



STATE OF TEXAS 0
 COUNTY OF HAYS 0

ON THIS THE 26TH DAY OF NOVEMBER A.D., 2002, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

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

AND THE FOLLOWING MEMBER WAS ABSENT: COUNTY JUDGE JAMES L. POWERS; WHEN THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Commissioner Molenaar presided over the meeting, called it to order and gave the invocation. Commissioner Burnett led the Court in the Pledge of Allegiance to the Flags.

20697 APPROVE THE COMMISSIONERS' COURT MINUTES OF NOVEMBER 19, 2002

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve the Commissioners' Court Minutes of November 19, 2002 as presented by the County Clerk. All present voting "Aye".

20698 APPROVE PAYMENT OF COUNTY INVOICES

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve payment of county invoices in the amount of \$614,188.78 as presented by the County Auditor. All present voting "Aye".

Licenses & Permits	\$ 255.50	Public Safety Svcs	\$ 85,636.23	Financial Adm Svcs	\$ 45,252.43
Fines	\$ 5,250.00	Interest Earnings	\$ 17,452.27	Other Revenue	\$ 55,032.75
Auditor's Office	\$ 127.19	Treasurer's Office	\$ 455.57	Extension Office	\$ 754.62
Grants Admin Office	\$ 2,423.97	Juvenile Prob Office	\$ 195.64	Election Admin Ofc	\$ 7,142.55
Comm & Social Svcs	\$ 37,898.34	Transfer Station	\$ 3,830.71	Building Mtc. Dept.	\$ 22,285.24
Environmental Health	\$ 1,795.24	Civic Center	\$ 2,930.52	Countywide Oper	\$ 142,669.90
Tax A/C Office	\$ 321.23	District Clerk's Office	\$ 709.95	Sheriff's Office	\$ 7,135.95
Jail Operations	\$ 30,624.17	Human Resources	\$ 237.24	Co Court at Law 1	\$ 682.14
District Attorneys Office	\$ 418.26	J.P. 1-2	\$ 86.66	J.P. 3	\$ 63.12
J.P. 4	\$ 256.83	J.P. 5	\$ 195.00	Dept of Public Safety	\$ 2,481.39
Constable 2	\$ 447.26	Constable 3	\$ 77.72	Constable 4	\$ 22.98
Constable 5	\$ 113.53	District Court Oper	\$ 10,332.92	Co & JP Court Oper	\$ 3,221.29
Precinct 1	\$ 116.01	Precinct 3	\$ 187.72	Precinct 4	\$ 347.54
Veterans Admin Office	\$ 833.60	Computer Services	\$ 11,142.16	DPS/Lic & Wghts	\$ 111.73
Historical Commission	\$ 150.00	Special Counsel Ofc	\$ 144.79	COPSMORE '02	\$ 175.00
CJD/VAWA Grant	\$ 277.45	Title 4 Juv Prob Grnt	\$ 2,827.82	Juv Justice Alt Ed	\$ 74.95
General Fund Credit	<\$27.19>	Election Contract Fee	\$ 2,903.00	Road & Bridge Oper	\$ 68,083.19
Right of Way	\$ 3,617.45	R&B Gen Fund Credit	<\$397.50>	Hays Co Parks Fund	\$ 16.79
Rec Mng/Co Clerk	\$ 81.46	Health Svcs Grants	\$ 980.68	Hays Co Juv Center	\$ 7,830.66
Med/Dental Insur Fund	\$ 10,747.61	Sheriffs Drug Forf	\$ 1,000.00	Family Health Svcs	\$ 9,412.97
Road Bond S.2000	\$ 4,734.58				

20699 APPROVE BUDGET AMENDMENT 03-04

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve Budget Amendment No. 03-04 as proposed by the County Auditor. All present voting "Aye".

AMENDMENT NO. 2003-04 FY 2003 BUDGET 11-26-02				
FUND NO. 01 FUND TITLE <u>GENERAL FUND</u>				
<u>LINE ITEM - EXPENDITURES</u>	<u>APPROPRIATION</u>		<u>AMENDMENT</u>	
	<u>BEFORE</u>	<u>AMENDMENT</u>	<u>INCREASES</u>	<u>DECREASES</u>
	<u>AMENDMENT</u>			<u>AS</u>
				<u>AMENDED</u>
COMPUTER SERVICES (456):				
01-456-5221 Supplies	7,000		1,330	8,330
01-456-5712 Equipment	182,650		(1,330)	181,320
<i>Transfer for small equipment purchases</i>				
CONSTABLE PCT. 2 (432):				
01-432-5717 Law Enf Equipment	-0-		670	670
COMPUTER SERVICES (456):				
01-456-5713 Vehicle	25,000		(670)	24,330
<i>Transfer as authorized for in car video hook up from vehicle savings</i>				



20700 APPROVE THE PLACEMENT OF ROAD DEPARTMENT EMPLOYEE ROGER RAMOS AT GRADE 26 STEP 4 ON THE HAYS COUNTY PAY SCALE DUE TO HIS EXTENSIVE EXPERIENCE

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve the placement of Road Department Employee Roger Ramos at Grade 26 Step 4 on the Hays County Pay Scale due to his extensive experience. All present voting "Aye".

20701 WOODBROOK [PCT 2 #01-2-026] * APPROVE PRELIMINARY PLAT [T1-29]

This is a 41 lot subdivision located off FM2001. Subdivision Coordinator Jon Thompson gave staff recommendation for preliminary plat approval. A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to approve preliminary plat of "Woodbrook". All present voting "Aye".

Clerk's Note: Agenda Item # 6 RE: GREEN PASTURES SECTION 4 BLOCK 10 LOT 5 RESUBDIVISION [PCT 2 #02-2-065 was PULLED. No discussion and No action.

20702 RED HAWK RANCH [PCT 3/4 #02-3/4-089] (8 LOTS) * APPROVE PRELIMINARY PLAT [T1-45]

This is an 8 lot subdivision located off Red Hawk Road (private road easement). Subdivision Coordinator Jon Thompson gave staff recommendation for preliminary plat approval. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve preliminary plat of "Red Hawk Ranch". All present voting "Aye".

20703 AUTHORIZE THE COUNTY JUDGE TO SUBMIT A GRANT REQUEST TO THE OFFICE OF THE GOVERNOR-CRIMINAL JUSTICE DIVISION FOR \$57,000 TO FUND THE VIOLENCE AGAINST WOMEN ACT (VAWA) PROSECUTOR AND TO EXECUTE THE CONTRACT [T1-63]

Grants Administrator Richard Salmon advised that Federal law mandates the Violence Against Women Act Program. Hays County has been using grant funds and county match to operate the program for the past 7 years. Grant funds are provided through CAPCO by way of the Office of the Governor/Criminal Justice Division. The current grant pays for the salary and benefits of the VAWA Prosecutor and for one/half of the salary of the VAWA Investigator in the District Attorney's Office. In the past the prosecutor spent a great deal of time locating victims and witnesses for the court. Now the investigator does that and the program is much more cost effective. The current grant request is for \$57,000 and the grant period is 9/1/03 to 8/31/04. The county is providing cash match of \$41,250 and an in-kind match of \$18,870. Since this is a mandated program the county will eventually have to take over all costs in the future. Therefore, as long as the state and federal government are providing grant funds, it is advantageous for Hays County to leverage county funds in this fashion. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to authorize the County Judge to submit a grant request to the office of the Governor-Criminal Justice Division for \$57,000 to fund the Violence Against Women Act (VAWA) Prosecutor and to execute the contract. Commissioner Molenaar advised that he cannot vote on this item because he is on the CJD Board. Commissioner Ingalsbe, Commissioner Carter, and Commissioner Burnett voting "Aye". Commissioner Molenaar abstained.

20704 APPROVE A RESOLUTION AUTHORIZING THE COUNTY JUDGE TO SUBMIT A GRANT APPLICATION TO THE TEXAS JUDICIAL COUNCIL-TASK FORCE ON INDIGENT DEFENSE FOR UP TO \$79,851 AND EXECUTE THE CONTRACT [T1-129]

Grants Administrator Richard Salmon advised that under the provisions of the Fair Defense Act passed by the 77th Regular Session of the Texas State Legislature, some counties are eligible to receive financial assistance from the Texas Task Force on Indigent Defense. The financial assistance is in the form of formula and discretionary grants. Under the formula grant program, Hays County applied for and receive a grant in the amount of \$33,190 in FY02. A second formula grant for \$43,985 for FY03 is pending. These grant funds primarily pay for court-appointed attorneys for indigent defense. The FY03 discretionary grant application is due on December 2, 2002 and is competitive. Applications must promote projects that can improve the provision of services to indigent defendants. Preference will be given to proposals that are submitted by multiple counties and whose activities are likely to be duplicated in other jurisdictions. The Hays County Grants Office requests authorization from the Commissioners Court to apply for a discretionary grant in cooperation with Comal County which will pay for two new Eligibility Specialist positions; one in each county. The Eligibility Specialists will work with defendants in District Court felony cases in applying for and determining eligibility for indigent defense services. These positions would report to the District Court Administrators in each county. The number of felony indictments in Hays and Comal counties is steadily increasing, as are the population and unemployment rates. These continued increases threaten the counties' abilities to provide effective indigent defense services. Exacerbating the problems is the fact that a substantial number of defendants are not indigent but get county-provided counsel because there is no procedure or staff on hand to review their financial background.



Our solution is to establish a system for determining eligibility for indigent defense services that will eliminate those able to pay for their own defense, and increase the quality and quantity of services provided for those who are truly indigent. In FY00-01 Hays County spent \$378,426 on indigent defense in District Court cases. That figure jumped to \$505,482 in FY01-02, an increase of 34%. With seven capital murder trials pending, indigent defense spending will be even higher in FY02-03. A system for determining eligibility for indigent defense services will provide the county the means to provide services for those who need it most. This is a unique program that does not exist anywhere in Texas. After the program is set in place, it can be expanded to include misdemeanor, juvenile, and civil cases in Hays and Comal counties, and it can be easily replicated throughout Texas. No cash match is required. County Auditor Bill Herzog spoke in support of this grant – we need to make sure that defendants are qualified indigents. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve a resolution authorizing the County Judge to submit a grant application to the Texas Judicial Council – Task Force on Indigent Defense for up to \$79,851 and to execute a contract. All present voting “Aye”.

20705 ADOPT AN ORDER TO MAKE AN ADJUSTMENT TO CREDITED SERVICE THROUGH THE TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM FOR CONSTABLE BILLY REEVES AND CONSTABLE JAMES KOHLER [T1-220]

Summary: *Constable Pct. 2 James Kohler took office in January 1979 and was paid at the rate of \$1.35 per month – he was added to the Texas County & District Retirement System in October 1985. Constable Pct. 5 Billy Reeves took office in June 1980 and was paid at the rate of \$1.43 per month – he was added to the Texas County & District Retirement System in May 1984. The assumption is that they were not put on retirement because they were considered part-time based on their monthly salary. Their contention is they were elected officials who were on call 24 hours a day seven days a week and therefore should have been put on retirement as fulltime employees from the beginning of their employment. In order to give the credit for their months of service prior to being added to the Texas County & District Retirement System, TCDRS will need an order passed by the Commissioners' Court stating that an error has occurred and agrees to the correction. The Commissioners' Court will also have to fund the actuarial unfounded liability in the amount of \$2,480.08 (Reeves = \$1,466.62 Kohler = \$ 1,013.46). Public Comment by Sam Davis: Mr. Davis spoke of wording on this agenda item – he asked the court to give them the time if they served the time, however, he does not believe this is a good thing. Commissioner Molenaar spoke of these guys serving papers in the evening after their fulltime jobs – they were available to assist other law enforcement officers. He feels like they should get credit for their service. He does not feel like this will set a precedent or greatly affect the county. Sam Davis feels like an explanation has not been given to the public. Commissioner Molenaar stated that these are elected officials that have not gotten credit for all their years of service. Brittany Richey (Treasurer's Office Accountant) spoke of how the monetary amount was determined. Commissioner Carter asked about the County Surveyor position and other part-time positions. Commissioner Molenaar spoke of the Constables receiving a salary for those years – the county survey has never received a salary from the county. Brittany Richey spoke of part-time employees working 900 hours per year (17 ½ hours per week) qualify for retirement. Commissioner Carter spoke of the Constable's having fulltime jobs at the time they were part-time Constables and she feels like this does not qualify pursuant to the Local Government Code – this was not a reporting error. Constable Billy Reeves advised that he did work in excess of 17 hours per week. Commissioner Burnett spoke of documents in the packet – he supports the request – if they worked the time then they should get credit for that time. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to adopt an Order to make an adjustment to credited service through the Texas County and District Retirement System for Constable Billy Reeves and Constable James Kohler to be paid out of contingency funds. Commissioner Ingalsbe, Commissioner Burnett and Commissioner Molenaar voting “Aye”. Commissioner Carter voting “No”.*

Commissioners Court Order to Make an Adjustment to Credited Service and Current Service Credit for Constable Billy Reeves and Constable James Kohler (section 845.005 Government Code)

WHEREAS, *the County is a participating subdivision in the Texas County & District Retirement System (hereafter “System”) under Subtitle F, Title 8, Government Code (hereafter “TCDRS Act”); and*

WHEREAS, *the County acknowledges that a reporting error in service credited to a particular member occurred without the knowledge or fault of the member, and;*

WHEREAS, *the County shall also verify that amounts of service, as well as, compensation, for those months of credited service and current service credit the member should have been granted, and;*

WHEREAS, *the Commissioners Court, as prescribed in Section 843.005 of the TCDRS Act, has determined that it is in the County's interest to rectify this error by authorizing the establishment of credited service and current service for the particular member who has not received the correct amount of credited service and current service credit performed for the County and who is barred from doing so by the limitation period provided by Section 842.112(b); now, therefore, be it ORDERED, that:*



1. *The County acknowledges that a reporting error in credited service and current service occurred without the knowledge or fault of Constable Billy Reeves and Constable James Kohler.*
2. *Thus, as set forth in Section 843.005, the County authorizes the establishment of 48 (Reeves) 81 (Kohler) total months of credited service and current service credit for Constable Billy Reeves and Constable James Kohler. The County also recognizes that the service credit attributable to the member contributions deposited under this section is determined using the credit percentages in effect for the month in which the deposit is made. For credited service and current service credit under this section, the deposits, as described in 843.005(e), shall be paid in such manner that the System will receive the funds at its offices no later than the last day of this calendar year.*

20706 ALLOW A HUNTER EDUCATION COURSE BE CONDUCTED AT THE HAYS COUNTY CIVIC CENTER AND WAIVE THE \$5.00 AN HOUR FEE [T1-522]

Commissioner Ingalsbe spoke of Buddy Martin holding a Hunter Education Course previously at the County Extension Service Office. She advised that this course is a state sponsored program (Texas Parks & Wildlife) that teaches youth proper handling, safety, and shooting methods for firearms – pellet guns are used. The Extension Office has advised him that their facilities are no longer available and suggested that he use the Civic Center. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Molenaar to allow a Hunter Education Course be conducted at the Hays County Civic Center on December 6 & 7, 2002 and waive the \$5.00 per hour fee. All present voting “Aye”.

20707 APPROVE THE INSTALLATION OF TILE FLOORING AT THE JUSTICE CENTER, NOT PREVIOUSLY INCLUDED IN THE SPECIFICATIONS, AND ALLOCATE THE FUNDS NECESSARY [T1-544]

Commissioner Ingalsbe spoke of flooring that needs to be installed – moisture testing was done (12-15% moisture) and if we don't replace the flooring we have the potential for future problems. Additional funds are needed. Commissioner Ingalsbe advised that plumbing leaks will be repaired prior to replacing some of the floor tile – additional steps will be taken to address humidity, etc. Maintenance Supervisor Ron Knott spoke of moisture tests that were done and humidity will need to be reduced. He wants to finish the floors and the rest of the work can be done after hours and/or weekends. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Molenaar to approve the installation of additional tile flooring at the Justice Center, not previously included in the specifications Pursuant to Local Government Code Sec. 262.024(a)(3) to be paid out of contingencies. All present voting “Aye”. [LGC 262.024(a)(3) – exempts competitive bidding requirements]

20708 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A FUNDING AGREEMENT WITH LSM RANCH, LTD. AND AN ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION PROVIDING FOR THE ADDITION OF A LEFT TURN LANE ON FM 1826 INTO RIM ROCK SUBDIVISION [T1-640]

Commissioner Molenaar spoke of Rim Rock Subdivision Developer offering to pay for construction of a left turn lane on FM1826 at the subdivision entrance – the State cannot accept funds from a private source but they can accept funds from the county, therefore, the developer will provide a check to the county in the amount of \$204,000.00 which will be put in a special account to be paid to TxDot for this project – overruns will be paid by the developer and surplus will be returned to the developer. Commissioner Burnett advised that this was identified as a problem area in the Road Bond Program. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to authorize the County Judge to execute a Funding Agreement with LSM Ranch, Ltd. and an Advance Funding Agreement with the Texas Department of Transportation providing for the addition of a left turn lane on FM1826 into Rim Rock Subdivision. All present voting “Aye”.

20709 ADOPT A RESOLUTION APPOINTING RONALD G. FIESELER AS THE HAYS COUNTY REPRESENTATIVE ON THE LOWER COLORADO REGIONAL PLANNING GROUP FOR REGION K [T1-705]

Commissioner Molenaar advised that Hays County's representative Stovy Bowlin has moved to, and represents, Bastrop County now and he recommended appointing Ronald Fieseler (Director of Blanco Pedernales Ground Water Conservation District and a resident of Precinct 4) to represent Hays County. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to adopt a Resolution appointing Ronald G. Fieseler as the Hays County Representative on the Lower Colorado Regional Planning Group for Region K. All present voting “Aye”.



**A RESOLUTION OF HAYS COUNTY COMMISSIONERS COURT
On the Nomination of a Hays County Representative to Serve on the
Lower Colorado Regional Water Planning Group (Region K)**

WHEREAS, the northern portion of Hays County is a part of the Lower Colorado Regional Water Planning Group, also known as Region K and;

WHEREAS, the northern portion of Hays County has been previously represented on the Lower Colorado Regional Water Planning Group by Mr. Stovy Bowlin and his Designated Alternate, Mr. Ronald G. Fieseler and;

WHEREAS, Mr. Stovy Bowlin has moved to, currently resides in, and represents Bastrop County and;

WHEREAS, the northern portion of Hays County is not currently represented on the Lower Colorado Regional Water Planning Group and;

WHEREAS, Hays County wishes to be an active participant in the ongoing regional water planning efforts of the State of Texas and;

WHEREAS, the Commissioners Court of Hays County desires that a representative for Hays County be nominated to the Lower Colorado Regional Water Planning Group;

NOW THEREFORE BE IT RESOLVED, that the Commissioners Court of Hays County does hereby nominate Mr. Ronald G. Fieseler, a resident of northern Hays County, to serve as the Hays County Representative on the Lower Colorado Regional Water Planning Group.

Adopted this the 26th day of November 2002

20710 EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO MEET WITH LEGAL COUNSEL REGARDING JOHN RAYMOND HATCH, ET AL. V. CITY OF UHLAND, ET AL., UNITED STATES DISTRICT COURT, WESTERN DISTRICT, CASE NO. A02CA 723SS WITH ACTION [T1-765]

The court convened into closed executive session to meet with legal counsel regarding lawsuit styled John Raymond Hatch, et al v. City of Umland, et al filed in the United States District Court Western District Case No. A02CA 723SS. Upon completion of the closed session, the court reconvened into open meeting.

[T1-777] A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to execute an engagement agreement between Hays County and Fulbright & Jaworski to represent Hays County and Hays County Officials in the John Hatch, et al versus City of Umland, et al lawsuit; and to furthermore request that the State Attorney General's Office intervene in this matter immediately to defend current state law. All present voting "Aye".

Court was adjourned.

MINUTES APPROVED IN OPEN COURT ON THE 3rd DAY OF DECEMBER, 2002

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

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

