Grant	\$ 59.32	TJPC/Juv Just Alt Ed	\$ 55.64	General Fund Credit	<\$55.95>
Road & Bridge Oper	\$ 76,502.63	Precinct 2	69.23	Right of Way	\$ 1,274.38
R&B Gen Credit	<\$2,070.66>	Sheriff Abandon Veh	\$ 204.70	Hays Co Parks Fund	\$ 578.00
Rec Mng/Co Clerk	\$ 8,178.14	Health Svcs Grants	\$ 2,084.29	Sheriff Spec Projects	\$ 55.83
Courthouse Security	\$ 414.49	Med & Dental Insur	\$ 900.00	Sheriff Drug Forf Fund	\$ 922.30
Personal Health	\$ 10,725.12	Family Health Svcs	\$ 10,725.12		

**19842 APPROVE REFUND OF DOUBLE PAYMENT ON TAXES**

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve refund of double payment on taxes for Woodcreek Section 6-C Lots 174-175 in the amount of \$4,195.67. All voting "Aye".

**19843 APPROVE AND ACCEPT CONTRACTS FOR HEALTH DEPARTMENT CLINIC PHYSICIANS FOR FY 02**

Director of Health Services Gay Helmlly advised that two Physicians (Arthur Ray Jacobson, M.D., & Teresa Lynn Irwin, M.D.) rotate services for the maternity clinic on a weekly basis and the county has been contracting with them for several years. She submitted copies of the physician's signed agreements and malpractice insurance policies. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve and accept contracts for Health Department Clinic Physicians for FY02. All voting "Aye".

TITLE V SERVICE AGREEMENT	
I agree to provide physician services to patients who are eligible for Title V reimbursement through Hays County Health Department. The agreed upon fee for these services will be as follows:	
Initial Admission Visit	\$ 69.60
Prenatal Visit	\$ 40.00
Family Planning Visit	\$150.00 Once a year physical exam
Tubal Litigation	\$700.00
These physician services will be billed to the Hays County Health Department, 401A Broadway, San Marcos, Texas 78666 and will be paid by the County of Hays on a monthly basis.	
This agreement can be terminated by either party on a 30 day notice. Services will be provided from September 1, 2001 through August 31, 2002.	



**HAYS COUNTY HEALTH DEPARTMENT SERVICE AGREEMENT**

I agree to provide physician services to the Hays County Health Department maternity clinic on a rotating basis with other physicians. These services will be provided from September 1, 2001 through August 31, 2002. The agreed upon fee is \$100.00 per clinic and will be paid on a monthly basis and will be paid through the Hays County Auditor's Office.

This agreement can be terminated or renegotiated with a two week notice by physician or the Hays County Health Department.

**19844 APPROVE PROPOSED NEW FEE SCHEDULE FOR HEALTH DEPARTMENT SERVICES**

Director of Health Services Gay Helmly advised that the Health Department has not had a fee increase in a couple of years. She submitted a proposed increase in fees. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve the proposed New Fee Schedule for Health Department Services. All voting "Aye".

PROPOSED FEE INCREASE	FY01	FY02
<b>TB Control</b>		
X-rays	\$ 35.00	\$ 40.00
Skin Tests	\$ 10.00	\$ 15.00
<b>Immunizations</b>		
Private Hep A	\$ 50.00	\$ 60.00
Private Hep B	\$ 40.00	\$ 50.00
Private Varicella	\$ 50.00	\$ 60.00
VFC	\$ 5.00	\$ 10.00
Copies of shot records	\$ 2.00	\$ 2.00
<b>Title V Fees</b>		
Pregnancy Tests	\$ 10.00	\$ 17.00
RI D	\$ 6.00	\$ 7.00
<b>Family Health Services</b>		
B/P	\$ 3.00	\$ 5.00
Cholesterol	\$ 12.00	\$ 15.00
Lipid Profile	\$ 16.00	\$ 20.00
Diabetes	\$ 5.00	\$ 10.00
HIV	\$ 15.00	\$ 20.00
Maternity Clinic	\$ 30.00	\$ 35.00
Well Child Clinic	\$ 30.00	\$ 35.00
PKU only	\$ 20.00	\$ 25.00
Follow up Well child	\$ 5.00	\$ 5.00
Family Planning Exam	\$ 65.00	\$ 70.00
Problem>Returns	\$ 7.00	\$ 10.00
Film	\$ .50	\$ 1.00
BC Pills	\$ 3.00	\$ 5.00
DepoProvera	\$ 38.00	\$ 40.00
Condoms	\$ .10	\$ .15
Flu Shots	\$ 10.00	\$ 15.00
STD Visit	\$ 20.00	\$25.00
STD Returns	\$ 10.00	\$ 10.00

PROCEDURE CODE	FY01			FY02		
	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 1	LEVEL 2	LEVEL 3
99201	\$ 20.00	\$ 25.00	\$ 31.00	\$ 25.00	\$ 32.00	\$ 40.00
99202	\$ 24.00	\$ 30.00	\$ 38.00	\$ 30.00	\$ 38.00	\$ 48.00
99203	\$ 32.00	\$ 40.00	\$ 50.00	\$ 40.00	\$ 50.00	\$ 62.00
99204	\$ 50.00	\$ 62.00	\$ 77.00	\$ 62.00	\$ 78.00	\$ 96.00
99205	\$ 64.00	\$ 82.00	\$103.00	\$ 80.00	\$100.00	\$125.00
99211	\$ 14.00	\$ 17.00	\$ 21.00	\$ 18.00	\$ 20.00	\$ 26.00
99212	\$ 20.00	\$ 25.00	\$ 31.00	\$ 25.00	\$ 32.00	\$ 40.00
99213	\$ 30.00	\$ 31.00	\$ 39.00	\$ 38.00	\$ 48.00	\$ 60.00
99214	\$ 35.00	\$ 46.00	\$ 58.00	\$ 44.00	\$ 56.00	\$ 70.00
99215	\$ 50.00	\$ 64.00	\$ 80.00	\$ 62.00	\$ 80.00	\$100.00



**19845 APPROVE BID SPECIFICATIONS FOR "PIPE FENCE FOR ADJACENT PROPERTY TO DUDLEY JOHNSON PARK" AND AUTHORIZE PURCHASING TO SOLICIT BIDS**

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve bid specifications (#2002-B03) for "pipe fence for adjacent property to Dudley Johnson Park" and authorize Purchasing to solicit bids. All voting "Aye".

**19846 APPROVE BID SPECIFICATIONS FOR A NEW PNEUMATIC ROLLER FOR THE ROAD DEPARTMENT AND AUTHORIZE PURCHASING TO SOLICIT BIDS**

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve bid specifications (#2002-B02) for a new pneumatic roller for the Road Department and authorize Purchasing to solicit bids. All voting "Aye".

**19847 APPROVE THE NOMINATION OF LUANNE CARAWAY TO SERVE AS THE COUNTY'S REPRESENTATIVE ON THE HAYS COUNTY APPRAISAL DISTRICT BOARD**

This is a re-appointment – Luanne Caraway has agreed to serve a two year term. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve the nomination of Luanne Caraway to serve as the County's Representative on the Hays County Appraisal District Board. All voting "Aye".

**19848 OUR PLACE PHASE 1 [PCT. 2-01-2-074A] \* APPROVE FINAL PLAT [T1-35]**

Environmental Health Director Allen Walther gave staff recommendation for final approval of this four lot subdivision located on Mathias Road in Precinct. 2. A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to approve final plat of "Our Place Phase I". All voting "Aye".

**19849 THE PRESERVE PHASE ONE [PCT. 4-01-4-084] \* APPROVE AMENDED FINAL PLAT**

[T1-42] Environmental Health Director Allen Walther advised that errors were made on the curve data table on the original plat and corrections are being made by filing a revised plat - he gave staff recommendation for approval of amended final plat. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve amended final plat of "The Preserve Phase One". All voting "Aye".

**19850 MARLBORO COUNTRY BLOCK A LOT 18 [PCT. 2-01-2-01V] \* GRANT VARIANCE TO MINIMUM LOT SIZE REQUIREMENT [T1-59]**

Environmental Health Director Allen Walther advised that the variance request is from the minimum lot size for new lots over the recharge zone or that are partially over the recharge zone. Property Owner Dennis Morgan desires to subdivide his lot into two lots, however, his lot is .03 acre less than the minimum six acres required for two 3-acre tracts. This would require both lots to have Class I septics. Mr. Morgan currently has a conventional septic on his property which he has expressed that he would switch to a Class I if he is able to subdivide his property to provide his daughter with a lot. A motion was made by Commissioner Carter, seconded by Judge Powers to grant a variance to minimum lot size requirement for Lot 18 Block A Marlboro Country. All voting "Aye".

**19851 MORNINGWOOD SECTION III \* ACCEPT ROADS & DRAINAGE IMPROVEMENTS FOR COUNTY MAINTENANCE AND RELEASE MAINTENANCE FISCAL SECURITY**

[T1-96] Road Supt/Engineer Jerry Borcharding advised that the roads have been inspected and he gave staff recommendation for acceptance of roads and drainage into the county maintenance system. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to accept "Morningwood Section 3" roads and drainage improvements for county maintenance and release maintenance fiscal security. All voting "Aye".

**19852 POSEY ROAD RANCH ESTATES PHASE 2 \* ACCEPT ROADS AND DRAINAGE IMPROVEMENTS FOR COUNTY MAINTENANCE AND RELEASE MAINTENANCE FISCAL SECURITY [T1-109]**

Road Supt/Engineer Jerry Borcharding gave staff recommendation for acceptance of roads and drainage improvements into the county maintenance system. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Carter to accept Posey Road Ranch Estates Phase 2 roads and drainage improvements for county maintenance and release maintenance fiscal security. All voting "Aye".

**19853 FALCONWOOD SUBDIVISION \* ACCEPT ROADS AND DRAINAGE IMPROVEMENTS FOR COUNTY MAINTENANCE AND RELEASE MAINTENANCE FISCAL SECURITY**

[T1-123] Road Supt/Engineer Jerry Borcharding gave staff recommendation for acceptance of roads and drainage improvements into the county maintenance system. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to accept "Falconwood Subdivision" roads and drainage improvements for county maintenance and release maintenance fiscal security. All voting "Aye".



**19854 AWARD "POLICE MOTORCYCLE" BID TO BARNETT HARLEY DAVIDSON [T1-141]**

Bid packets were sent out to six different vendors - only one bid was received and that bid came in at \$15,499.00 per motorcycle for a total of \$46,497.00 for three motorcycles. \$43,000.00 was budgeted for motorcycles and there are funds available from savings on patrol vehicles that could be used to make up the difference of \$3,497.00. A motion was made by Commissioner Molenaar, seconded by Judge Powers to award "police motorcycle" bid to Barnett Harley Davidson in the amount of \$46,497.00. All voting "Aye".

**19855 APPROVE AN EMERGENCY BUDGET AMENDMENT FOR \$100,000 TO HOUSE HAYS COUNTY INMATES AT ANOTHER FACILITY [T1-168]**

Jail Standards has conducted an audit and has determined that our jail facility is out of compliance because of overcrowding. This requires action to reduce the number of prisoners in our facility. Some of the county prisoners will need to be transferred to another facility. \$100,000.00 will allow us to transfer approximately 25 prisoners to another facility for 90 days. Sheriff Don Montague spoke of having a quad that is currently housing juveniles that could be renovated for adult prisoners. He spoke of meeting with the District Attorney to see what could be done to speed the process up. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve an emergency budget amendment for \$100,000 to house Hays County inmates at another facility. All voting "Aye".

				AMENDMENT NO. <u>2002-03</u> FY 2001 BUDGET 10-23-01
FUND NO. <u>01</u>				
FUND TITLE <u>GENERAL FUND</u>				
	APPROPRIATION BEFORE	<u>AMENDMENT</u>		APPROPRIATION AS
<u>LINE ITEM - EXPENDITURES</u>	<u>AMENDMENT</u>	<u>INCREASES</u>	<u>DECREASES</u>	<u>AMENDED</u>
<b>JAIL OPERATIONS (419):</b>				
01-419-5361 Contracted Detention/Inmates	-0-	100,000		100,000
<i>Budget emergency housing of prisoners to other locations</i>				

**19856 APPROVE AN INTERLOCAL AGREEMENT WITH GUADALUPE COUNTY TO HOUSE HAYS COUNTY ADULT PRISONERS [T1-281]**

Sheriff Montague stated that the inmates to be placed in the Guadalupe County facility would be post adjudicated/sentenced inmates. The cost for housing will be \$45 per day per prisoner - Guadalupe County currently has 350 bed available. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve an interlocal agreement with Guadalupe County to house Hays County Adult prisoners. All voting "Aye". [see copy of agreement in file]

**19857 APPOINT JOHN SCHOTT TO REPLACE COMMISSIONER INGALSBE ON THE GREATER SAN MARCOS ECONOMIC DEVELOPMENT COUNCIL [T1-312]**

The county appoints two representatives to this board (GSMEDC) - Commissioner Burnett is currently on the board and Mr. John Schott would be the second representative (replacing Commissioner Ingalsbe). A motion was made by Commissioner Ingalsbe, seconded by Commissioner Carter to appoint John Schott to replace Commissioner Ingalsbe on the Greater San Marcos Economic Development Council. All voting "Aye".

**19858 APPROVE SETTLEMENT OF TAX JUDGMENT AGAINST MOBILE HOME BROKERS, INC. [T1-319]**

Tax Assessor-Collector Luanne Caraway advised that Mobile Home Brokers Inc. is no longer in business and we have not collected taxes on it since 1995. The principal amount of taxes owing to the school district is \$30,272.25 exclusive of penalty and interest. The principal officer has made an offer to settle this matter for the sum of \$20,000 cash, \$15,714 of which would go to HCISD, \$140 to Northeast ESD, \$188 to Northeast RFPD, \$3,958 to Hays County. The School District has already approved this settlement. There are no assets to collect - the Collection Attorneys have tried to find something to attach to and were unsuccessful. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Carter to approve settlement of tax judgment against Mobile Home Brokers Inc. in the amount of \$20,000.00. All voting "Aye".

**19859 AWARD ANNUAL CONTRACT FOR "UNIFORM RENTAL" TO G & K SERVICES**

[T1-364] Bids were submitted by: G&K Services, Rus of San Antonio, Unifirst, and Cintas. County Auditor Bill Herzog spoke of lowest bid being G & K Services. Road Supt/Engineer Jerry Borcharding spoke in favor of awarding contract to G & K Services. A motion was made by Commissioner Carter, seconded by Judge Powers to award annual uniform rental contract to low bidder G&K Services. All voting "Aye".

**19860 ADOPT HAYS COUNTY ELECTION PRECINCT POLLING SITES** [T1-385]

Elections Administrator Joyce Cowan provided a list of polling places for 2001 and 2002 (proposed). She advised that 5 precincts have been merged into others (redistributing and realigning) and 2 new precincts have been created (total of 31 precincts). Pct. 127 is a new box and new polling place - #332 is also a new box - she recommended changing #228, #229, #230, & #449. School districts are cooperating with providing voting sites and promoting elections. Notification to voters will be made by new voting certificates to be mailed out, newspapers, county web site, and possibly letters to voters who have changed Commissioners & JP's. Joyce Cowan spoke of Chapter 19 funds that can be used for voter notification. Commissioner Burnett spoke in support of notifying voters who have been moved out of the current precincts. Joyce Cowan spoke of having 65,000 registered voters - would require a mass mailing of 60,000. She feels like she has sufficient funds to cover the mail-outs - she wants input from court members as to the content of the letters being mailed out (for Commissioners and JP's being affected). A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to adopt the proposed 2002 Hays County Election Precinct Polling Places. All voting "Aye".

**COUNTY POLLING PLACES For 2002**

<u>PCT</u>	<u>POLLING PLACE</u>	<u>PCT</u>	<u>POLLING PLACE</u>
110	Masonic Temple Hwy. 123 San Marcos, TX. 78666	315	Doris Miller Jr. High 301 Foxtail Run San Marcos, TX. 78666
111	Dunbar Center 801 Martin Luther King Dr. San Marcos, TX. 78666	330	Lamar Annex 500 Hutchinson St San Marcos, TX. 78666
112	Guadalupe Hall Corner of Churchill & Roosevelt San Marcos, TX. 78666	331	Grace Bible Church 218 Country Estates Dr San Marcos, TX. 78666
113	Elections Office 401-C Broadway St San Marcos, TX. 78666	332	First Lutheran Church 130 W Holland San Marcos, TX. 78666
114	Allenwood Hms Auditorium 1201 Thorpe Ln San Marcos, TX. 78666	334	First Presbyterian Church 410 W Hutchison San Marcos, TX. 78666
116	Hernandez Intermediate School 333 Stagecoach Trl San Marcos, TX. 78666	335	Chapel in the Hills 14601 Ranch Rd 12 Wimberley, TX. 78676
120	CM Allen Hms Office 801 River Rd (on Sturgeon Dr) San Marcos, TX. 78666	336	Crockett Elementary School 1300 Girard San Marcos, TX. 78666
121	Village on the River Clubhouse 1805 Aquarena Sp Dr San Marcos, TX. 78666	337	St Mary's Catholic Church 14711 Ranch Rd 12 Wimberley, TX. 78676
127	<b>Hemphill Elementary School</b> (New) 3995 East FM 150 Kyle, TX. 78640	441	Dripping Springs High Sch 111 Tiger Ln Dripping Sp, TX. 78620
223	Kyle City Hall 101 S Burlison St Kyle, TX. 78640	442	Driftwood Community Cen County Rd 150 Driftwood, TX. 78619
224	Senior Citizens Bldg 401 Barton Crossing Buda, TX. 78610	443	Sunset Canyon Bapt. Ch 4400 E Hwy 290 Dripping Sp, TX. 78620
225	Hays High School 4800 Jack C Hays Trl Buda, TX. 78610	446	Travis Elementary School 1437 Post Rd San Marcos, TX. 78666
226	Hays Hills Bapt. Church 1401 N FM 1626 Buda, TX. 78610	447	Travis Elementary School 1437 Post Rd San Marcos, TX. 78666
228	<b>Tom Green Elementary School</b> 5059 Old Goforth Rd Buda, TX. 78610	448	Rolling Oaks Clubhous Lonesome Trl Driftwood, TX. 78619
229	<b>Niederwald City Hall</b> 13851 Camino Real Niederwald, TX. 78610	449	<b>DSISD Administration Office</b> 510 W Mercer St Dripping Sp, TX. 78620
230	<b>Dahlstrom Middle School)</b> 3600 FM 967 Buda, TX. 78610		



**19861 ADOPT AN ORDER RELATING TO THE CREATION OF A PROCEDURE GOVERNING THE ABANDONMENT, VACATION, OR CLOSURE OF HAYS COUNTY RIGHT-OF-WAY INCLUDING THE IMPOSITION OF FEES [T1-645]**

Special Counsel Jacquelyn Cullom-Murphy spoke of this creating a procedure to address abandonment, vacation, or closure of county right-of-way – including the imposition of fees. The proposed policy tracks the Travis County procedure and takes into account all relevant statutory requirements – it also provides for a nonrefundable fee to cover staff time. She stated that she has worked with Road Supt/Engineer Jerry Borcharding and Environmental Health Director Allen Walther to come up with this procedure. Commissioner Molenaar spoke in support of the proposed procedure. A motion was made by Judge Powers, seconded by Commissioner Molenaar to adopt an Order Relating to the Creation of a Procedure Governing the Abandonment, Vacation, or Closure of Hays County Right-of-Way including the Imposition of Fees. All voting “Aye”.

**AN ORDER OF THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS ADOPTING A POLICY AND PROCEDURE RELATING TO THE ABANDONMENT, VACATION OR DISCONTINUATION OF COUNTY RIGHT-OF-WAY FOR USE BY THE PUBLIC.**

**WHEREAS**, Hays County, through the Hays County Road Department, has the authority to construct and maintain, for use by the public, county roadways;

**WHEREAS**, Hays County holds title to these roadways on behalf of the general public for use by the public;

**WHEREAS**, there are occasions when Hays County might determine that there is no longer a public need for such roadways and, therefore, has the legal right under State law to abandon, vacate or discontinue maintenance and use of said roadways.

**NOW, THEREFORE, BE IT RESOLVED**, that the Hays County Commissioners Court adopt the following policy and procedure relating to the abandonment, vacation or discontinuation of county right-of-way as follows:

- (a) **General Statement.** Public right-of-way may be held in easement or fee simple title. Unless a grantor has conveyed fee simple title to the County or the County has acquired the right-of-way through condemnation, right-of-way will be held in easement title. For example, right-of-way dedicated by a plat conveys only an easement in the property.
- (b) **County Authority.** The Commissioners Court may close, discontinue, abandon, or vacate public right-of-way which is no longer needed and which is not reasonably anticipated to be needed for its intended purpose and is located in the unincorporated area of the County. “Discontinue” means to discontinue the public maintenance of a public road. “Abandon” means to relinquish the public’s interest in the right-of-way and use of a public road. “Vacate” means to terminate the existence of a public road by direct action of the Commissioners Court.
- (c) **Procedures.**
  - (1) **Abandonment of Public Easement Right-of-way.**
    - (A) An applicant seeking to request that the County abandon right-of-way held by the County as an easement, whether acquired by dedication or prescription, must submit the following documents to the County Road Department:
      - (i) A letter stating the reason for the request.
      - (ii) A copy of the title documents.
      - (iii) If only a portion of the easement is requested to be abandoned, a survey of that portion of the easement by a Registered Professional Land Surveyor, including a metes and bounds description and sketch.
      - (iv) A letter signed by the adjacent property owners, or any others who may be affected by the vacation stating their approval of the vacation.
      - (v) If the easement to be vacated is located in the ETJ of a city, a letter from the city concurring with the vacation request.
      - (vi) A nonrefundable fee of \$500 payable to Hays County.
    - (B) The County Engineer will review the request and send a letter to the applicant explaining his recommendation regarding the request to abandon the right-of-way easement.
    - (C) Upon a recommendation of abandonment by the County Engineer, the request for abandonment will be placed on a Commissioners Court agenda for approval by the Court.
    - (D) Upon approval by the Commissioners Court, a public hearing date will be set. The hearing dates are typically scheduled four weeks after the initial presentation and approval.
    - (E) Public notice of the hearing must be posted at the courthouse and must be published in a newspaper twenty-one (21) days prior to the public hearing.



- (F) Title to the road or portion that is closed, abandoned or vacated and that abuts an owner's property to the centerline of the road vests in such abutting property owner on the date the Order is signed by the County Judge. A copy of the Order filed in the Real Property Records of the County acts as the official instrument of conveyance from the County to the abutting property owner.

**(2) Abandonment, Vacation, and Conveyance of Fee Simple Right-of-way**

- (A) An applicant requesting the abandonment, vacation, and conveyance of accepted fee simple right-of-way must submit the same documents set forth in Section (c)(1)(A) to the County Engineer.
- (B) If the County owns the right-of-way in fee simple rather than easement title, the property may be sold after abandonment and vacation only under the procedures set forth at Section 263.002 of the Texas Local Government Code. In addition, such abandoned right-of-way may be exchanged pursuant to section 263.006 of the Code.

**(3) Vacation of a Drainage Easement**

- (A) The applicant requesting the vacation of a drainage easement in an accepted subdivision must submit the following documents to the County Engineer:
- (i) A letter outlining the reason for the vacation of the easement.
  - (ii) A drainage study prepared by a Registered Professional Engineer, supporting and documenting the reasons for the drainage easement vacation request. This requirement may be waived by the County Engineer if a drainage study is determined to be unnecessary.
  - (iii) Metes and bounds description, signed and sealed by a Registered Professional Land Surveyor, of the easement to be released.
- (B) The County Engineer will review the drainage study and send a letter to the applicant explaining his recommendation of the vacation request.
- (C) The same procedures for hearing and notice of the vacation request as set forth in Section (c) (1)(D) and (E) will be followed.
- (D) In the same manner as set forth in Section (c) (1)(F) the order of the vacation instrument must be filed in the Real Property Records of the County to be effective.

- (4) **Rejection of Unaccepted Dedication.** The Commissioners Court may in its sole discretion order the rejection of an unaccepted dedication and quitclaim any interest it may have to the underlying owner. This action would be subject to any established rights of private parties, public utilities, and/or the public and would be without warranty of any kind. Although the quitclaim would be filed of record in the Real Property Records, the filing would not be noted on the plat itself. Anyone considering using this process should also consider the cancellation and revision process.

**ORDERED** this the 23<sup>rd</sup> day of October, 2001 by the Hays County Commissioners Court.



**Court was adjourned.**

**MINUTES APPROVED IN OPEN COURT ON THE 30<sup>TH</sup> DAY OF OCTOBER, 2001**

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

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

