



MARCH 2, 2004

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STATE OF TEXAS \*  
COUNTY OF HAYS \*

ON THIS THE 2<sup>ND</sup> DAY OF MARCH A.D., 2004, 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. FRITSCHÉ	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.

**21628 ADOPT PROCLAMATION DECLARING MARCH 6, 2004 AS HAYS COUNTY HEART WALK DAY**

A motion was made by Commissioner Molenaar, seconded by Commissioner Carter to adopt Proclamation declaring March 6, 2004 as Hays County Heart Walk Day. All voting "Aye".

**PRESENTATION BY CHARLES HEIMSATH, WITH CAPITAL MARKET RESEARCH, CONCERNING FUNDING MECHANISMS UTILIZED FOR ECONOMIC DEVELOPMENT EFFORTS BY COUNTY'S IN THE STATE OF TEXAS**

Charles Heimsath (market analyst) with Capital Market Research in Boston spoke of being involved as a team member in creation of TIFF's and 380's in Travis County which are used to foster economic development. The City can issue a debt and both the City and County can repay that debt. You create a special district where you are enacting a public improvement using anticipated revenues from property taxes and/or sales tax - you must define a public purpose/benefit. A TIFF is typically used to make public road/drainage improvements and infrastructure extensions (water & wastewater).

**PUBLIC COMMENT**

[T1-208] Charles O'Dell spoke of abrupt adjournment of Commissioners' Court on February 3, 2004 regarding Heatherwood development – he feels like Judge Powers and Jacqueline Cullom Murphy should recuse themselves from any participation or deliberation involving the county's legal defense against the writ filed by Mr. Duffy, or in an open meeting suit should one be filed by Papalote Homes. (he presented his comments in writing for the record)

The court convened into closed execution session at 9:20 a.m. and reconvened into open meeting at 10:20 a.m. Judge Power left the meeting at this time and Commissioner Molenaar presided over the meeting.

**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. ACTION MAY FOLLOW IN OPEN COURT NO ACTION TAKEN**

**21629 EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO DISCUSS AND DELIBERATE LEGAL ISSUES RELATING TO THE HAYS COUNTY JUVENILE DETENTION FACILITY WITH ACTION TO HIRE OUTSIDE LEGAL COUNSEL [T1-271]**

A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to hire outside counsel Steve Brown and authorize the County Judge to execute agreement. All present voting "Aye". [Judge Powers was not present to vote]

**21630 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 \$167,607.51 as presented by the County Auditor. All present voting "Aye". [Judge Powers absent for vote]

**21630 APPROVE BUDGET AMENDMENT NO. 04-14**

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve Budget Amendment No. 04-14 as proposed by the County Auditor. All present voting "Aye". Judge Powers absent for vote.

**21631 APPROVE UTILITY PERMITS #01699, 01700**

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve Utility Permits #01699 on CR205/Dacy Lane issued to City of Kyle and #01700 on CR122/Bebbe Road issued to City of Kyle. All present voting "Aye". Judge Powers absent for vote.

**21632 APPROVE REVISED INTERLOCAL AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF SAN MARCOS FOR THE BLANCO RIVER CLEANUP PROJECT**

The legal department for the City of San Marcos made some changes to the original interlocal agreement – added Section 3 Misc. Provisions. A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve Revised Interlocal Agreement between Hays County and the City of San Marcos for the Blanco River Cleanup Project. All present voting "Aye". Judge Powers absent for vote.

**21633 ACCEPT INTERNAL EXAMINATION REPORT FOR THE HAYS COUNTY ENVIRONMENTAL HEALTH DEPARTMENT**

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to accept internal examination report for the Hays County Environmental Health Department. All present voting "Aye". Judge Powers absent for vote.

**21634 APPROVE THE OCTOBER 2003 TREASURER'S REPORT**

A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to approve the October 2003 Treasurer's Report. All present voting "Aye". Judge Powers absent for vote.

Judge Powers returned to the meeting at this time.

**DISCUSSION REGARDING A NEW FACILITY FOR ADULT PROBATION AND CONDITIONS AND OFFICE SPACE NEEDS AT THE JUSTICE CENTER AND THE PCT. 2 OFFICES IN KYLE [T1-302]**

George Hernandez, CSCD Chief Probation Officer, spoke of need for a new county owned facility that would house the Adult Probation Dept. and Programs Division. There are currently four separate entrances, some with no waiting area and a complicated interior hallway. This creates a potentially serious safety and security risk (they have had bomb threats and stolen equipment). The current location is inconvenient for probation staff and the court. Due to current location being in a strip shopping center, they are not able to control the nature of other businesses - loud noises from the bar in the next suite create a disturbing situation for classes. There are chronic roof leaks and the current lease provides no tenant benefits and requires the County to repair all items unless it exceeds a certain amount. The current location does not allow for continued department growth and the total rent for the four suites is \$106,366 per year (\$72,000 County and \$34,366 Probation Programs). Their solution would be a 12,000 sq. ft. county owned building which could be located at the old hospital property between Thorpe Lane and I35. The building would cost \$666,200 (CSR to complete interior work at a savings of \$78,000 with actual cost of \$588,200). In seven years this building would be paid for. Commissioner Ingalsbe spoke of \$10,000 per month rental funds that could be used to pay for this facility. Mr. Hernandez spoke of need for an immediate solution. Commissioner Molenaar spoke of need to go out for a bond election to address facility needs throughout the county. Commissioner Ingalsbe spoke of this being an immediate need for Adult Probation. County Auditor Bill Herzog spoke of \$106,000 per year would allow borrowing \$1.3 million. Deputy County Clerk Liz Gonzalez read a letter from Cecelia Adare regarding conditions at the Justice Center. Commissioner Ingalsbe advised that she continues to get phone calls from employees at the Justice Center regarding health issues and concerns. J.P. 2 Beth Smith spoke of having the same issues as the Probation Office (roof leaks, safety issues, storage problems, and inadequate space). Linda Turley (Adult Probation Officer) spoke of 450 people reporting to substation in Kyle and the building is inadequate. Road Supt/Engineer Jerry Borcharding advised that he needs 45-60 days to vacate the old road department facility in Kyle. Commissioner Ingalsbe advised that \$3,135 in lease is being paid for the Kyle office space. J.P. 2 Beth Smith advised that immediate relief is needed.

**21635 ACTION TO HAVE AN AIR QUALITY TEST PERFORMED AT THE HAYS COUNTY JUSTICE CENTER**

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Molenaar to authorize air quality testing at the Hays County Justice Center. All voting "Aye".



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**21636 INDIAN HILLS RANCH RESUBDIVISION OF LOT 4 [PCT. 2 #04-2-002 – 2 lots] \* PUBLIC HEARING AND APPROVE FINAL PLAT [T1-902]**

Judge Powers declared the public hearing open. No public input was received and the public hearing was closed. Environmental Health Director Allen Walther gave staff recommendation for final approval. **A motion was made by Commissioner Carter, seconded by Commissioner Molenaar to approve final plat of "Indian Hills Ranch Resubdivision of Lot 4". All voting "Aye".**

**21637 HILLVIEW ADDITION SECTION 1 RESUBDIVISION OF LOTS 9A & 10 RESUBDIVISION [PCT. 4 #04-4-004 – 4 lots] \* PUBLIC HEARING AND APPROVE FINAL PLAT [T1-923]**

Judge Powers declared the public hearing open. No public input was received and the public hearing was closed. Environmental Health Director Allen Walther gave staff recommendation for final approval. **A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve final plat of "Hillview Addition Section 1 Resubdivision of Lots 9A & 10". All voting "Aye".**

**Clerk's Note: Agenda Item #11 RE: BENT TREE SECTION 1 & 2 – RELEASE OF MAINTENANCE FISCAL SECURITY AND ACCEPT ROADS AND DRAINAGE IMPROVEMENTS INTO THE COUNTY ROAD MAINTENANCE SYSTEM was PULLED.**

**Clerk's Note: Agenda Item #12 RE: COTTONWOOD HOLLOW SECTION 2 [PCT. 2 #01-2-052] \* RELEASE CONSTRUCTION FISCAL SECURITY AND ACCEPT MAINTENANCE FISCAL SECURITY FOR A PERIOD OF TWO YEARS FOR THE ROAD AND DRAINAGE IMPROVEMENTS was PULLED.**

**21638 AUTHORIZE THE COUNTY JUDGE TO EXECUTE SUPPLEMENTAL WORK AUTHORIZATION NO. 1 TO WORK AUTHORIZATION NO. 19 WITH TURNER, COLLIE & BRADEN, INC. FOR THE HAYS COUNTY ROAD BOND PROGRAM (WIMBERLEY BYPASS-TCB/LAI) [T1-983]**

Bob Sutton (TC&B) advised that this supplemental work authorization will provide additional engineering and surveying services related to the Wimberley By-Pass project in the amount of \$66,249.00. Commissioner Burnett spoke of traffic issues that will be addressed with this project. **A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to authorize the County Judge to execute Supplemental Work Authorization No. 1 to Work Authorization No. 19 with Turner, Collie & Braden Inc. for the Hays County Road Bond Program (Wimberley ByPass-TCB/LAI). Commissioner Ingalsbe, Commissioner Burnett, Commissioner Molenaar, and Judge Powers voting "Aye". Commissioner Carter abstained.**

**21639 AUTHORIZE THE COUNTY JUDGE TO EXECUTE SUPPLEMENTAL WORK AUTHORIZATION NO. 1 TO WORK AUTHORIZATION NO. 11 WITH TURNER, COLLIE & BRADEN, INC. FOR THE HAYS COUNTY ROAD BOND PROGRAM (HILLSIDE TERRACE-TCB/KC ENGINEERING) [T1-1047]**

Bob Sutton (TC&B) advised that this supplemental work authorization will provide additional engineering and surveying services related to the Hillside Terrace project in the amount of \$129,076.00. There are utility lines in road right of way – there is limited right of way available and the plan is to not move utility lines but to construct curb and gutter. **A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to authorize the County Judge to execute Supplemental Work Authorization No. 1 to Work Authorization No. 11 with Turner, Collie & Braden, Inc. for the Hays County Road Bond Program (Hillside Terrace-TCB/KC Engineering). All voting "Aye".**

**21640 DISCUSSION AND ACTION RELATING TO THE OVERSIGHT AND MANAGEMENT OF THE HAYS COUNTY STATE HIGHWAY PROGRAM [T1-1117]**

Bob Cuellar (TC&B) spoke of need for oversight and management of the Hays County State Highway Program. Based on the February 17, 2004 presentation by TxDOT District Engineer Bob Daigh, P.E., the court needs to re-evaluate the State Highway Program as presented to the Texas Transportation Commission and develop a new state road improvement priority list as well as explore creative funding mechanisms. HDR Engineering Inc. has provided a Letter Agreement for engagement of their services – they would provide oversight and management for Hays County's State Highway Development. Judge Powers spoke in support of this proposal. Commissioner Burnett spoke of process involved in hiring Turner, Collie & Braden to manage our bond program and he would like to hear what HDR can do for us that TC&B cannot. Mr. Cuellar spoke of state bond projects that are being worked on. Russell Zapalac, Sr. VP of HDR, spoke of having a different perspective and spoke of experience they have – they will work toward maximizing the county's dollars - they have worked with TxDOT regarding State Highway 130. Commissioner Burnett felt like it is redundant to have two engineering firms to work on this - the rates are higher with HDR than with Turner, Collie & Braden and he asked about the public outreach consultant – he does not support this proposal. **A motion was made by Commissioner Carter, seconded by Judge Powers to authorize the County Judge to execute an agreement with HDR Engineering Inc. for oversight and management of the Hays County State Highway Program. Commissioner Carter and Judge Powers voting "Aye". Commissioner Molenaar, Commissioner Burnett, and Commissioner Ingalsbe voting "No". MOTION FAILED.**



**21641 ACTION TO FORM A COMMITTEE TO ADDRESS THE STATUS OF THE HAYS COUNTY STATE ROAD PROJECTS [T1-1602]**

Commissioner Burnett advised that House Bill 3588 provides a number of opportunities and possible funding and planning tools that the court needs to discuss. TxDOT can now issue bonds, securities and develop credit arrangements for any highway projects and they may be repaid from the State Highway Fund. Another portion of the Bill allows the use of private or other funds to build a road with TxDOT repaying the costs from highway revenues based on the amount of traffic that uses the facility. These are called pass through tolls but do not represent new revenues to the department. Counties can now create Regional Mobility Authorities (RMA's) that will develop transportation projects exactly the same way as and with nearly all the powers granted to TxDOT. The RMA's will allow counties to develop roads that are important to them without regard to funding availability within the Department. TxDOT can also convey an existing State road to a county or RMA to be tolled after it is expanded by that entity. The Bill also allows TxDOT to acquire right of way before roadway development to develop and preserve transportation corridors and also allows the purchase of options on land for future purchase. Finally, the Bill made TxDOT fully multi-modal by allowing it to finance rail projects across the state. Commissioner Burnett supports the county forming our own RMA. Commissioner Ingalsbe spoke of need to understand what HB3588 means to Hays County. [T1-1712] **A motion was made by Commissioner Burnett, seconded by Commissioner Ingalsbe to form a committee consisting of Commissioner Russ Molenaar, Road Supt/Engineer Jerry Borcharding, and County Auditor Bill Herzog to work with Turner, Collie & Braden Project Manager Bob Sutton, Texas Dept. of Transportation and the Transportation Commission to address the current status of our bond program and the list of priorities that we have and the offer we sent to them and bring back to court a plan of action in light of HB3588 to include the possibility of forming our own RMA as well as the possibility of joining the Central Texas RMA. All voting "Aye".**

**21642 AUTHORIZE THE COUNTY JUDGE TO ENTER INTO A CONTRACT WITH DAHILL INDUSTRIES FOR UPGRADE OF COPY MACHINE AT THE HAYS COUNTY ELECTIONS OFFICE [T1-1841]**

**A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to authorize the County Judge to enter into a contract with Dahill Industries for upgrade of copy machine at the Hays County Elections Office. All voting "Aye".**

**21643 APPROVE 2 CREDIT CARDS FOR THE DISTRICT JUDGE'S OFFICE [T1-1852]**

County Treasurer Michele Tuttle spoke of policy adopted last week – the credit cards will be issued to District Court Administrator Linda Wallace and District Court Chief Bailiff Charles Gordon with a limit of \$1500 to be used for overnight accommodations and food for jurors. **A motion was made by Judge Powers, seconded by Commissioner Molenaar to approve issuance of two credit cards for the District Judge's office as requested. All voting "Aye".**

**21644 APPROVE 1 CREDIT CARD FOR THE DISTRICT ATTORNEY'S OFFICE [T1-1894]**

County Treasurer Michele Tuttle advised that this credit card would be used solely for the purposes of extraditing prisoners for court including airline tickets, rental car, and overnight accommodations relating to the extradition. The credit card will be issued to Jody Ginn with a limit of \$1,500.00. **A motion was made by Judge Powers, seconded by Commissioner Molenaar to approve issuance of one credit card for the District Attorney's office as requested. All 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 **MARCH 2, 2004**.



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