This Court Order is superseded by:

Court Order No. 2010-249-04-12.

COURT ORDER NO. 2010-181-03-01

STATE OF TEXAS

COUNTY OF COLLIN

COMMISSIONERS' COURT MEETING MINUTES FEBRUARY 8, 2010

On Monday, February 8, 2010, the Commissioners Court of Collin County, Texas, met in Regular Session in the Commissioners' Courtroom, Jack Hatchell Administration Building, 4th Floor, 2300 Bloomdale Road, City of McKinney, Texas with the following members present, and participating, to wit:

Present:
Judge Keith Self
Precinct 1 Commissioner Matt Shaheen
Precinct 2 Commissioner Jerry Hoagland
Precinct 3 Commissioner Joe Jaynes
Precinct 4 Commissioner Kathy Ward

Commissioner Jaynes led the Invocation.
Commissioner Ward led the Pledge of Allegiance.
Judge Self led the Pledge to the Texas Flag.

1. Judge Self called to order the meeting of the **Collin County Commissioners Court** at 9:30 a.m.

President Self called to order the meeting of the **Collin County Health Care Foundation Board of Trustees** at 10:53 a.m. and adjourned the meeting at 10:53 a.m.

President Self called to order the meeting of the **Collin County Toll Road Authority** at 10:53 a.m. and adjourned the meeting at 10:54 a.m.

DECISIONS MANDATED BY LEGAL ENTITIES OUTSIDE OF COMMISSIONERS COURT AUTHORITY:

1. AI-31393 Budget amendment in the amount of $11,115 utilizing Drug Forfeiture fund to pay for additional evidence analysis needed in a Cold Case in accordance with Chapter 59.06(d) of the Code of Criminal Procedure, District Attorney.

2. AI-31450 Personnel Appointments, Human Resources.

3. AI-31451 Personnel Changes, Human Resources.

FYI NOTIFICATION

1. Addenda:

a. AI-31399 No. 1 to Services: Electronic Fire Alarm/Fire and Sprinkler Alarm Inspections & Testing (IFB No. 10019-10) to extend the bid invitation date, Purchasing.

b. AI-31397 No. 1 to Services: Electronic Fire Alarm & Fire Sprinkler System Maintenance & Repairs (IFB No. 10020-10) to extend the bid invitation date, Purchasing.

c. AI-31426 No. 7 to Construction: Collin County Courthouse Addition (IFB No. 11067-10) to include a one (1) week extension to February 4, 2010, Purchasing.

2. AI-31406 Utilization of the BuyBoard Cooperative contract to purchase three (3) Sheriff vehicles from Philpott Motors (budgeted), Public Works.

Public Comments. Judge Self opened the meeting for Public Comments then excused himself from the Court due to the content of the comment card. Judge Self asked Commissioner Shaheen to preside over the comments. Roy Serpa, Fairview, addressed the Court regarding the upcoming elections in Collin County. Mr. Serpa's comments regarded Judge Self's opponent for County Judge, John Muns. Mr. Serpa stated he received a mail out from Mr. Muns and he was unhappy with its contents. Commissioner Jaynes replied he wanted an item placed on the next agenda regarding the content of citizen's comments. Public comments during a Court meeting should be for issues that need to be addressed by the Court and not for politics and campaigns. Commissioner Shaheen asked for any other public comments. John Oldner, Murphy, addressed the Court in response saying he agreed with Commissioner Jaynes that the Court was not the proper place to express one's political views. (Time: 9:38 a.m.)

3. Presentation/Recognition: Service Pins to employees with 10, 15, 20 and 25 years of service in the month of February, Human Resources. Commissioner Hoagland presented David Dobecka, Support Services, with a 10 year pin for his service to Collin County. (Time: 10:53 a.m.)

4. Consent agenda to approve: Judge Self asked for any comments on the consent agenda. Commissioner Shaheen requested items 4g1, 4h3, 4h4, and 4h7 be pulled for discussion. Judge Self requested item 4h11 be pulled for discussion. Motion to approve remainder of consent agenda. (Time: 10:54 a.m.)

Motion by: Commissioner Joe Jaynes
Second by: Commissioner Jerry Hoagland

Vote: 5-0 Passed

a. AI-31415 Disbursements for the period ending February 2, 2010, Auditor.

COURT ORDER NO. 2010-114-02-08

b. **AI-31409** Tax Refunds totaling $426,811.21, Tax Assessor Collector.

COURT ORDER NO. 2010-115-02-08

c. Award(s):

1. **AI-31395** Roads and Bridges portion for Engineering Services: Geotechnical and Materials Testing for Roads & Bridges (RFQ No. 04574-09) and further authorize the Purchasing Agent to finalize and execute the agreement (budgeted), Engineering.

COURT ORDER NO. 2010-116-02-08

d. Agreement(s):

1. **AI-31402** Project Agreement with the Collin County Soil and Water Conservation District, the State of Texas and the United States Department of Agriculture Natural Resources Conservation Service (NRCS) for improvements to a floodwater prevention dam, Trinity - Little Elm and Laterals (Site 16) at an estimated cost of $353,000 to be funded 100% by the NRCS and further authorize the County Judge to finalize and execute the Project Agreement and the Assurances Relating to Real Property Acquisition, Public Works.

COURT ORDER NO. 2010-117-02-08

e. Amendment(s):

1. **AI-31382** No. 3 to the Inter-Governmental Cooperative Reimbursement Agreement with the Texas Commission on Environmental Quality (TCEQ) for the Local Initiative Project Grant Contract (Contract No. 582-8-89950) and further authorize the County Judge to finalize and execute same, Special Projects.

COURT ORDER NO. 2010-118-02-08

f. Change Order(s):

1. **AI-31400** No. 1 to Supplies: Janitorial Paper and Disposable Products (Contract No. 07718-09) with Empire Paper Company to add item no. 07718-09-1-39, Purell Hand Sanitizer Pump to the contract and further authorize the Purchasing Agent to finalize and execute same, Facilities.

COURT ORDER NO. 2010-119-02-08

g. Budget adjustment(s)/amendment(s):

1. **AI-31396** $16,000 to cover a negative fund balance in the Fire Code Inspection Fund (Fund 030), Auditor.

Commissioner Shaheen asked why there was a negative balance and if there was a long term issue with funding. Jeff May, County Auditor, responded saying the fund no longer pays for itself due to changes made in 2007. Certain inspections are no longer performed by Collin County which resulted in a loss of revenue. In an effort to stop losses, three

positions were cut from the budget. Monica Arris, Budget, addressed the Court saying it was budgeted to transfer $320,000 into the fund for the fiscal year 2010. Commissioner Shaheen asked if there was no longer inspections, then why haven't the expenditures gone away. Bill Bilyeu, Administrative Director, addressed the question saying the expenses have gone down significantly; however, there are still expenses for septic inspections. By statute there is a limit on how much can be charged for the inspection, so there will never be enough revenue generated to cover the expenses. Motion to approve amendment. (Time: 10:57 a.m.)

Motion by: Commissioner Matt Shaheen
Second by: Commissioner Jerry Hoagland

Vote: 5 - 0 Passed

COURT ORDER NO. 2010-120-02-08

h. Miscellaneous

1. **AI-31398** 2007 Grant Adjustment Notice to extend the period of the 2007 Homeland Security Grant Program (HSGP) with the State of Texas, Governor's Division of Emergency Management (GDEM) from February 28, 2010 to a new end date of March 31, 2010 and further authorize the County Judge to finalize and execute same, Auditor.

COURT ORDER NO. 2010-121-02-08

2. **AI-31416** Payment to Safety-Kleen Systems, Inc. for one-half the ad valorem real property taxes and ad valorem business personal property taxes assessed from 2003 to 2008 per Economic Development Program Agreement and budget amendment in the amount of $70,089 for same, Budget.

COURT ORDER NO. 2010-122-02-08

3. **AI-31391** Adoption of the 2009 International Fire Code and the related International Codes, Fire Marshal.

Commissioner Shaheen said this is an adoption of the 2009 Fire Code yet he did not see the code in the backup. Bill Bilyeu, Administrative Director, addressed the Court saying the code is actually a full book, which is very thick. It's an international standard. Motion to adopt Fire Code. (Time: 10:58 a.m.)

Motion by: Commissioner Matt Shaheen
Second by: Commissioner Jerry Hoagland

Vote: 5 - 0 Passed

COURT ORDER NO. 2010-123-02-08

4. **AI-31419** Re-designation of a portion of County Road 51 between Light Farms Way and W Frontier Parkway to Prairie Crossing (with address updates), GIS/Rural Addressing.

Commissioner Shaheen stated this was a re-designation of a County road in Celina and asked if there was any input from citizens. Commissioner Jaynes stated that usually an item like this would have a Public Hearing. Bill Bilyeu, Administrative Director, addressed the Court and said normally there is not a Public Hearing unless one is requested. Notices are sent out. Commissioner Shaheen asked about response to the notices. Caren Skipworth, Information Technology, approached the Court and said no responses were received. Commissioner Jaynes asked who initiated the request. Ms. Skipworth said it depends on several things, sometimes the city will initiate a request, but the item could be held if necessary. Commissioner Jaynes said he wanted to hold the item until more information was received because it affects people's addresses. (Time: 10:59 a.m.)

HELD

5. **AI-31420** Re-designation of the portion of County Road 367 between W White Street and the 90-degree as S Ferguson Parkway (with address updates), GIS/Rural Addressing.

COURT ORDER NO. 2010-124-02-08

6. **AI-31421** Re-designation of the portion of Parker Road between Dove Creek and FM 1378 to E Parker Road (with address updates), GIS/Rural Addressing.

COURT ORDER NO. 2010-125-02-08

7. **AI-31407** Accept 25 Flu Kits from the Department of State Health Services to be distributed to shelters in Collin County, Homeland Security.

Commissioner Shaheen said the item stated the kits were for shelters, but did not specify which shelters. Bill Bilyeu, Administrative Director, addressed the Court in response saying these kits were stockpiled and stored with other emergency equipment. They are for deployment to County shelters in the event of a disaster. Motion to accept the kits. (Time: 11:00 a.m.)

Motion by: Commissioner Matt Shaheen
Second by: Commissioner Joe Jaynes

Vote: 5 - 0 Passed

COURT ORDER NO. 2010-126-02-08

8. **AI-31417** Purchase an iPhone and data cell service for the District Clerk, Information Technology.

COURT ORDER NO. 2010-127-02-08

9. **AI-31403** Acceptance of a seized flatbed trailer (per Justice Court One Docket No. CV-09-00456) to be sold at auction, Public Works.

COURT ORDER NO. 2010-128-02-08

10. **AI-31425** Place a Historical Marker at the Chambersville Methodist Church, Public Works.

COURT ORDER NO. 2010-129-02-08

11. **AI-31410** Acceptance of the Office Depot rebate check in the amount of $4,046.33 to be deposited into account no. 001-0310-381-5941 for the Human Resources Employee Incentive/Reward Program, Purchasing.

Judge Self stated he wanted to bring to the attention of the Court the amount of resources in the account. He asked Cynthia Jacobson how much was spent on last year's picnic. Cynthia Jacobson, Human Resources, addressed the question and said less than five thousand dollars was spent. Ms. Jacobson said the appointed committee that organized the event spent a lot of time getting volunteers and donations. The issue here is trying to fund an incentive program for 1700 people with limited funds.

Judge Self replied there are three checks that go into this fund. It is approximately $11,000. He said for the future the Court needed to be aware of the growth of the program and they might want to place restrictions on how the funds are spent. Commissioner Shaheen suggested setting a budget for an event and if resources were left over, the County should find another use for them. Commissioner Shaheen asked why there was more money than last year. Frank Ybarbo, Purchasing, addressed the question saying the rebate is based on spending patterns and the Office Depot account could get bigger in the future. For example, the County recently added refurbished printer cartridges to the contract at half the cost of previous cartridges. This increases sales at Office Depot and slightly increases the rebate. Motion to accept the check. (Time: 11:03 a.m.)

Motion by: Judge Keith Self
Second by: Commissioner Jerry Hoagland

Vote: 5 - 0 Passed

COURT ORDER NO. 2010-130-02-08

GENERAL DISCUSSION

5. **AI-31290** Update from NCTCOG, Commissioner Precinct 3.

Commissioner Jaynes addressed the Court saying he requested this item for an update to the Court.

Christie Jestis, NTCOG, gave a power point presentation to update the Court on the Regional Toll Revenue Emergency Funding Changes for Collin County. Ms. Jestis stated

that due to shortfalls in the state budget, some of the projects TxDot had previously committed to could not be maintained. Ms. Jestis showed a slide of the breakdown of the available funds. Commissioner Shaheen asked for clarification on the overrun and underrun funds. Ms. Jestis replied that these were two separate funds. An underrun was money saved on a project and the overrun cost was money that had to be taken from the reserve pool. Commissioner Shaheen asked if Collin County would lose their underrun funds, to which Ms. Jestis answered no. Commissioner Shaheen asked Ms. Jestis if she had the balance of Collin County's underrun funds. Ms. Jestis said she did not have the figure on hand, but would get it for the Court.

Ms. Jestis continued with the Focus of Emergency Action, which included engineering and right of way funding, new projects to be funded with RTR due to the federal and state shortfalls and programmed local contribution credits. Ms. Jestis' presentation included a Summary of Changes that affects Collin County.

Judge Self asked for clarification on the RTR funding, saying the public may not understand the actual dollar amount being discussed. When speaking of these funds, one is talking in terms of hundreds of millions of dollars, not millions of dollars.

Ms Jestis replied saying the County share is significant and that the $91 million she spoke of was actually $900 million.

Judge Self stated for clarification that Collin County was backstopping, or supporting, TxDot with the tolls from 121 in order to keep them going. In the future, the County should get the funds back. Discussion with the Court members regarding the amount of funding the County can expect refunded followed. Commissioner Ward asked if the County could get all of the funding back. Ms. Jestis responded saying they would try to get back one to one; however, with the current state shortfalls there are no guarantees. Commissioner Shaheen commented that the County needed to get the dollars back one for one and asked what could be done to ensure this happens. Ms. Jestis said the bottom line is to continue doing what the County has been doing, which is to keep reminding them (TxDot), that they did make commitments, which they were not able to honor now, but should sometime in the future. Continued discussions by the Court would help in keeping them on track to pay the money back. A timeline was also discussed. After the presentation Ms. Jestis asked for any further questions from the Court. Judge Self stated Ms. Jestis had been working with the County Auditor because to understand this, one needed an extremely detailed financial background. Commissioner Jaynes thanked Ms. Jestis for coming to Court. (Time: 10:52 a.m.)

NO ACTION TAKEN

6. AI-31413 Designate the Collin County Efficiency Committee to review and make recommendations concerning the designation of items or services as a sole source provider or vendor, Administrative Services.

Bill Bilyeu, Administrative Director, addressed the Court. Mr. Bilyeu said he requested this agenda item because there is a process he is trying to improve. The County has certain

items called preferred items that are commodities that some departments have indicated they have a particular need for. Mr. Bilyeu said he was looking for a committee or advisory group that these requests could be taken to for input. Mr. Bilyeu said he spoke with Commissioner Shaheen who said there is diversity on his Efficiency Committee and they may be a good group to review certain requests for these preferred items. Judge Self asked about the sole source items. Mr. Bilyeu said those are different from preferred items in that a sole source is a particular vendor an Elected Official uses to carry out their processes.

Preferred items are items from departments under the Commissioners Court. The committee could look at these and make recommendations. The Commissioners Court would make the final decisions. Motion to approve designation of Efficiency Committee for review of sole source and preferred items for departments under the direction of the Commissioners Court. (Time: 11:07 a.m.)

Motion by: Commissioner Jerry Hoagland
Second by: Commissioner Matt Shaheen

Vote: 5 - 0 Passed

COURT ORDER NO. 2010-131-02-08

7. AI-31452 Personnel Appointments, Human Resources.

Cynthia Jacobson, Human Resources, addressed the Court regarding personnel appointments. Ms. Jacobson stated all appointments follow standard County guidelines. Motion to approve appointments. (Time: 11:08 a.m.)

Motion by: Commissioner Joe Jaynes
Second by: Commissioner Jerry Hoagland

Vote: 5 - 0 Passed

COURT ORDER NO. 2010-132-02-08

8. AI-31453 Board/Committee Appointments, Commissioners Court.

There were no Board or Committee Appointments. (Time: 11:07a.m.)

NO ACTION TAKEN

a. AI-31443 Appointee to the Conference of Urban Counties Policy Committee, Commissioners Court.

Commissioner Shaheen volunteered to continue his service with the Conference of Urban Counties. Motion to approve Commissioner Shaheen's re-appointment.
(Time: 11:08 a.m.)

Motion by: Commissioner Jerry Hoagland
Second by: Commissioner Kathy Ward

Vote: 5 - 0 Passed

COURT ORDER NO. 2010-133-02-08

9. Possible future agenda items by Commissioners Court without discussion.

Commissioner Ward requested an agenda item to move $50,000 in contingency funds to the Farm Museum fund. (Time: 11:09 a.m.)

Supplemental Agenda Item

10. AI-31184 Public Hearing – Application for Junkyards, Automotive Wrecking and Salvage Yards located at 10999 Hwy 78, Lavon, Texas, Fire Marshal.

Judge Self introduced this item first due to time constraints of involved parties and asked Bill Bilyeu to approach. Bill Bilyeu, Administrative Director, addressed the Court saying he sent the Fire Marshal for additional information and was awaiting his return.
Judge Self opened the meeting for public comments and clarified that this was public comments from involved parties only and not the actual Public Hearing.

John Oldner, Counsel for land owner Carla Ehney, addressed the Court with his client regarding the Public Hearing for the application for the Automotive and Salvage yard.

Mr. Oldner stated Ms. Ehney had addressed this issue with the Court in previous meetings and that she lives on the property. Judge Self asked which property was being discussed. Mr. Oldner responded saying Ms. Ehney's property is adjoined with the property which contains the wrecking yard. Mr. Oldner stated this issue had been ongoing for the last two years and he had been presenting pictures during that time. Additional pictures were brought to the meeting showing the property and the status
Mr. Oldner cited the County Ordinance, Court Order No. 93-141-11-09, concerning wrecking and salvage yards that was amended in 1993. He stated that although he agreed with the ordinance, he had an issue with how it was being enforced. Ms. Ehney said her family had lived on that property since 1968 and she had been there since 1986. Mr. Oldner asked if there had been a wrecking or salvage yard on the adjoining property at that time. Ms. Ehney stated no, there was not.

Mr. Oldner stated that over the last several years there had been many complaints issued on behalf of Ms. Ehney regarding the wrecking yard. Mr. Oldner continued saying the ordinance states that a junk yard cannot operate within 300 feet of a residence. He said the County needed to tighten control over land in the outer part of the County regarding the allowance of junk yards.

Mr. Oldner said the pictures shown to the Court were taken over the past weekend. Mr. Oldner said the noise from the heavy equipment use regularly disturbed Ms. Ehney and caused her to wake up when the equipment started moving the cars. Extensive discussion with the Court members followed. Both Ms. Ehney and Mr. Oldner strongly expressed their opposition to the application.
(Time: 9:50 a.m.)

Steve Deffibaugh, Fire Marshal, addressed the Court with information on the wrecking yard. Fire Marshal Deffibaugh told the Court the wrecking yard was established in approximately 1988. There was an agreement between the property owner and Jerry Miller who owned Jerry Miller Wrecking Yard.

Fire Marshal Deffibaugh said the ownership of the property had changed hands two times and that there was a letter which acted as the agreement to lease the property as a wrecking yard. He also said the yard was established before any residential homes were built. The letter was presented to the Court. The location of the property was discussed with Court members. Commissioner Hoagland asked why the yard was allowed to operate without a permit. Fire Marshal Deffibaugh said he allowed the leasee to store cars on the property because there was no other place to put them; however, they were not operating. Judge Self asked Mr. Bilyeu to approach to give additional information on the one year license held by the wrecking yard.

Commissioner Hoagland questioned whether the property was a wrecking yard before the cars were allowed to be stored. Fire Marshal Deffibaugh responded saying Neivis Marquez, the current property owner, was still operating under the Jerry Miller name and had moved his operations to another location. Mr. Marquez leased his property to the applicant who is on today's agenda. This is a new applicant who is leasing the land. Commissioner Hoagland recommended the Court deny the request and have the Court review their ordinance. Commissioner Hoagland addressed the Fire Marshal saying he should not let anyone store cars without first talking with the Court. Judge Self asked Mr. Bilyeu about the order regulating the allowance of wrecking yards. Mr. Bilyeu said the County Attorney had reviewed the order and found it to be outdated. The County must post an updated order for a period of three weeks before it can be adopted. Judge Self asked for the legal opinion regarding this specific agenda item. Mr. Bilyeu said it is difficult when an operation that has been in effect to then find that for health and safety reasons it can no longer be in effect and that there is now an impact where there was not one before. This is an opportunity to make changes because the property is under new ownership. Mr. Bilyeu continued saying the County Attorney's understanding from talking with Fire Marshal Deffibaugh is that the business has been in operation for a continuous period of time. (Time: 10:01 a.m.)

David Arditti, Counsel for current property owner Neivis Marquez, addressed the Court with his client. Mr. Arditti began by saying the property in question has been a wrecking yard since 1988 and that adjoining property owner Mr. Ehney knew this would be a

wrecking yard at that time because he witnessed the agreement to establish the yard. Mr. Arditti continued by saying Mr. Marquez recently leased the property to a business using the DBA (doing business as) Dallas GM Export and that it is not a wrecking yard but is more likened to a recycling business, which would not fall under the restrictions of the court order. The cars which are brought in do not stay for months or years as they would in a salvage yard.

The business brings in cars from places such as the Dallas Auto Auction. The cars are cleaned of all fluids, which are placed in containers and sent to Dallas Recycling. Within 15 days everything on the car is basically gone. The motors, transmissions and differentials are packed in containers and sent overseas.

Commissioner Jaynes commented that if the business is recycling then it should be "Green" and the County could take soil samples to see if there was any contamination. Mr. Arditti responded saying when Mr. Marquez bought the property four years ago the bank had testing done on the land and found that there was no contamination. The Fire Marshal performed testing recently and also found no evidence of contamination. Lead was found in an adjacent property that at one time had a shooting range.

Commissioner Shaheen asked about a report from the Texas Commission on Environmental Quality (TCEQ). Judge Self asked for clarification regarding the report. Mr. Arditti said the study was done by the TCEQ which determined there were no hazardous metals found on the property. Commissioner Shaheen commented he found it amazing that the study could report zero hazardous metals in a salvage yard.

Mr. Arditti closed his comments by saying the yard has been in operation since 1988, and although there are cars on the property, they are strewn all over. Mr. Marquez has gone to great efforts to clean up the property and he erected the fence when he bought the property four years ago. Prior to that there was no fence at all.

Judge Self interjected and asked Mr. Bilyeu to conference the County Attorney on the phone. He said the Court would recess into an Executive Session with the County Attorney. Judge Self then told Mr. Arditti to continue with his presentation.

Mr. Marquez said Dallas GM Export wanted to keep their name on the DBA because they had a good reputation that they are very proud of; however, if the process would be easier, they would keep the Jerry Miller name to stay in business.

Mr. Arditti reiterated this was not a retail salvage business where the public would be coming in and dismantling cars. It is an export business that recycles the vehicles and exports motors and transmissions. The cars will be there no more than 15-30 days. Mr. Arditti said the owners are asking the operation be allowed to continue as it has for more than 20 years. (Time: 10:10 a.m.)

Judge Self opened the Public Hearing for comment from the public at 10:10 a.m. There being no public comments Judge Self closed the Public Hearing and recessed the Court into Executive Session under Section 551.071 at 10:11 a.m.

Judge Self re-convened the meeting at 10:32 a.m. Judge Self stated there was not a resolution to the issue, so the item would be tabled until a future Commissioners Court meeting. (Time: 10:32 a.m.)

HELD

EXECUTIVE SESSION

Judge Self recessed the meeting into Executive Session in accordance with Government Code 551.071 at 11:10 a.m.

Legal (551.071)

AI-31433 Mediation, Human Resources.

NO ACTION TAKEN

Judge Self reconvened the Commissioners Court meeting at 11:29 a.m. There being no further business of the Court Judge Self adjourned the meeting at 11:29 a.m.

Keith Self, County Judge

Matt Shaheen, Commissioner, Pct. 1

Jerry Hoagland, Commissioner, Pct. 2

Joe Jaynes, Commissioner, Pct. 3

Not Present

Kathy Ward, Commissioner, Pct. 4

ATTEST:

Stacey Kemp, Ex-Officio Clerk
Commissioners' Court
Collin County, TEXAS