



STATE OF TEXAS \*  
 COUNTY OF HAYS \*

ON THIS THE 16<sup>TH</sup> DAY OF DECEMBER A.D., 2008, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

ELIZABETH "LIZ" SUMTER	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
JEFFERSON W. BARTON	COMMISSIONER, PCT. 2
WILL CONLEY	COMMISSIONER, PCT. 3
KAREN FORD	COMMISSIONER, PCT. 4
LINDA C. FRITSCHÉ	COUNTY CLERK

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Chaplain Hicks (Sheriff's office) gave the invocation and Commissioner Barton led the court in the Pledge of Allegiance to the flags. Judge Sumter called the meeting to order.

#### PRESENTATION OF RETIREMENT AND SERVICE AWARD PLAQUES

Capt. Mike Davenport presented retirement/service awards to Guadalupe Flores (he was not present), Victoria Espinoza (15 yrs), and Sam Courtney (20 yrs). Commissioner Barton presented a retirement/service award to Terry Johnson (12 yrs). Constables Peterson, Kohler, Ayres & Mancillas presented a service award to Constable Pct. 4 Debbie Brown.

#### DISCUSSION REGARDING VACANCY IN THE OFFICE OF THE HAYS COUNTY SHERIFF UNDER CHAPTER 87, SUBCHAPTER D OF THE TEXAS LOCAL GOVERNMENT CODE [T1-170]

Gary Conner made public comment in support of Bill Huddleston (candidate for County Sheriff). Russ Molenaar made public comment in support of Chief Deputy Sheriff Sherman Brodbeck. Charlie Johnson made public comment in support of Sherman Brodbeck. Judge Sumter spoke of public input members of the court have been receiving – she would like more time for consideration. Commissioner Barton spoke of need for additional time and input before making a decision. Special Counsel Mark Kennedy spoke of conversation he had with the Attorney General's office regarding holding an executive session to consider candidates for the office. He spoke of Chapter 87 of the Local Government Code. People being considered for the position need to be notified of a possible closed executive session. Commissioner Conley spoke of people who have notified him of interest in serving as Sheriff. He is opposed to having an executive session on this issue – he would like for all discussions to be in open court. Commissioner Conley spoke of input he has received from employees of the Sheriff's Department. He spoke in support of appointing Sherman Brodbeck. Commissioner Ford spoke of contact/input she has received and she would like more time for consideration. Commissioner Ingalsbe also requested more time for consideration. Judge Sumter suggested having a special meeting on Monday. Commissioner Conley requested that the record reflect that he asked members of the court that if they've contacted the Sheriff's Department about having someone internally being appointed as Sheriff, a question which has not been answered yet. Commissioner Barton and Commissioner Ingalsbe spoke.

#### 25781 APPROVE PAYMENT OF COUNTY INVOICES [T1-1252]

County Auditor Bill Herzog requested addition of invoice from Don Hudson in the amount of \$3,467. A motion was made by Commissioner Ford, seconded by Commissioner Ingalsbe to approve payment of county invoices in the amount of \$1,416,108.65 plus an additional payment in the amount of \$3,467 as recommended by the County Auditor. Commissioner Ingalsbe, Commissioner Ford, and Judge Sumter voting "Aye". MOTION PASSED Commissioner Barton and Commissioner Conley not present for vote

#### 25782 APPROVE COMMISSIONER COURT MINUTES OF DECEMBER 9, 2008

A motion was made by Commissioner Ford, seconded by Commissioner Ingalsbe to approve Commissioner Court Minutes of December 9, 2008 as presented by the County Clerk. Commissioner Ingalsbe, Commissioner Ford, and Judge Sumter voting "Aye". MOTION PASSED Commissioner Barton and Commissioner Conley not present for vote



- 25783 APPROVE AWARD OF BID #2009-B03R "TRACTORS W/SIDE MOUNT MOWERS FOR THE ROAD DEPARTMENT" TO DIETZ TRACTOR FOR A TOTAL COST OF \$78,998.00 FOR TWO UNITS**

A motion was made by Commissioner Ford, seconded by Commissioner Ingalsbe to approve award of Bid #2009-B03R "Tractors w/side mount mowers for the Road Department" to Dietz Tractor for a total cost of \$78,998.00 for two units. Commissioner Ingalsbe, Commissioner Ford, and Judge Sumter voting "Aye". MOTION PASSED Commissioner Barton and Commissioner Conley not present for vote

- 25784 ACCEPT A DONATION OF \$3,000.00 FOR PURCHASE OF A COMPUTER WITH EDITING SOFTWARE AND SCANNER FOR THE HAYS COUNTY HISTORICAL COMMISSION [T1-1295]**

Hays County Historical Commission Chair Kate Johnson spoke in support of accepting this donation to be used to purchase computer, software, and scanner. A motion was made by Judge Sumter, seconded by Commissioner Ford to amend the budget and accept a donation of \$3,000.00 for purchase of a computer with editing software and scanner for the Hays County Historical Commission. All voting "Aye". MOTION PASSED

- 25785 AUTHORIZE THE COUNTY JUDGE TO ACCEPT A GRANT AWARD FROM THE TEXAS PARKS AND WILDLIFE DEPARTMENT FOR A U.S. FISH & WILDLIFE SERVICE, COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND (SECTION 6 TRADITIONAL) GRANT IN THE AMOUNT OF \$54,063 FOR A KARST INVERTEBRATE STUDY [T1-1372]**

Grants Administrator Jeff Hauff spoke. Grant funds will be used for a study to determine the distribution of karst invertebrates in Hays County by sampling caves and using hydrogeologic evaluations of those caves to establish management units for the species. 25% match to be provided by Hays County [ ½ of that to come out of the FY2009 budget and ½ out of the FY2010 budget]. Commissioner Conley voiced his opposition to this study. A motion was made by Commissioner Ford, seconded by Judge Sumter to authorize the County Judge to accept a Grant Award from the Texas Parks and Wildlife Department for a U.S. Fish & Wildlife Service, Cooperative endangered species Conservation Fund (Section 6 Traditional) Grant in the amount of \$54,063 for a Karst Invertebrate Study. Commissioner Ingalsbe, Commissioner Barton, Commissioner Ford, and Judge Sumter voting "Aye". Commissioner Conley voting "No". MOTION PASSED

- 25786 APPROVE TEXAS TUITION PROMISE FUNDS AS A PAYROLL DEDUCTION [T1-2179]**

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Conley to approve Texas Tuition Promise Funds as a payroll deduction and waive current enrollment policy regarding payroll deductions. All voting "Aye". MOTION PASSED

**EXECUTIVE SESSION PURSUANT TO SECTION 551.087 OF THE TEXAS GOVERNMENT CODE TO DISCUSS ECONOMIC DEVELOPMENT NEGOTIATION REGARDING PROJECT MUNCH [T1-2320]**

Court convened into closed executive session at 11:20 a.m. and reconvened into open meeting at 11:55 a.m. No discussion and no action taken in open court.

- 25787 APPROVE PAYMENT FOR 351.50 HOURS OF COMPENSATION TIME ACCUMULATED BY DEPUTY MARK HANNA IN THE HAYS COUNTY CONSTABLE PCT. 2 OFFICE [T1-2335]**

*Note: Posted agenda shows 674.75 hours – should have been 351.50 hours.* Constable Pct. 2 James Kohler spoke of overtime that has been accumulating over the years. Commissioner Barton spoke of new deputy vacancy in the department that will soon be filled. County Treasurer Michele Tuttle spoke of county policy of 120 hours for compensation time. Judge Sumter spoke of only allowing payment down to 120 hours. Commissioner Barton spoke of amount of work in Precinct 2. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve payment down to 120 hours of compensation time accumulated by Deputy Mark Hanna in the Hays County Constable Pct. 2 office. All voting "Aye". MOTION PASSED



**25788 DISCUSSION OF POLICIES FOR ADMINISTERING THE ROAD BOND PACKAGE WITH ACTION [T1-2693]**

Mike Weaver (Prime Strategies Inc.) spoke of projects Phase I, Phase 2A, and Phase 2B; Project Consultants; Project Schedules; Schedule Summary; Cash Flows; and Next Steps. Bond Counsel Dan Wegmiller spoke of funding. Mike Weaver spoke of Professional Services Contract, Work Authorizations, Invoicing, Change Orders, Construction Guidelines, Environmental Process, Utility Relocation, and Utility Agreements. [T2-657] **A motion was made by Judge Sumter, seconded by Commissioner Conley to approve Commissioners ability to sign off on Work Authorizations and Invoices - to go directly to the Auditor's Office - and if a County Commissioner is out (and we put together a 7-day approval) invoices will come to the County Judge; and furthermore, to authorize Commissioners to sign Change Orders up to \$25,000 cap for a total 10% increase over the original amount of the contract or decreases by more than 20% - anything other than 10% above or 20% below will come to Commissioners Court for approval. All voting "Aye". MOTION PASSED [T2-788]** **A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to ask Special Counsel to work with our Program Manager to develop a standard professional services contract that can be used by the County with all the road bond project consultants and our contractors. All voting "Aye". MOTION PASSED**

**25789 AUTHORIZE THE COUNTY JUDGE TO EXECUTE THE RECEIPT OF BIDS PERTAINING TO THE SALE OF OBLIGATIONS DESIGNATED AS "HAYS COUNTY, TEXAS LIMITED TAX BONDS, SERIES 2008" [T1-1360]**

Bond Counsel Dan Wegmiller (Specialized Public Finance Inc) provided a list of bids received (10 bidders). **A motion was made by Judge Sumter, seconded by Commissioner Conley to authorize the County Judge to accept recommendation of First Southwest Company at 4.482336% and to sell bonds in the amount of \$9,985,000 and authorize the County Judge to execute the receipt of bids pertaining to the sale of obligations designated as "Hays County, Texas Limited Tax Bonds, Series 2008" All voting "Aye". MOTION PASSED**

**25790 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AN ORDER BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS AUTHORIZING THE ISSUANCE OF "HAYS COUNTY, TEXAS LIMITED TAX BONDS, SERIES 2008"**

[T2-1000] **A motion was made by Judge Sumter, seconded by Commissioner Conley to authorize the County Judge to execute an Order by the Commissioners Court of Hays County, Texas authorizing the issuance of "Hays County, Texas Limited Tax Bonds, Series 2008". All voting "Aye". MOTION PASSED**

**25791 AUTHORIZE THE PURCHASING DEPARTMENT TO ADVERTISE A REQUEST FOR PROPOSAL FOR THE DESIGN OF FM 110/SAN MARCOS LOOP [T2-1025]**

**A motion was made by Commissioner Ingalsbe, seconded by Commissioner Conley to authorize the Purchasing Department to advertise a Request For Proposal for the design of FM 110/San Marcos Loop All voting "Aye". MOTION PASSED**

**25792 ISSUE A REQUEST FOR QUALIFICATIONS TO "PRE-CERTIFY" ENGINEERING AND PROFESSIONAL SERVICES FOR THE COUNTY'S ROAD BOND PROJECTS AND OTHER ROADS AS DETERMINED BY THE COMMISSIONERS COURT [T2-1110]**

Commissioner Barton recommended advertising for ten categories: (1) general civil and roadway design; (2) geo-technical services; (3) environmental services; (4) bridge and structural engineering, (5) hydrology and drainage studies; (6) utility coordination and re-location; (7) ROW acquisition; (8) survey; (9) aerial and/or sub-surface mapping (should be combined with survey? Or with utility re-location); and (10) public involvement and public information. Proposed points: 20 points for qualification of firm or team 20 points for project manager qualifications 20 points for qualification if key personnel 20 points for availability of key personnel (includes both work load, office locations, and physical locations) 10 points for diversity 5 points for quality submittal 5 points for demonstrated understanding. **A motion was made by Commissioner Barton, seconded by Commissioner Conley to authorize Purchasing to advertise, for a date in early January, to issue a Request For Qualifications to "Pre-Certify" engineering and professional services for the county's road bond projects and other roads as determined by the Commissioners Court. All voting "Aye". MOTION PASSED**



- 25793 APPROVE THE SCOPE OF WORK AND FEES ESTIMATE BY LAN FOR THE DACY LANE IMPROVEMENTS AND TO AUTHORIZE COMMISSIONER INGALSBE AND SPECIAL COUNSEL TO NEGOTIATE A CONTRACT FOR SAME [T2-1195]**

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to approve the scope of work and fees estimate by LAN for the Dacy Lane improvements and to authorize Commissioner Ingalsbe, Commissioner Barton, and Special Counsel to negotiate a contract for same. All voting "Aye". MOTION PASSED

- 25794 AUTHORIZE THE COUNTY JUDGE TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE CITY OF NIEDERWALD FOR THE ONGOING MAINTENANCE, REPAIR AND/OR UPGRADE OF ROADWAYS WITHIN THE INCORPORATED LIMITS OF THE CITY OF NIEDERWALD [T2-1271]**

A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to authorize the County Judge to enter into an Interlocal Agreement with the City of Niederwald for the ongoing maintenance, repair and/or upgrade of roadways within the incorporated limits of the City of Niederwald. All voting "Aye". MOTION PASSED

- 25795 APPROVE AN ALIGNMENT FOR DACY LANE APPROVED BY THE CITY OF KYLE; AND AUTHORIZE COMMISSIONER INGALSBE AND SPECIAL COUNSEL TO NEGOTIATE AN INTERLOCAL AGREEMENT WITH THE CITY OF KYLE FOR THE CONSTRUCTION OF DACY LANE [T2-1388]**

A public meeting was held in Kyle to gather input from property owners, recommendation by LAN was for Route B because this alignment did not displace anyone, the City of Kyle has verbally committed to contributing \$2 million towards this project. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to approve Alignment B for Dacy Lane approved by the City of Kyle; and authorize Commissioner Ingalsbe and Special Counsel to negotiate an Interlocal Agreement with the City of Kyle for the construction of Dacy Lane. All voting "Aye". MOTION PASSED

- 25796 EXTEND MAINTENANCE FISCAL SURETY UNTIL JANUARY 8, 2011 FOR THE STREET AND DRAINAGE IMPROVEMENTS IN THE MOUNT OLIVE RANCH SUBDIVISION [T2-1490]**

Subdivision Coordinator Clint Garza gave staff recommendation for extending the maintenance fiscal surety for Mount Olive Ranch Subdivision until January 8, 2011. A motion was made by Commissioner Conley, seconded by Commissioner Ford to extend maintenance fiscal surety until January 8, 2011 for the street and drainage improvements in the Mount Olive Ranch Subdivision. All voting "Aye". MOTION PASSED

- 25797 [08-2-61, 203 LOTS] – LOS ALTOS HILLS SUBDIVISION – APPROVE PRELIMINARY PLAN**

[T2-1527] Subdivision Coordinator, Clint Garza gave staff recommendation for approval of preliminary plan. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve Preliminary Plan of Los Altos Hills Subdivision. All voting "Aye". MOTION PASSED

- 25798 [08-2-65 – 1 LOT] – EL REGALO DE LA PAZ LOT 1 - WAIVE PUBLIC HEARING AND APPROVE PARTIAL VACATION AND REPLAT OF LOT 1 AND APPROVE PRELIMINARY PLAN [T2-1596]**

Subdivision Coordinator, Clint Garza gave staff recommendation for approval of preliminary plan. A motion was made by Commissioner Ford, seconded by Commissioner Conley to waive public hearing and approve partial vacation and replat of Lot 1 and approve Preliminary Plan of El Regalo De La Paz Lot 1. All voting "Aye". MOTION PASSED

- PRESENTATION BY HALFF ASSOCIATES, INC. REGARDING DEVELOPMENT OF A COUNTYWIDE DRAINAGE BASIN MASTER PLAN AND DISCUSSION OF FLOODING OR DRAINAGE ISSUES IN LOCAL AREAS [T2-1630]**

PE Wes Birdwell gave a powerpoint presentation outlining the goals of this effort and the potential partnerships involved in funding the plan.



**25799 APPROVE RESOLUTION AUTHORIZING THE COUNTY JUDGE TO SUBMIT A GRANT APPLICATION TO THE TEXAS WATER DEVELOPMENT BOARD FOR UP TO \$300,000 UNDER THE FLOOD PROTECTION PLANNING PROGRAM AND TO SIGN ALL DOCUMENTS ASSOCIATED WITH THIS APPLICATION [T2-2400]**

A motion was made by Judge Sumter, seconded by Commissioner Conley to approve resolution authorizing the County Judge to submit a Grant Application to the Texas Water Development Board for up to \$300,000 under the Flood Protection Planning Program and to sign all documents associated with the application. All voting "Aye". MOTION PASSED

**DISCUSSION REGARDING ECONOMIC NEGOTIATIONS RELATED TO THE POSSIBLE LOCATION OF A DISTRIBUTION CENTER FOR U.S. FOOD SERVICE IN THE UNINCORPORATED AREA OF THE COUNTY, EAST OF BUDA [T2-2414]**

A powerpoint presentation was given by John Fowler (US Foodservice), Susan Harris (Site Solutions Inc.), and Ann Woessner (Jones Lang Lasalle) regarding U. S. Food Service and the proposed location of a distribution center in the unincorporated area of the county east of Buda. Warren Kettelman (Buda Economic Development) spoke of the Sunfield MUD.

**25800 HIRE A CONSTRUCTION COORDINATOR ABOVE THE 25<sup>TH</sup> PERCENTILE**

[T3-333] A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to hire a Construction Coordinator above the 25<sup>th</sup> percentile in the amount of \$60,000 (55<sup>th</sup> percentile). All voting "Aye". MOTION PASSED

**EXECUTIVE SESSION PURSUANT TO SECTION 551.074, TEXAS GOVERNMENT CODE, TO INTERVIEW, EVALUATE AND DELIBERATE THE APPOINTMENT AND SALARY FOR THE POSITION OF COMMUNICATIONS SPECIALIST**

[T3-343] Court convened into closed executive session at 5:10 p.m. and reconvened into open meeting at 6:10 p.m. No discussion and no action taken.

Court was adjourned.

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I, LINDA C. FRITSCHÉ, 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 DECEMBER 16, 2008.



LINDA C. FRITSCHÉ, COUNTY CLERK AND EXOFFICIO  
CLERK OF THE COMMISSIONERS' COURT OF  
HAYS COUNTY, TEXAS

