



FEBRUARY 24, 2004

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STATE OF TEXAS *
 COUNTY OF HAYS *

ON THIS THE 24th DAY OF FEBRUARY A.D., 2004, 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
LINDA C. FRITSCHÉ	DEPUTY COUNTY CLERK

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

Commissioner Molenaar presided over the meeting due to the absence of Judge Powers. He called the meeting to order and gave the invocation. Commissioner Burnett led the Court in the Pledge of Allegiance to the Flags.

PUBLIC COMMENT

Charles O'Dell spoke of public hearing held re: Nutty Brown Road bond project – those in attendance were not in favor of the project as it was proposed (because of safety issues and project being well over priced). The project cost is \$3.8 million for less than 5 miles of roadway. He voiced his concerns about enforcement of subdivision rules (primarily regarding the Heatherwood development).

21614 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 \$534,522.57 as presented by the County Auditor. All present voting "Aye".

21615 APPROVE UTILITY PERMITS #01697 & #01698

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve Utility Permit #01697 on CR140/Post Road issued to Baker-Aicklen & Associates Inc. and #01698 on CR236 issued to PBS&J. All present voting "Aye".

21616 APPROVE RENEWAL CONTRACT FOR "CEMETERY MAINTENANCE" TO MAINTENANCE MANAGEMENT FOR ONE ADDITIONAL YEAR AS PROVIDED IN ORIGINAL CONTRACT

This will be the last year of renewal provided in the original contract with Gene Bagwell dba/Maintenance Management. A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve renewal contract for "cemetery maintenance" to maintenance management for one additional year as provided in original contract. All present voting "Aye".

21617 APPROVE RENEWAL CONTRACT FOR "HAULING SERVICES" FOR THE ROAD DEPARTMENT TO PNEU ROCK TRANSPORTATION FOR ONE ADDITIONAL YEAR AS PROVIDED IN ORIGINAL CONTRACT

Purchasing Agent Cindy Maiorka recommends renewal of current contract with Pneu Rock Transportation for one additional year. A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve renewal contract for "Hauling Services" for the Road Department to Pneu Rock Transportation for one additional year as provided in the original contract. All present voting "Aye".

21618 APPROVE SPECIFICATIONS FOR REQUEST FOR BID FOR "HAYS COUNTY DEPOSITORY CONTRACT" AND AUTHORIZE PURCHASING TO SOLICIT FOR BID AND ADVERTISE

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve specifications for request for bid for "Hays County Depository Contract" and authorize purchasing to solicit for bid and advertise. All present voting "Aye".

21619 ACCEPT INTERNAL EXAMINATION REPORT FOR JUVENILE PROBATION DEPARTMENT

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to accept internal examination report for the Juvenile Probation Department. All present voting "Aye".



21620 HILL COUNTRY RANCHES RESUB OF LOT 227 [PCT. 3 #03-3-047 – 2 LOTS] * **FINAL PLAT APPROVAL DENIED** [T1-102]

Environmental Health Director Allen Walther spoke of preliminary plan approval (July 8, 2003 S/743 #21125). A public hearing was held and final plat was tables on August 5, 2003 [S/765 #21196]. It was brought to the attention of the court about deed restrictions prohibiting resubdivision of lots. There are several other lots that have been divided in this subdivision. Staff will not make a recommendation for approval of this. Christina McKinney, appeared on behalf of the Hill Country Ranches Property Owners and spoke of deed restrictions and county subdivision regulations – the property owners are in opposition to any resubdivision in this subdivision. Attorney Greg Deans spoke on behalf of the Lot 227 property owners Paul & Katherine Evanson – he spoke of process homeowners must go through to resubdivide property and he spoke of 4-5 resubdivisions that have already occurred in this subdivision. This property has had 2 homes on it since 1994 and the families want to divide it into two pieces of property – there will be no increase in water usage or traffic by this resubdivision. They have followed all the requirements of Environmental Health and have spent a great deal of money to notify property owners in the subdivision. He spoke of legal difficulties that the property owners have had to deal with and he spoke of wording in the deed restrictions. Mr. Deans spoke of possible issuance of a mandamus. Commissioner Burnett spoke of this being in violation of the subdivision rules Section 11.1 addressing revisions. Special Counsel Jacqueline Cullom Murphy advised that the 60 day rule does not apply to resubdivisions which have a higher burden..... Commissioner Molenaar advised that this needs to be tried in district court and not in this court. Commissioner Burnett feels like this would be a violation of our subdivision rules and this is not the court that has jurisdiction over this. Allen Walther advised that it is not staff's responsibility to read and interpret deed restrictions – we rely on the applicant to make sure that they have the ability to subdivide a lot – he feels like it would be appropriate to refund the unused portion of fees that have been paid. **A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to deny final plat of "Hill Country Ranches Resub of Lot 227". All present voting "Aye".**

21621 PUBLIC HEARING WITH ACTION TO ESTABLISH TRAFFIC REGULATIONS ON VILLAGE WEST DRIVE (SPEED LIMIT OF 30 MPH) [T1- 560]

Commissioner Molenaar declared the public hearing open –no public input was received and the public hearing was closed. Road Supt/Engineer Jerry Borcharding gave staff recommendation to establish a 30 MPH speed limit. **A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to establish traffic regulation of 30MPH speed limit on Village West Drive. All present voting "Aye".**

21622 DAKOTA MOUNTAIN ESTATES [PCT. 4 #01-4-017] * **RELEASE OF MAINTENANCE FISCAL SECURITY AND ACCEPT ALL ROADS AND DRAINAGE IMPROVEMENTS INTO THE COUNTY ROAD MAINTENANCE SYSTEM** [T1- 581]

Road Supt/Engineer Jerry Borcharding gave staff recommendation for release of fiscal security and acceptance of roads [Dakota Mountain Drive, Cartman Overlook & Bonham Ranch Road]. **A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to release the maintenance fiscal security and accept roads and drainage improvements in "Dakota Mountain Estates" into the county road maintenance system. All present voting "Aye".**

21623 CALL FOR LOCAL OPTION ELECTION TO BE HELD ON MAY 15, 2004, IN JUSTICE PRECINCT 2 [T1- 591]

John Hatch spoke in support of this issue – he thanked Joyce Cowan and other people involved in this project and he spoke of legislative changes that were made that enable us to have an election in JP2 - now other communities will be able to hold elections and bring economic development into their areas. Election Administrator Joyce Cowan presented the petitions and certifies that it does meet the requirements to order an election to consider the issue of "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only" and to set the date of the election to be held the next uniform election date – that date being May 15, 2004. Commissioner Molenaar wanted the record to reflect that he does not condone alcohol but will sign the order calling for the election as required by law. **A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to call for a local option election to be held on May 15, 2004 in Justice Precinct 2. All present voting "Aye".**

REQUEST FOR CONSTABLE PCT. 2 ADMINISTRATIVE ASSISTANT TO EXCEED STANDARD COMPENSATORY TIME LIMITS UP TO 240 HOURS MAXIMUM [T1- 688]

Constable Pct. 2 James Kohler requested that his part-time (30 hour) administrative assistant be allowed to exceed the standard compensatory time limitations of 60 hours. **A motion was made by Commissioner Molenaar to authorize – the motion died for lack of a second.** Commissioner Burnett spoke of budget request for a fulltime positions and the adopted budget allowed a 30 hour per week position. Human Resources Director Luis Gonzales advised that part-time people are allowed to accumulate comp time up to 60 hours – the employee in question will reach the federal 240 hour maximum within two months. Commissioner Molenaar advised that Constable Kohler, Judge Powers, and Luis Gonzales need to talk about this situation and resolve it.



21624 APPROVE INCLUSION OF CITY OF SAN MARCOS IN THE COUNTY'S TEXAS PARKS AND WILDLIFE DEPARTMENT (TPWD) GRANT APPLICATION FOR THE 5-MILE DAM PARK PROJECT [T1- 761]

Grants Administrator Richard Salmon advised that the county's application to the Texas Parks & Wildlife Dept. for \$500,000 to make improvements to 5-Mile Dam Park did not get enough points to get funded. Inclusion of the City of San Marcos in the project will add more points to the TPWD score and begin to formalize a relationship in which the city will maintain and operate the 45 acre tract as well as inject more cash and in-kind match into the project. The City of San Marcos is in need of more soccer and baseball fields and this would be a good avenue for the city and county to work together to meet common goals. Commissioner Ingalsbe spoke of City of San Marcos having the expertise to operate and maintain these fields which could be used by numerous entities in the county. San Marcos Parks & Recreation Director Rodney Cobb spoke in support of partnership with the county – they already encompass the county with their softball and soccer programs. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Molenaar to approve inclusion of City of San Marcos in the County's Texas Parks and Wildlife Department (TPWD) grant application for the 5-mile dam park project. All present voting "Aye".**

UPDATE REGARDING ACTIVITIES AND FACILITY IMPROVEMENTS AT THE HAYS COUNTY CIVIC CENTER (CHARLES NAGEL) [T1- 881]

Civic Center Operator Charles Nagel gave an update on activities and the condition of the facility - he spoke of watering system that was installed to control the dust and he spoke of problems and concerns that were brought to his attention. He spoke of marketing that has been done and sponsorships that have been obtained or in the process of obtaining. He also spoke of donations being negotiated and received – bookings are picking up dramatically – he asked for authorization to rent a portion of the facility not being used. He spoke of a promoter that is willing to bring events (concerts) to the facility. He provided a list of improvements needed. Commissioner Molenaar spoke of need for a workshop to discuss improvements needed at the civic center.

21625 APPROVE THE PURCHASE OF TIMING EQUIPMENT FOR THE CIVIC CENTER IN THE AMOUNT OF \$1881.00 AND AMEND THE BUDGET ACCORDINGLY [T1- 1651]

Civic Center Operator Charles Nagel spoke of need for timing equipment with digital scoreboard which could be rented to promoters. This system being requested consists of automatic horn, electronic timer, timer interface software and spectator display. There is only one manufacturer of this equipment. The County Auditor will look at the budget to determine appropriate budget amendment next week. **A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to authorize the purchase of timing equipment for the Civic Center in the amount of \$1881.00 and amend the budget next week. All present voting "Aye".** Commissioner Burnett thanked Commissioner Molenaar for his hard work in getting this facility up and going again.

21626 ADOPTION OF A CREDIT CARD POLICY FOR HAYS COUNTY PERSONNEL [T1- 1817]

County Treasurer Michele Tuttle spoke of request from several departments needing credit cards - District Court will use credit card for sequestering juries and for meals and the District Attorney to pickup and transport prisoners. The credit cards are issued in the individual names that will be using it. A credit card policy has been developed for consideration. Commissioner Burnett spoke of department heads being personally responsible for late charges. Special Counsel Jacqueline Cullom Murphy suggested that each card be approved by the Commissioners' Court as issued. District Attorney Chief Investigator Jody Guinn spoke of need for a credit card even if you have a check for payment of services and for reservation of hotel rooms. County Auditor Bill Herzog suggested that Department Head and Employee sign the contract/agreement. [T1-2170] **A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to adopt the proposed Policy for Credit Card Use with changes as follows: Item #3 to read: Prior to being issued a credit card, the employee and department head or elected official must sign a copy of the policy stating that they have read the policy and agree to abide by its rules and procedures; and item #8 to read: The department head or elected official is personally responsible from personal funds, not county budgeted funds, for all late charges and interest that may be assessed. All present voting "Aye".**

POLICY FOR CREDIT CARD USE

Credit cards are to be used only when it is not practical to wait for issuance of a check and a Purchase Order is not acceptable.

1. Credit cards are to be used for county business only and only for expenses that the county would normally be obligated to pay.
2. Issuance of credit cards is subject to Commissioners' Court approval. Each department must justify the need to request a credit card to the Commissioners' Court. The card can only be used for the purpose for which the Commissioners' Court approved the card. Each card will be issued in the name of an individual employee and only that employee is authorized to use the card.
3. Prior to being issued a credit card, the employee and department head or elected official must sign a copy of the policy stating that they have read the policy and agree to abide by its rules and procedures.
4. Credit card limit shall not exceed \$1,500.00.
5. Receipts must be turned in to the county Purchasing Office within 72 hours after the employee returns to work. Payments will be made based upon receipts turned in to the Purchasing Office and not the credit card statement.
6. While traveling, food purchases in excess of those amounts allowed in the Travel Policy will be reimbursed by the employee upon return.
7. Failure to follow this policy will result in the termination of the employee's right to use the credit card. Any use of cards not related to county business will result in Commissioners' Court action up to and including termination of employment.
8. The department or elected official is personally responsible from personal funds, not county budgeted funds, for all late charges and interest that may be assessed.
9. Countywide credit cards being held in the Purchasing Department that may be "checked out" by department heads must be returned to Purchasing immediately upon the return of the employee, along with the receipts for any purchases.



Court convened into closed EXECUTIVE SESSIONS at 11:25 a.m. and reconvened into open meeting at 1:40 p.m.

EXECUTIVE SESSION PURSUANT TO SECTION 551.087, TEXAS GOVERNMENT CODE, RELATING TO ECONOMIC DEVELOPMENT ISSUES AFFECTING HAYS COUNTY, INCLUDING, BUT NOT LIMITED TO, DISCUSSION AND DELIBERATION REGARDING COMMERCIAL OR FINANCIAL INFORMATION THAT THE CITY OF BUDA HAS RECEIVED FROM A BUSINESS PROSPECT THAT THE CITY SEEKS TO HAVE LOCATE, STAY, OR EXPAND IN OR NEAR THE CITY AND WITH WHICH THE CITY IS CONDUCTING ECONOMIC DEVELOPMENT NEGOTIATIONS. No action was taken on this agenda item.

EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO DISCUSS AND DELIBERATE LEGAL ISSUES RELATING TO THE HAYS COUNTY JUVENILE DETENTION FACILITY. No action was taken on this agenda item.

21627 EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO DISCUSS AND DELIBERATE *PAPALOTE HOMES, LTD. V. HAYS COUNTY COMMISSIONERS COURT WITH ACTION TO HIRE OUTSIDE LEGAL COUNSEL* [T1- 2212]

Special Counsel Jacqueline Cullom Murphy advised that a lawsuit has been filed and the County Judge will be served. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to authorize the County Judge to execute outside legal counsel agreement with McGinnis, Lochridge & Kilgore to represent the county in lawsuit styled "*Papalote Homes, Ltd. v. Hays County Commissioners' Court*" and amend the outside legal counsel agreement with David Brooks to serve as counseling attorney. All present voting "Aye".

Court was adjourned.

I, LEE CARLISLE, COUNTY CLERK and EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Hays County Commissioners' Court on FEBRUARY 24, 2004.



LEE CARLISLE, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
HAYS COUNTY, TEXAS

