



STATE OF TEXAS *
 COUNTY OF HAYS *

ON THIS THE 14TH DAY OF DECEMBER A.D., 2010, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

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|--------------------------|----------------------|
| 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. FRITSCH | COUNTY CLERK |

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Dee Dee Baen Human Resources Director introduced new employees.

Commissioner Ford gave the invocation and Commissioner Barton led the court in the pledge of allegiance to the flags. Judge Sumter called the meeting to order.

PUBLIC COMMENTS

Jimmy Skipton made public comment.

27652 APPROVE PAYMENTS OF COUNTY INVOICES

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to approve payments of county invoices in the amount of \$3,298,919.99 as submitted by the County Auditor. All voting "Aye". MOTION PASSED

27653 AMEND THE FY11 BUDGET FOR THE CAPCOG HOUSEHOLD HAZARDOUS WASTE COLLECTION GRANT

The CAPCOG Household Hazardous Waste Collection Grant Contract was executed on January 26, 2010. This amendment allows the County to spend the grant in FY11 with no county match required. Budget Amendment: 001-716-99-052.4301 -\$27,000, 001-716-99-052.5031 +\$465, 001-716-99-052.5101 +\$35, 001-716-99.5210 +\$500, 001-716-99-052.5211 +\$200, 001-716-99-052.5448 +\$25,000, 001-716-99-052.5461 +\$300, 001-716-99-052.5462 +\$500. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to amend the FY11 Budget for the CAPCOG Household Hazardous Waste Collection Grant. All voting "Aye". MOTION PASSED

27654 AMEND THE FY11 BUDGET TO MOVE EXPENDITURES INCURRED FOR INDIGENT DEFENSE CASES HEARD IN COUNTY COURT AT LAW NO. 1 OUT OF THE COUNTY COURT AT LAW NO. 2 BUDGET

This amendment is necessary in order to comply with the reporting requirements set by the Texas Task Force on Indigent Defense. Budget Amendment: 001-612-00.5440 -\$115,916, 001-611-00.5440 +\$115,916. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to amend the FY11 Budget to move expenditures incurred for Indigent Defense Cases heard in County Court at Law No. 1 out of the County Court at Law No. 2 Budget. All voting "Aye". MOTION PASSED

27655 ACCEPT INSTITUTIONAL OSSF PERMIT FOR A OFFICE/WAREHOUSE LOCATED AT 31866 RANCH ROAD 12, DRIPPING SPRINGS, TX 78620, IN PRECINCT 4

James Bailey (BPX Venture a LLC) is proposing an OSSF to serve an office/warehouse. This property is located at 31866 Ranch Road 12, Dripping Springs, TX in Precinct 4. The property is 0.47 acres. It is an Aerobic Treatment Unit using drip irrigation designed by Don Perry, R. S. The On Site Sewage Facility is designed for a maximum wastewater flow of 160 gpd for a maximum of 20 employees. Water is supplied by rainwater collection. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to accept Institutional OSSF permit for a office/warehouse located at 31866 Ranch Road 12, Dripping Springs, TX 78620, in Precinct 4. All voting "Aye". MOTION PASSED

27656 RE-APPOINT JULIA RAMSEY NEW AND ALLAN KIMBALL TO ESD #7

All of these terms have expired. We would like to re-appoint these positions for the next term. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to re-appoint Julia Ramsey New and Allan Kimball to ESD #7. All voting "Aye". MOTION PASSED



27657 RE-APPOINT KEN DOWNING, RON SPANGENBERG AND EDDIE GUMBERT TO ESD #4

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to re-appoint Ken Downing, Ron Spangenberg and Eddie Gumbert to ESD #4. All voting "Aye". MOTION PASSED

27658 AUTHORIZE ON-LINE AUCTION WITH RENE BATES AUCTIONEERS OF SURPLUS PROPERTY NO LONGER OF USE FOR THE PURPOSE FOR WHICH IT WAS ORIGINALLY INTENDED FROM VARIOUS COUNTY OFFICES

List of items for auction may be reviewed in the Purchasing Office. This includes items collected from County Offices and are being stored at the Building Maintenance warehouse. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to authorize on-line auction with Rene Bates Auctioneers of surplus property no longer of use for the purpose for which it was originally intended from various county offices. All voting "Aye". MOTION PASSED

27659 APPROVE AND CONFIRM THE APPOINTMENT OF OLAN ARTHUR KELLEY IV AS DEPUTY CONSTABLE FOR PRECINCT 1

Justice of the Peace Pct 1-2, Margie Hernandez did the swearing in of Olan Arthur Kelley IV as Deputy Constable Precinct 1. According to Chapter 86 Subchapter B 86.011 (a) The Commissioners' Court shall approve and confirm the appointment of a Deputy Constable. A motion was made by Commissioner Ingalsbe, seconded by Judge Sumter to approve and confirm the appointment of Olan Arthur Kelley IV as Deputy Constable for Precinct 1. All voting "Aye". MOTION PASSED

27660 ACCEPT REPORT TO COMMISSIONERS COURT IDENTIFYING ENVIRONMENTAL HEALTH ADMINISTRATIVE APPROVALS ISSUED DURING THE MONTH OF NOVEMBER, 2010

In conformance with Hays County's Development Regulations this report identifies all administrative approvals issued by the department during the month of November, 2010. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to accept report to Commissioners Court identifying Environmental Health Administrative approvals issued during the month of November 2010. All voting "Aye". MOTION PASSED

27661 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AMENDMENT #4 TO THE GRANT PROJECT AGREEMENT WITH TEXAS PARKS AND WILDLIFE DEPARTMENT FOR THE SAN MARCOS SPRINGS CONSERVATION PARK, EXTENDING THE AGREEMENT TERMINATION DATE TO JULY 15, 2011

On April 17, 2007 the Commissioners Court authorized a grant agreement with the Texas parks and Wildlife Department for funding for the San Marcos Springs Conservation Park (Spring Lake Preserve). Construction is underway, and most major elements will be completed by the end of the year. Production and installation of interpretive signs and other grant-related elements, as well as submission or required documentation for project closeout, are likely to push us past the current grant termination date. The current grant agreement expires on January 31, 2011 and this Amendment will extend the grant termination date to July 15, 2011 to accommodate the above items. The San Marcos Springs Conservation park development is a partnership project between Texas State University, the City of San Marcos, and Hays County. No County matching funds are necessary for this grant project. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to authorize the County Judge to execute Amendment #4 to the Grant Project Agreement with Texas parks and Wildlife Department for the San Marcos Springs Conservation park, extending the Agreement termination date to July 15, 2011. All voting "Aye". MOTION PASSED



**27662 VACATION AND RE-PLAT OF LOT 2 AND LOT 3 WERTH SUBDIVISION [10-4-29 – 6
LOTS] HOLD PUBLIC HEARING AND APPROVE FINAL PLAT**

Judge Sumter declared the public hearing open. No public input was received and the public hearing was closed. Programs Manager Clint Garza gave staff recommendation. The Werth Subdivision was originally platted in 1999 as a 4 lot subdivision. The owner of Lot 3, also the original developer, wishes to further subdivide said 34.22 acres and a 0.04 acre portion of Lot 2 to create 6 newly configured lots. The new configuration is as follows: Lot 2A 2.77 acres Lot 3A 2.63 acres, Lot 3B 2.72 acres, Lot 3C 3.60 acres, Lot 3D 2.40 acres, and Lot 3E 22.90 acres. A 14.38 acre conservation easement is being recorded over portions of Lots 3B-3E. The intention of this conservation easement is to preserve a natural drainage area. The 0.04 acre portion of Lot 2 is being reconfigured because there is an existing driveway which will serve lot 3#. Both property owners have agreed to terms of sale. The developer will plat restrict all lots to rainwater collection only and will utilize class I permitted on-site sewage facilities. All lots are sized adequately for either commercial or residential development. The intended use for Lot 3E has not been placed under contract; however the developer wishes to keep consistent with the rest of the subdivision and will likely build multi-family residential or cluster/conservation development. In short, the developer wishes the future use of Lot 3E to serve as a model for future developments in the western portion of Hays County. **A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve final plat of vacation and re-plat of Lot 2 and Lot 3 Werth Subdivision. All voting "Aye". MOTION PASSED**

27663 APPROVE THE PAYMENT OF AN INVOICE OVERAGE FOR LOOMIS PARTNERS RELATED TO THE HABITAT CONSERVATION PROJECT

The County was awarded a grant for the Habitat Conservation plan in 2006 for \$1,005,000 with a 25% county match. A portion of that award was a \$5,000 administrative fee that could be billed by TP&W. The County actually committed that \$5,000 in service contracts creating a shortage in the grant budget in the end. This grant was closed out in July 2010 and since Loomis Partner's was the last contractor working on this project, there invoice was short paid due to no project funds available. The balance due to Loomis on their final invoice is \$4,135.26. This would include an overage billed on their original contracts (\$546,000) of \$563.30. The balance due to Loomis per their contracts is \$3,571.96. **A motion was made by Commissioner Conley, seconded by Commissioner Ford to approve the payment of an invoice overage for Loomis partners related to the Habitat Conservation Project in an amount of \$4,135.26. All voting "Aye". MOTION PASSED**

27664 AUTHORIZE COMMISSIONER FORD WITH ASSISTANCE FROM SPECIAL COUNSEL TO NEGOTIATE AN INTERLOCAL AGREEMENT BETWEEN HAYS COUNTY AND CITY OF DRIPPING SPRINGS REGARDING THE GRANT FUNDING OF HARRISON RANCH PARK AND AUTHORIZE THE COUNTY JUDGE TO EXECUTE THE INTERLOCAL AGREEMENT

On November 23, 2010 the Court approved the award of \$1.7 Million in Park Bond funds for Harrison Ranch Park based on the scoring criteria from the POSAB. **A motion was made by Commissioner Ford, seconded by Judge Sumter to authorize Commissioner Ford, with assistance from Special Counsel, to negotiate an Interlocal Agreement between Hays County and City of Dripping Springs regarding the grant funding of Harrison Ranch Park and authorize the County Judge to execute the Interlocal Agreement with the following changes made: term will be a 3-year period starting January 1, 2011, a description of the project as one of the exhibits including a budget and a location and site-plan and the legal description of the property and all of the funding sources will be listed, will ask for a change in the project clause . All voting "Aye". MOTION PASSED**

27665 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A RIGHT OF ENTRY WITH THE CITY OF SAN MARCOS FOR ACCESS TO THE COUNTY'S PROPERTY ON UHLAND ROAD FOR THE PURPOSES OF APPRAISAL WORK RELATED TO REAL PROPERTY NEEDED FOR A CITY OF SAN MARCOS WASTEWATER EASEMENT

The City's proposal is to take a small portion of the Northwest corner of the County's property on Uhland Road. **A motion was made by Commissioner Ingalsbe, seconded by Judge Sumter to authorize the County Judge to execute a Right of Entry with the City of San Marcos for access to the County's property on Uhland road for the purposes of appraisal work related to real property needed for a City of San Marcos Wastewater Easement. All voting "Aye". MOTION PASSED**



CONSIDER A CHANGE ORDER FOR THE I-35 PHASE I PASS-THROUGH FINANCE PROJECT TO PROVIDE FOR A PLANNED PUBLIC STREET "CONNECTOR" BETWEEN THE NEW FRONTAGE ROAD AND THE EXISTING KYLE CROSSING, AND TO ACCEPT A RIGHT-OF-WAY DONATION FOR THE CONNECTOR

The change order will allow construction of a "connector" to tie Kyle Crossing (CR210) to the new Interstate frontage roads that are under construction. This "connector" will be approximately half-way between other proposed intersections with Interstate 35, thus improving general designed to lead directly to the future Kyle-Buda rail station (based on the current most likely scenarios developed by Lone Star Rail District, the city, and area landowners). The County will deed the connector to the City of Kyle so that Kyle will be responsible for future maintenance. The City and/or landowners will be responsible for constructing anything beyond our pass-through project boundaries – in other words, for future extensions on the western side of CR 210 leading toward the Kyle Marketplace intersection, the rail tracks and the probable rail station site. The City of Kyle is a full financial partner in the overall Phase I project. The project is under budget. The City is meeting its full commitment, based on the original budget, and asks that the county use about 2.2 percent of the savings to build the connector now – while the project is underway, believing that it will be cheaper and less disruptive to complete while construction crews are already mobilized. The city's letter formally requesting the change order will be shared under separate cover. TXDOT also issued a letter of support. The connector has been discussed and shown on maps since this pass-through project was conceived in 2007; final decisions on funding and construction timing have been deferred to until we knew where we would be on other project costs. The affected landowner earlier donated right-of-way for the frontage road improvements and is willing to donate additional right-of-way for the connector. That donation is valued at \$203,341, or almost as much as construction costs and the proposed ROW is 80 feet. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to accept the ROW donation as described in the Escrow Agreement dated December 9, 2010 and styled "Escrow Agreement Kyle Connector" provided that it is acceptable with Mark Kennedy and Ellie Dietz our Legal Counsel and authorize staff to prepare and Commissioner Pct 2 to execute a Change Order with constructor and related documents with the City of Kyle and TXDOT to construct a public connector street to be deeded to the City of Kyle upon completion in an amount not to exceed \$240,000. Motion withdrawn. Court will bring this item back at a later date.

27666 APPROVE STORM WATER MANAGEMENT PROGRAM (SWMP) DRAFT DOCUMENT AND AUTHORIZE THE COUNTY JUDGE TO SIGN NOTICE OF INTENT (NOI) FOR STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS AS REQUIRED UNDER THE TPDES PHASE II GENERAL PERMIT (TXR040000); POST DOCUMENTS TO COUNTY WEBSITE; SUBMIT NOI AND SWMP TO TCEQ FOR APPROVAL

Natural Resources Program staff has been developing a Storm Water Management Program to ensure compliance with State of Texas Environmental Regulations under the TPDES Phase II MS4 permit (TXR040000). The initial draft document has been reviewed for compliance with permit regulations by a third party environmental consulting firm (URS Corporation). There is a requirement to post a copy of the draft online for a period of two weeks prior to submittal; NOI and SWMP will then be submitted to TCEQ for review; after reviewing Hays County NOI and SWMP, TCEQ will issue the executive director's preliminary decision. Following preliminary approval, notice must be published in the largest circulated paper in the County to provide opportunity for the public to submit comments to TCEQ on NOE and SWMP. A public meeting will help if TCEQ determines there is sufficient interest. There is an application fee in the amount of \$100. Annual renewal fee is \$100. Betty Lambright of the RPTP Department spoke of approvals acquired. **A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve Storm Water Management Program (SWMP) draft document and authorize the County Judge to sign Notice of Intent (NOI) for Storm Water discharges from small municipal separate storm sewer systems as require under the TPDES Phase II General Permit (TXR0400000); post documents to County Website and submit NOI and SWMP to TCEQ for approval. All voting "Aye". MOTION PASSED**

27667 APPROVE SUPPLEMENT NO. 1 TO WORK AUTHORIZATION NO. 1 FOR HDR ENGINEERING, INC. SERVING AS PROGRAM MANAGER FOR THE PRIORITY ROAD BOND PROGRAM

The Professional Services Agreement (PSA) for HDR Engineering, Inc. approved by the Court on April 7, 2009, was based on a budget through the end of 20112 to provide program management services for the Priority Road Bond Program. Work Authorization No. 1 for this PSA, also approved by the Commissioner's Court on April 7, 2009 included the estimated fees for the period extending through December 31, 2010. Through October 2010, HDR had expended approximately \$814,000 compared to a budgeted expenditure of approximately \$1,056,000 through the same timeframe. **A motion was made by Commissioner Conley, seconded by Commissioner Ford to approve Supplement No. 1 to Work Authorization No. 1 for HDR Engineering, Inc. serving as Program Manger for the Priority Road Bond Program. All voting "Aye". MOTION PASSED**



27668 APPROVE SALARY FOR JUVENILE PROBATION OFFICER ABOVE 25TH PERCENTILE IN THE SALARY RANGE AND AMEND THE BUDGET ACCORDINGLY

Shelly Williams, Juvenile Director spoke of experience of the applicant and requesting the hiring above the 25th percentile. The applicant would start on January 1, 2011. In the Juvenile Probation Department, the current Intensive Supervision Program Officer (grade 110) is promoting and transferring to the Compliance Officer/Investigator (grade 113) position at the Juvenile Detention Office. The resulting vacancy left at Juvenile Probation is for a highly specialized probation officer that has experience with serious violent offenders and chronic non-violent offenders as well as sex offenders. This specialization under consideration comes with a BS in Sociology, 8 years in criminal justice field, 7 years as Juvenile Probation Office and 5 years as an ISP Officer. Request is for a salary at the 42.8 percentile of grade 110. County-wide salary adjustment funds will be used to fund this budget amendment as needed. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to approve salary for Juvenile Probation Officer above 25th percentile in the salary range and to amend the budget accordingly. All voting "Aye". MOTION PASSED**

27669 APPROVE DISTRICT CLERK OFFICE REORGANIZATION PLAN SUBMITTED DURING THE BUDGET PROCESS FY 2011

The new District Clerk wants to completely restructure the organization to insure oversight and training is a priority in the office. At our requests, the HR Department did desk audits of certain positions within the office and made recommendations to the Commissioners Court. After submitting a request for additional funding to accomplish our goals during the budget process, the Court abated our request to wait for the new District Clerk to make the request. The auditor and HR Department have determined that the funding is already in our current budget, therefore, additional funding is not needed. **A motion was made by Commissioner Conley, seconded by Commissioner Ford to approve District Clerk Office reorganization plan submitted during the budget process FY 2011 with the ability to post the positions immediately and the pay effective as of January 1, 2011. All voting "Aye". MOTION PASSED**

WORKSHOP: 11:00 AM LEGISLATIVE NOISE ORDINANCE PROPOSAL. PRESENTATION OF HAYS COUNTY CURRENT CONDITIONS, POSSIBLE SOLUTIONS AND REQUEST FOR SUPPORT OF LEGISLATIVE REMEDIES BY KIMLY WEST

Kimly West spoke of noise problems and requesting the County's assistance in acquiring some kind of legislation for a noise ordinance. Mike Overton, Carolyn Huebner, Manuel & Anna Pena, Dan & Karen Evans all spoke of the noise issues/problems that are occurring in the Precinct 4 area. The Sheriff's Office has been called out numerous times and the problem is still occurring. They have even taken up this issue with the District Attorney and even the State Representatives. The state law speaks of noise not being louder than 85 decibels.

PRESENTATION BY THE HAYS COUNTY HISTORICAL COMMISSION SCREENING OF THE RECENTLY COMPLETED DOCUMENTARY OF FAMOUS LOCAL ARTIST BUCK WINN

Hays County Historical Commission Chair Kate Johnson played the recently completed documentary of famous local artist Buck Winn and presented a copy of the video to members of the court.

EXECUTIVE SESSION PURSUANT TO 551.071 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL REGARDING EXISTING AND/OR CONTEMPLATED LITIGATION RELATED TO CLAIMS BY JAMES SKIPTON

Court convened into closed executive session at 10:50 a.m. and reconvened into open meeting at 11:35 a.m. No action taken.

Clerk's Note - Agenda Item #23 RE: *DISCUSSION OF ISSUES RELATED TO PROPOSED CAPITAL CONSTRUCTION PROJECTS IN HAYS COUNTY, INCLUDING BUT NOT LIMITED TO THE GOVERNMENT CENTER; PRECINCT OFFICES; RESOURCES PROTECTION TRANSPORTATION AND PLANNING DEPARTMENT; AND SPACE NEEDS PROJECTIONS FOR THE HAYS COUNTY JAIL AND RELATED CRIMINAL JUSTICE ANALYSIS. POSSIBLE ACTION MAY FOLLOW - was pulled*

DISCUSSION OF ISSUES RELATED TO THE ROAD BOND PROJECTS, INCLUDING UPDATES FROM MIKE WEAVER, PRIME STRATEGIES AND JEFF CURREN, HDR

Jeff Curren of HDR spoke of the Road Bond Projects.



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Court was adjourned.

I, LINDA C. FRITSCHER, 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 14, 2010.



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

