



STATE OF TEXAS \*  
COUNTY OF HAYS \*

ON THIS THE 4<sup>th</sup> DAY OF MAY 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 Molenaar led the Court in the Pledge of Allegiance to the Flags.

**21771 ADOPT A PROCLAMATION DECLARING MAY 2004 AS OLDER AMERICANS MONTH AND PRESENT PROCLAMATION TO MS. GLENDA ROGERS, DIRECTOR OF AREA AGENCY ON AGING IN AUSTIN, MS. DIXIE MYERS, DIRECTOR OF THE HILL COUNTY SENIOR CITIZENS ACTIVITY CENTER IN DRIPPING SPRINGS, AND MR. BAILEY BARTON, ATTORNEY IN SAN MARCOS**

Glenda Rogers spoke of recognizing contributions of older Americans and helping them in their aging process. A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to adopt Proclamation declaring May 2004 as *OLDER AMERICANS MONTH* and present Proclamation to Ms. Glenda Rogers, Director of Area Agency on Aging in Austin, Ms. Dixie Myers, Director of the Hill Country Senior Citizens Activity Center in Dripping Springs, and Mr. Bailey Barton, Attorney in San Marcos. All voting "Aye".

**21772 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 \$267,147.49 as presented by the County Auditor. All voting "Aye".

**21773 APPROVE BUDGET AMENDMENT # 04-19**

Proposed budget amendments were as follows: Transfer \$1,050 from Sheriff Vehicles line item to Animal Control Registration Supply (\$150) and Animal Care (\$900) – Transfer \$525 from Parks Administration travel into Other line item - Transfer \$1,500 from TDH/Immunization supplies into other line item - Transfer \$7,600 from various line items in Personal Health into Medical Services line item. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve Budget Amendment No. 04-19 as proposed by the County Auditor. All voting "Aye".

**21774 APPROVE REFUND OF OVERPAYMENTS ON TAXES**

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve refund of overpayment of taxes in the amount of \$671.07 for Burnett Ranch Sec 4 Lot 2 Blk 1 as presented by the County Tax Assessor-Collector. All voting "Aye".

**21775 PALOMA BLANCA REPLAT OF LOTS 3 & 4 [PCT. 3 #04-3-034, 2 lots] \* APPROVE FINAL PLAT & WAIVE PRELIMINARY PLAN & PUBLIC NOTIFICATION REQUIREMENTS**

[T1-96] Property Owners Linda Bingham, Betty Pennington, & Stacey Pennington propose to relocate a common lot line between their properties. Access to the lots are through a 30 ft. shared access driveway onto CR181/Fischer Store Road. Environmental Health Director Allen Walther gave staff recommendation for final plat approval. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve final plat and waive preliminary plan & public notification requirements for "Paloma Blanca Replat of Lots 3 & 4". All voting "Aye".

**21776 RIATA SUBDIVISION [PCT. 3 #04-3-026, 1 lot] \* APPROVE FINAL PLAT [T1-108]**

Environmental Health Director Allen Walther advised that this is a one lot subdivision and he gave staff recommendation for final plat approval. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to approve final plat of "Riata Subdivision". All voting "Aye".



**21777 GLEN H. KOTHMANN PROPERTIES SUBDIVISION REPLAT OF LOTS 3, 4, 5, 6, & 21** [PCT. 4 #04-4-033, 5 lots] \* **APPROVE FINAL PLAT & WAIVE PRELIMINARY PLAN & PUBLIC NOTIFICATION REQUIREMENTS** [T1-123]

Environmental Health Director Allen Walther advised that the owners Bruce & Cathy Fairchild and Samuel & Beverly Hadaway are increasing the existing lot sizes to settle common ownership - he gave staff recommendation to approve final plat and waive preliminary plan and public notification requirements. **A motion was made by Commissioner Molenaar, seconded by Commissioner Carter to approve final plat and waive preliminary plan & public notification requirements for "Glen H. Kothman Properties Subdivision Replat of Lots 3, 4, 5, 6, & 21". All voting "Aye".**

**21778 PENN SUBDIVISION REPLAT OF LOTS 1 & 2** [PCT. 4 #02-4-078, 2 lots] \* **APPROVE PRELIMINARY PLAN** [T1-138]

Property owner Benjamin David Reed proposes to replat Lot 1 & 2 of the Penn subdivision (relocation and increase in size of Lot 2). Environmental Health Director Allen Walther gave staff recommendation for preliminary plan approval. **A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve preliminary plan for "Penn Subdivision Replat of Lots 1 & 2". All voting "Aye".**

**21779 PUBLIC HEARING AND CONSIDER ADOPTING A RESOLUTION DECLARING A PUBLIC NECESSITY AUTHORIZING THE UPGRADE OF OWL HOLLOW ROAD AND THE ASSESSMENT OF THE PROPERTY OWNERS FOR THE SAME** [T1-146]

Judge Powers declared the public hearing open. Tom Langley, Secretary of the Rocky Ranch Acres POA, spoke of having a gravel road approximately 1.5 miles long – school buses have to pick up children at the end of the road and creates a dangerous situation for the children. He spoke of problems for emergency vehicles, the security of their mail at the end of the road, and they are unable to receive services such as newspaper delivery. There are approximately 50 property owners on this road. Commissioner Molenaar explained the process for assessment – ballots are sent out to property owners and estimates to determine assessment. Road Supt/Engineer Jerry Borcharding advised that his estimate for the upgrade is approximately \$122,000. Judge Powers closed the public hearing. Commissioner Burnett advised that his position is that he does not like for the county to be a bank for private roads to be taken over by the county - he is concerned about other subdivisions coming forward with the same request. He would prefer for the homeowners association to borrow the money and upgrade their own roads. Commissioner Molenaar stated that this homeowners association has exhausted every resource they have and they are now coming to the county as provided by law. Commissioner Ingalsbe spoke of need for guidelines and limits. **A motion was made by Commissioner Molenaar, seconded by Commissioner Carter to adopt Resolution declaring a public necessity authorizing the upgrade of Owl Hollow Road and the assessment of the property owners for the same. Approximate cost to be \$122, 000. Commissioner Ingalsbe and Commissioner Molenaar voting "Aye". Commissioner Carter, Commissioner Burnett and Judge Powers voting "No". MOTION FAILED.**

**21780 APPROVE AGREED JUDGMENT IN HAYS COUNTY V. SAPP, CAUSE NO. 4608**

[T1-383] Special Counsel Jacqueline Cullom Murphy spoke of agreed judgment - \$500 will be received from abutting property owner and will then be paid to Mr. Sapp. **A motion was made by Judge Powers, seconded by Commissioner Burnett to approve Agreed Judgment in Cause No. 4608 Hays County v. Sapp with addition of wording referencing the abandonment of right-of-way. All voting "Aye".**

**21781 PUBLIC HEARING AND ACTION TO APPROVE THE ABANDONMENT OF OLD BLISS SPILLAR ROAD BETWEEN BLISS SPILLAR ROAD AND CHAPARRAL DRIVE, FOR A TOTAL OF 1.319 ACRES OF LAND SITUATED BETWEEN LAND OWNED BY TOM E. SAPP AND W.K. BEAR CREEK, LTD.** [T1-446]

Judge Powers declared the public hearing open. No public input was received and the public hearing was closed. Special Counsel Jacqueline Cullom Murphy spoke of need to approve the abandonment and close the Sapp matter. Road Supt/Engineer Jerry Borcharding advised that this property is currently fenced. **A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to approve abandonment of Old Bliss Spillar Road between Bliss Spillar Road and Chaparral Drive, for a total of 1.319 acres of land situated between land owned by Tom E. Sapp and W. K. Bear Creek Ltd. All voting "Aye".**

**21782 ACTION TO HIRE AN ENGINEERING FIRM FOR THE DESIGN OF A BRIDGE AND APPROACHES ON OLD STAGECOACH ROAD** [T1-474]

Road Supt/Engineer Jerry Borcharding gave staff recommendation to hire Turner, Collie & Braden to do design work for bridge at Dudley Johnson Park. Commissioner Carter spoke of spreading the wealth with other Engineering firms – this is not a bond road project. Jerry Borcharding advised that he reviewed qualification of other engineering firms and as an alternative he recommended Halff & Associates. He spoke of qualifications of staff regarding bridge design – TC&B are familiar with the project and the soil conditions. \$150,000 has been budgeted for bridge construction plus \$50,000 for design of the bridge. \$24,853 is the total price. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Burnett to hire Engineering Firm Turner, C&B for the design of a bridge and approaches on Old Stagecoach Road not to exceed \$24,853. Commissioner Ingalsbe, Commissioner Burnett, and Judge Powers voting "Aye". Commissioner Molenaar and Commissioner Carter voting "No".**



**21783 ACTION TO CONSIDER A PETITION REQUEST FROM THE PROPERTY OWNERS ON PUTNAM RANCH ROAD (A PRIVATE EXTENSION OF HART LANE) FOR COUNTY MAINTENANCE** [T1-642]

Bobby Porterfield (lives on Hart Lane/Putnam Ranch Road) spoke of being under the impression that the road already belonged to the county – it is impossible for property owners to keep up maintenance – he spoke of county taking over Limestone Trail, a private road. Commissioner Burnett spoke of Limestone Trail being dedicated to the public many years ago and shown on CAD roll as county property, therefore, the county recently took over this roadway for county maintenance. **A motion was made by Commissioner Molenaar to bring Putnam Ranch Road (a private extension of Hart Lane) into the County Road Maintenance System. MOTION DIED FOR LACK OF A SECOND**

**PRESENTATION FROM BICKERSTAFF, HEATH, SMILEY, POLLAN, KEVER & MCDANIEL, L.L.P. RELATING TO THE COUNTY ROAD CLARIFICATION PROJECT AUTHORIZED BY CHAPTER 258, TEXAS TRANSPORTATION CODE** [T1-757]

Charles Kimbrough (Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel) and Manuel Mendez appeared before the court. Mr. Kimbrough spoke of House Bill 1117 and various ways that the county has the right to claim roads by prescriptive easements. He spoke of stages of the proposed project: (1) hearing procedure, adoption of preliminary map and protest proceedings – burden is on the county to provide evidence and facts, produce a proposed map with public notice and notice in the tax statement mailout; (2) initial hearing is held regarding map to hear protest (written or in person) and jury of view proceedings will determine if road goes on the map, final adoption must be within 90 days from initial hearing date. Their cost would be approx \$6,000 – 10,000 but would not include litigation costs, etc. Commissioner Carter spoke of possible conflicts with citizens and expense of surveying to take property off the tax roll. Mr. Kimbrough spoke of need for clarification of county roads, you have a statute of limitations for lawsuits, and the ad valorem tax aspect [under Chapter 258.006 Transportation Code]. He did not believe that the county would be required to survey the prescriptive easement property. County Auditor Bill Herzog spoke of GASB-34 whereby we would use the map to determine the value of county owned property.

**21784 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A LOCATION AGREEMENT WITH TWENTIETH CENTURY FOX FOR USE OF THE HAYS COUNTY JUSTICE CENTER**

[T1-1344] District Attorney's Office Chief Investigator Jody Ginn spoke of use of courtroom #4 in the district court area – it has been requested that the \$500 per day being paid be earmarked for district courtroom #5 air conditioning. They are paying for security (off duty peace officers) during the filming. Purchase of the air conditioning unit will have to come to the court at a later date. **A motion was made by Commissioner Burnett, seconded by Judge Powers to authorize the County Judge to execute a location agreement with Twentieth Century Fox for use of the Hays County Justice Center. Commissioner Ingalsbe, Commissioner Carter, Commissioner Burnett, and Judge Powers voting "Aye". Commissioner Molenaar voting "No".**

**21785 AUTHORIZE THE COUNTY JUDGE TO SUBMIT A GRANT APPLICATION TO THE TEXAS COMPTROLLERS OFFICE FOR UP TO \$5,000.00** [T1-1485]

Grants Administrator Richard Salmon explained the grant. The Texas Comptroller's Office is making block grants available to counties and cities to be used by local law enforcement agencies to enforce Subchapter H and N, Chapter 161 of the Texas Health and Safety Code. The goal is to reduce the extent to which cigarettes and tobacco products are sold or distributed to persons under the age of 18. Grant funds can be used for the following compliance activities: (1) On-site inspections of tobacco permitted retail outlets for the unlawful sale of products; (2) On-site inspections that may result in the issuance of citations; (3) Compliance education for the community, retailers, and school children; (4) Monthly/quarterly activity reports to the Texas Comptroller. **A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to authorize the County Judge to submit a grant application to the Texas Comptrollers Office for up to \$5,000.00. All voting "Aye".**

**21786 RENEW CONTRACT FOR MOWING OF GROUNDS AT DUDLEY JOHNSON/KYLE LOG CABIN FOR ONE (1) ADDITIONAL YEAR AS PROVIDED IN THE ORIGINAL CONTRACT WITH MAINTENANCE MANAGEMENT** [T1-1505]

Parks Director Jerry Pinnix advised that 5 years ago he had volunteered to mow the park, however, he does not currently have the time or resources to provide this service as suggested by Commissioner Carter. **A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to renew the contract for mowing of grounds at Dudley Johnson/Kyle Log Cabin for one (1) additional year as provided in the original contract with Maintenance Management. Commissioner Ingalsbe, Commissioner Burnett, Commissioner Molenaar, and Judge Powers voting "Aye". Commissioner Carter voting "No".**



**WORKSHOP TO DISCUSS AND DELIBERATE LEGAL, ECONOMIC DEVELOPMENT  
AND FINANCIAL ISSUES RELATING TO CABELA'S RETAIL, INC.** [T1-1590]

Dan Wegmiller (First Southwest Company) gave breakdown of different types of investments to take place in the area being a total investment of \$86.8 million in the TIFF area: *public improvement (roads, utilities, etc.) is \$37.5 million, \$12.5 million in TxDot immediate improvements, and \$36.8 in Cabela's improvements (site development & building of the retail store).* He spoke of sales tax revenues (capital contribution). Special Counsel Jacqueline Cullom Murphy spoke of continued revisions not related to the County. Buda City Councilman Jeff Coffee advised that TxDot is looking for a \$500,000 cash contribution from the County. He spoke of town hall meeting that will be held May 6, 2004 at 7:00 pm at the Buda Elementary School. Warren Ketteman (Buda Economic Development Council) advised that discussions are being held with Crestview RV regarding their concerns. Dan Wegmiller spoke of the county being asked to participate in the TIFF and participate in sharing sales tax – the county would share 33% of sales tax gain and the county would get to keep 67% annually of that sales tax.

**Court was adjourned.**

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**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 MAY 4, 2004.**



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

