



STATE OF TEXAS 0
 COUNTY OF HAYS 0

ON THIS THE 8th DAY JULY OF A.D., 2003, 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
LINDA C. FRITSCH	DEPUTY COUNTY CLERK

WHEN THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

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

21117 APPROVE THE COMMISSIONERS' COURT MINUTES OF JULY 1, 2003

Commissioner Carter requested a change in Resolution # 21104 on page 738 - Volume S - line three as follows "Commissioner Carter felt that ~~she~~ we made a rushed and unwise decision". A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve the Commissioners' Court Minutes of July 1, 2003 with change requested by Commissioner Carter. All voting "Aye".

21118 APPROVE PAYMENT OF COUNTY INVOICES

A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve payment of county invoices in the amount of \$198,846.48 as presented by the County Auditor. All voting "Aye".

Public Safety Svcs	\$ 20.00	Auditor's Office	\$ 201.26	Treasurer's Office	\$ 125.00
Grants Admin Office	\$ 206.83	Juvenile Probation	\$ 53,399.78	Comm & Soc Svcs	\$ 7,500.00
Indigent Care	\$ 2,442.94	Transfer Station	\$ 39.44	Bldg Mtc. Dept.	\$ 1,130.74
Environmental Health	\$ 328.34	Civic Center	\$ 112.71	Countywide Oper	\$ 8,298.32
Tax A/C Office	\$ 107.06	District Clerk	\$ 108.65	Sheriff's Office	\$ 17,511.46
Jail Operations	\$ 14,487.56	District Attorney	\$ 382.80	J.P. 2	\$ 285.13
J.P. 3	\$ 90.35	J.P. 5	\$ 194.78	DPS	\$ 140.52
Constable 1	\$ 373.74	Constable 2	\$ 88.66	Constable 3	\$ 144.39
Constable 5	\$ 2.14	District Crt Oper	\$ 4,037.92	Co & JP Crt Oper	\$ 1,946.19
Precinct 1	\$ 441.18	Precinct 2	\$ 1,809.37	Veterans Admin	\$ 600.00
Computer Services	\$ 3,977.42	DPS/Lic & Wghts	\$ 734.04	Animal Control	\$ 55.00
911 Adrrs Mtc Grant	\$ 38.51	Gen Fund Credit	<\$777.55>	R&B Operations	\$ 54,290.22
Hays Co Parks Fund	\$ 27.18	Rec Mng/Co Clerk	\$ 799.48	Health Svcs Grants	\$ 3,157.72
Juvenile Center	\$ 12,652.23	Sheriff Bail Bond	\$ 15.00	Sheriff Spec Proj	\$ 113.98
Med/Dental Insur	\$ 6,028.45	Sheriffs Drug Forf	\$ 425.00	Family Health Svcs	761.54

21119 APPROVE BUDGET AMENDMENT NO. 03-32

A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve Budget Amendment No. 03-32 as proposed by the County Auditor. All voting "Aye".

AMENDMENT NO. 2003-32 FY 2002 BUDGET 07-08-03				
FUND NO. 01 FUND TITLE <u>General Fund</u>				
	APPROPRIATION BEFORE AMENDMENT	AMENDMENT INCREASES	DECREASES	APPROPRIATION AS AMENDED
DISTRICT ATTORNEY (423):				
01-423-5391 Other	100	50		150
01-423-5211 Office Supply	9,343		(50)	9,293
01-423-5071 State Longevity	3,200	3,270		6,470
01-423-5160 Insurance	84,163		(3,270)	80,893
<i>Transfer for trial expense-other and state mandated prosecutor longevity on new employees</i>				
COMMISSIONER PCT. 1 (439):				
01-439-5331 Cont Ed	1,000	1,000		2,000
01-439-5160 Insurance	9,180		(1,000)	8,180
<i>Transfer for conference expenses from personnel savings</i>				
SPECIAL COUNSEL (605):				
01-605-5213 Books	500	135		635
01-605-5211 Office Supply	500		(135)	365
<i>transfer for legal books from office supply</i>				

**21120 APPROVE AWARD OF RFP FOR PROFESSIONAL CIVIL ENGINEERING SERVICES**

Purchasing received twenty seven (27) responses for the RFP for Professional Civil Engineering Services: Lockwood, Andrews Newman, Inc. (San Marcos); Jones & Carter Inc. (Austin); CFX, LP (Austin); Binkley & Barfield Inc. (Austin); JNS Inc. (Houston); Byrn & Associates Inc. (San Marcos); Cobb Fendley & Assoc. (Houston); Landmark Consulting Inc. (Dripping Springs); Freese & Nichols Inc. (Austin); Earth Tech Inc. (Austin); Pro-Tech (San Marcos); M & S Engineering (Bergheim); K C Engineering Inc. (Austin); CMA Engineering Inc. (Austin); Kellog Brown & Root Inc. (Austin); Urban Design Group (Austin); S D Kallman LP (Round Rock); Steger & Bizzell Engineering Inc. (Georgetown); Pate Engineers Inc. (Austin); Baker-Aicklen & Assoc. Inc. (San Marcos); Banks & Associates (San Marcos); MACTEC Engineering & Consulting (Austin); Cunningham/Allen (Austin); PAC Engineering (Round Rock); Cuatro Consultants Ltd. (Buda); Turner Collie & Braden Inc. (Austin); and Jaster-Quintanilla San Antonio LLP (San Antonio). Road Supt/Engineer Jerry Borchering would like to pre-qualify all respondents to develop a pool of civil engineering firms from which to choose to provide services on an as-needed basis. As projects are developed by the Road Department, the County Engineer would select a firm from the pre-qualified list and enter into a professional service contract with Hays County to perform required duties. It is anticipated that the scope of projects assigned will result in total billings of \$25,000.00 or less per project. A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve award of Request For Proposals (RFP) for professional civil engineering services. All voting "Aye".

21121 APPROVE AWARD OF RFP FOR PROFESSIONAL SURVEYING SERVICES

Purchasing received eight (8) responses for the RFP for Professional Surveying Services: Zamora-Warrick & Assoc (Austin); Jones & Carter Inc. (Austin); Cunningham/Allen Inc. (Austin); Pro-Tech Engineering Group (San Marcos); Hays County Land Surveying (Wimberley); Landesign Services Inc.(Taylor); Byrn & Associates (San Marcos); and SAM Inc. (Austin). Jerry Borchering, Hays County Engineer, would like to pre-qualify all respondents to develop a pool of surveying firms from which to choose to provide services on an as-needed basis. As projects are developed by the Road Department, the County Engineer would select a firm from the pre-qualified list and enter into a professional service contract with Hays County to perform required duties. It is anticipated that the scope of projects assigned will result in total billings of \$25,000.00 or less per project. A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve award of Request For Proposals (RFP) for Professional Surveying Services. All voting "Aye".

21122 APPROVE SPECIFICATIONS FOR "REGULATORY, WARNING & OTHER ROAD SIGNS" AND AUTHORIZE PURCHASING TO SOLICIT FOR BID AND ADVERTISE

A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve specifications for "Regulatory, Warning & Other Road Signs" [Bid #2003-B09] and authorize Purchasing to solicit for bid and advertise. All voting "Aye".

21123 APPROVE SPECIFICATIONS FOR "ROAD BUILDING MATERIALS" AND AUTHORIZE PURCHASING TO SOLICIT FOR BID AND ADVERTISE

A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve specifications for "Road Building Materials" [Bid #2003-B10] and authorize Purchasing to solicit for bid and advertise. All voting "Aye".

21124 APPROVE RESOLUTION AUTHORIZING JUDGE JIM POWERS, BILL HERZOG AND TOM MEADOWS AS SIGNATORIES FOR THE GRANT FROM THE OFFICE OF RURAL AFFAIRS FOR THE BLANCO RIVER CLEANUP PROJECT

A motion was made by Commissioner Carter, seconded by Commissioner Burnett to approve Resolution authorizing County Judge Jim Powers, County Auditor Bill Herzog, and Asst. County Auditor Tom Meadows as signatories for the grant from the Office of Rural Affairs for the Blanco River Cleanup Project. All voting "Aye".

RESOLUTION

WHEREAS; Hays County has been funded by the Office of Rural Community Affairs under the Texas Community Development Program, and

WHEREAS; the County needs to authorize certain individuals as signatories for contractual documents associated with this grant.

NOW THEREFORE BE IT RESOLVED that the following individual will also be designated to sign:

State of Texas purchase Vouchers

Jim Powers

Bill Herzog

Thomas Meadows, Jr.

Requests for advance or Reimbursement

Jim Powers

Bill Herzog

Thomas Meadows, Jr.

PASSED AND APPROVED the 8th day of July, 2003 by the Hays County Commissioners' Court.



Clerk's Note: Agenda Item #9 RE: Lease of Laser Fax Machine for County Road Department was PULLED. NO DISCUSSION AND NO ACTION TAKEN.

21125 [PCT. 3 #03-3-047] **HILL COUNTRY RANCHES RESUBDIVISION OF LOT 227 (2 LOTS) * APPROVE PRELIMINARY PLAN** [T1-48]

Property owners Paul & Katherine Evanson propose to divide their lot into two (Lot 227-A = 10.93 acres and Lot 227-B = 2.39 acres). Environmental Health Director Allen Walther gave staff recommendation for preliminary plan approval. Commissioner Carter asked about the sanitary easement – how can we approve an easement extending into another landowners property. Allen Walther advised that the plat is only showing where the easement exists – we are not approving that easement – this is an existing easement for a water well. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve preliminary plan for “Hill Country Ranches Resubdivison of Lot 227”. All voting “Aye”.

21126 [PCT. 4 #02-4-091] **WALKING W RANCH (60 LOTS) * APPROVE PRELIMINARY PLAN**

[T1-81] Environmental Health Director Allen Walther advised that this subdivision is located on Bell Springs Road in northwest Hays County – 60 lot subdivision initially proposed to be served by individual water wells, water availability report was reviewed by staff and he gave staff recommendation for preliminary plan approval. Commissioner Carter asked about staff review process – she asked how the public or Commissioners' Court review the analysis of what the staff has decided is appropriate, if not written. Allen Walther advised that staff's response is in the recommendation to the court. Commissioner Carter spoke of putting it in writing so that people can understand what parameters were used and how the water availability report met the parameters. Allen Walther advised that the parameters are listed in the subdivision rules. Judge Powers advised that we rely upon staff to review and give recommendations to the court and he fully supports staff. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve preliminary plan of “Walking W Ranch”. Commissioner Ingalsbe, Commissioner Burnett, Commissioner Molenaar, and Judge Powers voting “Aye”. Commissioner Carter voting “No”.

21127 [PCT. 4 #03-4-045] **RUTHERFORD RIM PHASE 1 (246 LOTS) * APPROVE PRELIMINARY PLAN AND VARIANCE FROM R-O-W STANDARDS FOR LONELY PINE COVE** [T1-139]

Environmental Health Director Allen Walther gave staff recommendation for preliminary plan – this is a resubmission (one year expired 10/30/02) and a variance is requested for Lonely Pine Cove to be a country lane – development rules allow country lanes for roadways serving a maximum of 10 lots – Lonely Pine Cove serves 11 lots. Commissioner Carter advised that she did not receive the completed application for review. Allen Walther spoke of it never being our policy to send every piece of information provided for every subdivision submission – we do provide Commissioners with copies of the plat – it has never been requested of the court that we provide every piece of information – there are a lot of things associated with plat submission (road plans, water availability reports) – have never been reviewed individually by the Commissioners, they have only been reviewed by staff - there is nothing that we are trying to hide. Commissioner Burnett spoke of system we have is set up for staff review. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve preliminary plan for “Rutherford Rim Phase 1” and grant a variance from right-of-way standards for Lonely Pine Cove. Commissioner Ingalsbe, Commissioner Burnett, Commissioner Molenaar voting “Aye”. Commissioner Carter abstained.

21128 [PCT. 4 #03-4-048] **SIERRA WEST SECTION 3 LOTS 40 & 41 AND SECTION 4A LOTS 4 & 5 REPLAT (4 LOTS) * APPROVE FINAL PLAT AND WAIVE PUBLIC NOTIFICATION REQUIREMENTS** [T1-221]

Environmental Health Director Allen Walther advised that property owner is amending common lot lines (following drainage/water ways) – no additional lots are being created - he gave staff recommendation for final plat approval. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve final plat and waive public notification requirements. All voting “Aye”.

21129 [PCT. 4 #03-4-049] **RAY MOORE SUBDIVISION (2 LOTS) * APPROVE FINAL PLAT** [T1-243]

Environmental Health Director Allen Walther advised that this is a 2 lot subdivision with direct access on a permitted street (Pauls Valley Road) and satisfies all our requirements for final approval – he gave staff recommendation for final plat approval. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve final plat of “Ray Moore Subdivision”. All voting “Aye”.



21130 CALL FOR A PUBLIC HEARING TO ESTABLISH TRAFFIC REGULATIONS (STOP SIGNS) ON PRICKLEY PEAR PASS, A BUSY THOROUGHFARE IN THE COVES OF CIMMARON SUBDIVISION [T1-252]

A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to call for a public hearing on July 22, 2003 to establish traffic regulations (STOP signs) on Prickley Pear Pass in the Coves of Cimmaron Subdivision. All voting "Aye".

21131 APPROVE \$300,000 FROM COUNTY PARK BOND FUNDS FOR THE CITY OF BUDA'S STAGECOACH PARK PROJECT IN THE FORM OF A LETTER OF COMMITMENT [T1-268]

Grants Administrator Richard Salmon gave a short powerpoint presentation to the court. Parks Project #1 (an area park) is located in Precinct 2 within the Buda city limits on North Loop 4 west of I35 and next to Nighthawk Frozen Foods – partners in this project are the City of Buda, Hays County, and the Texas Parks & Wildlife – the park will consist of 51 acres valued at \$360,000 (city owned) – a master plan has already been created and the development will include an Onion Creek Observation Area, hiking trails (1.7 miles), a scout campground, fish and windmill ponds, historic garden, playgrounds/playscape, and an outdoor amphitheatre. It will be owned and maintained by the City of Buda. This project does meet the goals of the Hays County Parks and Open Space Plan in that it will be an area park, have creek access, trails, and natural open space. Richard Salmon recommended that the court issue a Letter of Commitment for \$300,000 from the county with a limit term of commitment to one year – the City must commit to improvements and maintenance of the property and must work with Hays County Grants Office to locate additional funds and must acquire matching funds equal to County provided funds. Commissioner Burnett spoke of not having a letter of commitment before the court today. Richard Salmon advised that one will have to be drafted. Buda City Manager Bob Mathis spoke of matching funds to be pursued through the Texas Parks & Wildlife, through an agreement with the Nighthawk organization for dedication of 25 acres of wetlands adjacent to the park, and they are also working with scout troops so they can take the campgrounds on as a project (to be used as a match), as well as other partners (Chamber of Commerce, EDCO). This is an area park and will have open public access and will be Buda's welcome center/gateway into the county. [T1-438] Jackie Craig asked if this will affect parkland east of I35? Richard Salmon advised that this will not affect those proposed parks – there are two other projects that are east of I-35. Bob Mathis spoke of their obligation with Texas Parks & Wildlife – a public forum was held mapping out what the park will look like - advised that this park is a nature park (not a sports park). [T1-469] Linda Costley advised that she is a member of the Buda Parks Board and she spoke in favor of this project. A motion was made by Commissioner Carter, seconded by Commissioner Molenaar to approve \$300,000 from County Park Bond Funds for the City of Buda's Stagecoach Park Project in the form of a Letter of Commitment. All voting "Aye".

21132 ACTION TO CONSOLIDATE COUNTY ELECTIONS PRECINCTS FOR THE SEPTEMBER 13TH, 2003 CONSTITUTIONAL AMENDMENT ELECTION [T1-483]

Elections Administrator Joyce Cowan recommended that election precincts be consolidated (used in the past) due to low voter turnout in past Constitutional Amendment Elections. Will reduce 34 precincts down to 18 and will save the county money on cost for election workers – the consolidation must be approved by the Justice Department. Commissioner Molenaar asked to have Pct. 40 open – the voters in that precinct are mostly elderly people and it's hard for them to go to Dripping Springs from Henly. A motion was made by Commissioner Molenaar, seconded by Commissioner Carter to consolidate County Election Precincts as recommended by the Elections Administrator with the addition of a polling place in Precinct 440 (Henly Baptist Church). All voting "Aye".

Precincts Voting

- 110 & 113
- 111 & 112
- 114
- 116
- 120 & 121
- 127
- 226, 230 & 232
- 224 & 228
- 223 & 225
- 229 & 234
- 315
- 330 & 334
- 331, 332 & 336
- 335 & 337
- 440
- 441 & 449
- 442 & 448
- 443
- 446 & 447

Polling Place

- Elections Office – 401C Broadway St., San Marcos
- Dunbar Center – 801 Martin Luther King Dr., San Marcos
- Allenwood Homes Auditorium – 1201 Thorpe Ln., San Marcos
- Hernandez Interm. School – 333 Stagecoach Trl, San Marcos
- CM Allen Homes Office – 801 River Rd., San Marcos
- Hemphill Elem. School – 3995 East FM150, Kyle
- Hays Hills Baptist Church – 1401 N. FM1626, Buda
- Senior Citizens Building – 401 Barton Crossing, Buda
- Kyle City Hall – 101 S. Burlison St., Kyle
- St. John's United Church – 20 N. Camino Real, Uhland
- Doris Miller Jr. High – 301 Foxtail Run, San Marcos
- Lamar Annex – 500 W. Hutchison St., San Marcos
- Crockett Elem. School – 1300 Girard, San Marcos
- St. Mary's Catholic Church – 14711 RR12, Wimberley
- Henly Baptist Church
- DSISD Admin Office – 550 Hwy. 290 West, Dripping Springs
- Driftwood Community Center – CR150, Driftwood
- Sunset Canyon Baptist Church – 4400 E Hwy 290, D.S.
- Travis Elementary School – 1437 Post Road, San Marcos

**PUBLIC COMMENT**

Charles O'Dell advised that he had turned in a public participation form for Agenda Item #12 regarding **Rutherford Rim Subdivision** and was not called upon during that discussion. Judge Powers apologized to Mr. O'Dell and asked him to give his public comment at this time. [T1-613] Charles O'Dell read a statement for the record: *"In Opposition To The Hays County Commissioners Court Granting Rutherford Rim An Unfair Competitive Advantage (Variance). As a procedural matter, in fairness to the public and benefiting the Court, I ask that you let the applicant address the Court and then hear public comment. The public is not privy to the content of your informational packets or your discussions with staff, and would benefit from hearing the applicant before making comments on cryptic agenda items. I remind the Court that residential development is a fiercely competitive business and it is important the relevant subdivision ordinances constituting public rules of health safety and welfare be enforced fairly and with an even hand. Developers compete for the hearts and minds and pocket books of home buyers, and preliminary plats in effect represent the 'business plan' of individual developers who consider the competition when designing their projects. Ordinances constitute the community's development rules, and developers therefore have a right to expect the subdivision ordinances be administered evenly and fairly. Several months ago the applicant came before this Court to present his development plan and received the Court's approval. In the interim, he has constructed a wall at the Rimrock project entrance that many consider aesthetically offensive and a god-awful scar on the land, has failed to maintain his stormwater pollution control measures, is now changing his 'business plan' and asking the county to grant him a variance that will give him a competitive advantage. Article XII of the County's subdivision ordinances clearly defines conditions for exceptions and stated [Section 12.1(d)] 'Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship'. For your information this developer will go before the Dripping Springs City Council tonight seeking revisions to the Rimrock final plat that increases home density by 100% (reducing average lot size from about three acres to about 1.5 acres). Recently KB Homes had a preliminary plat approved by the City of Dripping Springs (without variances), and has since decided the home market had turned unfavorable for them. KB Homes withdrew its preliminary plat and is now shopping it around in the developer market. These parcels of land are not leaving Hays County and if one developer cannot profitably develop them under the County's approved subdivision ordinances then another developer can. This is what competition is about and it is not the County's role to show favoritism to any developer. Members of this Court have a sworn duty to uphold these ordinances and to administer them with an even hand. To do otherwise is to meddle in the competitive markets and to forsake the public health, safety and welfare. Commissioner Molenaar has observed on more than one occasion that "The County's subdivision are some of the best in our State". What good are they if not enforced and enforced fairly? Approving this variance grants this developer an unfair competitive advantage that other developers will then be entitled to request from the County. I urge you to deny this variance. Your actions on this matter will demonstrate whose interests you represent.* [T1-680] Commissioner Burnett stated that he categorically disagrees with this – the ordinance is being administered evenly and fairly – we do not show favoritism to any developer – our subdivisions rules are enforced and they are enforced fairly. Mr. O'Dell stated that he was not accusing the Commissioners Court of not doing this – I'm saying to the court to do it – in this case he believes the variance is not warranted.

Court convened into closed executive session at 9:45 a.m. - reconvened into open meeting at 11:00 a.m.

21133 EXECUTIVE SESSION PURSUANT TO SECTION 551.072, TEXAS GOVERNMENT CODE AND ACTION REGARDING ACQUISITION OF REAL PROPERTY FOR THE BURIAL OF INDIGENTS [T1-715]

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to authorize Commissioner Ingalsbe to negotiate for the purchase of 3.35 acres located on Old Bastrop Highway to be used as indigent burial with directive for return to Commissioners' Court with proposed contract drafted by legal counsel for the final approval by Commissioners' Court. All voting "Aye".

21134 EXECUTIVE SESSION PURSUANT TO SECTION 551.072, TEXAS GOVERNMENT CODE AND ACTION REGARDING THE ACQUISITION OF REAL PROPERTY FOR PARK LAND [T1-732]

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to authorize Commissioner Ingalsbe to negotiate for the purchase of 43+/- acres located adjacent to Dudley Johnson Park with directive for return to Commissioners' Court with proposed contract drafted by legal counsel for the final approval by Commissioners' Court. All voting "Aye". [T1-753] Jackie Craig asked if this property is in the floodplain. Environmental Health Director Allen Walther advised that it is in the flood fringe and you can build in the flood fringe.

COURT WAS ADJOURNED.

MINUTES APPROVED IN OPEN COURT ON THE 15TH DAY OF JULY, 2003.

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

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