CCTRA RESOLUTION NO. 2011- 3002 -01-03

STATE OF TEXAS **COLLIN COUNTY TOLL ROAD AUTHORITY MEETING MINUTES**

COUNTY OF COLLIN **DECEMBER 6, 2010**

On Monday, December 6, 2010, the Collin County Toll Road Authority Board of Directors met in Regular Session in the Commissioners Courtroom, Jack Hatchell Collin County Administration Building, 4th Floor, 2300 Bloomdale Road, City of McKinney, Texas, with the following members present, and participating, to wit:

Present:
President Keith Self
Precinct 1 Director Matt Shaheen
Precinct 2 Director Jerry Hoagland
Precinct 3 Director Joe Jaynes
Precinct 4 Director Kathy Ward (absent)

1. President Self called to order the meeting of the **Collin County Toll Road Authority** at 9:34 a.m.

2. Consent agenda to approve. President Self asked if any member of the Board or any member of the audience had an item them wanted pulled from the consent agenda for individual consideration. Hearing none, Director Hoagland made a motion to approve. (Time: 9:34 a.m.)

Motion By: Director Jerry Hoagland
Second By: Director Matt Shaheen
Vote: 4 - 0 Passed

President Self recessed the meeting at 9:34 a.m. and reconvened the meeting at 9:40 a.m.

a. AI-32960 Disbursements for the period ending November 30, 2010, Auditor.
CCTRA RESOLUTION NO. 2010-3068-12-06

b. Filing of the Minute(s), County Clerk:

1. AI-32922 September 20, 2010.
CCTRA RESOLUTION NO. 2010-3069-12-06

2. AI-32915 November 1, 2010.
CCTRA RESOLUTION NO. 2010-3070-12-06

3. **AI-32946** November 8, 2010.

CCTRA RESOLUTION NO. 2010-3071-12-06

4. **AI-32970** November 15, 2010.

CCTRA RESOLUTION NO. 2010-3072-12-06

GENERAL DISCUSSION

3. **AI-33022** Right-of-Way Development Agreement for Segment 3 of the Outer Loop, County Judge.

Judge Self said this is a discussion of whether the Court wants to move forward or not with the idea presented by the Tomin Investment Group. It's a simple question of right-of-way donation to the County. We want to make sure it passes all the tests that we would put it through. This item is being heard under the Toll Road Authority because the Toll Road Authority took the outer loop as a project. He said we're looking for head nods as to whether or not we want to proceed. Judge Self called Mr. Brown forward.

Fred Brown with Tomlin Infrastructure Group stated they are proposing a simple right-of-way donation. He said the right-of-way the Tomlin Group would acquire for the outer loop would then be donated to the County with a reservation for non-roadway uses, such as utilities and other roadway uses, being granted back to Tomlin Group. The questions are on the legalities of being able to do that. Commissioner Shaheen asked for more clarification as to how it would make financial sense for the Tomlin Group. Mr. Brown said their preference would be that they would connect two points of the right-of-way. He said the way they are proposing to have it make economic sense is they would reserve the non-road right-of-way uses within the right-of-way and then market those and sell those: utilities, gas lines, sewer lines, power lines, fiber optic cables. The County gets the road and Tomlin Group gets the other uses.

Commissioner Hoagland asked Jim Shepherd, Collin County Toll Road Authority Counsel, for comment. Mr. Shepherd said there is a list of challenges, one of them being the County's ability to accept the donation with strings. If they acquire 500 feet of right-of-way and if they're asking you to convey back to them some of the easement rights, or if they convey it to you with a deed that reserves some of the easement rights, then you have the ability under several statutes to accept right-of-way. There needs to be a considerable amount of conversation to determine what easement rights and how because "all" is probably not acceptable to the County. Mr. Shepherd then presented different options. Commissioner Hoagland asked Mr. Shepherd if he thought the details could be worked out. Mr. Shepherd said sharing the right-of-way is more difficult than, say, the County taking 300 feet inside the right-of-way and Tomlin taking their privately owned land adjacent to that.

Commissioner Hoagland asked if the County could lease the land back to Tomlin at a very nominal rate. Mr. Shepherd said you could, but if you were going to do that most of the code sections would require you to do that in the open market. Mr. Brown agreed that all the legal issues haven't been worked out. Mr. Bilyeu, Judge Self and counsel in Austin have discussed ways to structure this type of arrangement. The purpose of today's meeting is to make you aware of the discussions going on and to see if they can be facilitated in a legal manner that is acceptable to the Court. Commissioner Hoagland said he doesn't have a problem with it but they have to work out the details. Commissioner Shaheen doesn't understand the model and motivation. He asked why they wouldn't just go and acquire the right-of-way for utilities. Mr. Brown said the outer loop is a major corridor for traffic and it will also be major corridor for other uses, such as the DART rail system and water lines. They believe the idea as a business interest is to have all those corridor uses in the same corridor. They believe it has reciprocal value to have those rights to sell for other utilities that want to come into that corridor. Commissioner Shaheen had additional questions.

Commissioner Hoagland said they just want to know if they should proceed along those lines. Commissioner Shaheen was okay with continuing the dialogue. He wanted to know who they are bringing to the table from a financial perspective. Mr. Brown said they need to get it ironed out so they can have something to succinctly present to an investor. Commissioner Shaheen thought it would be good to do this together. Mr. Brown said if it's workable for you and for us, then we can come to some agreement. Commissioner Jaynes doesn't see how you can get 500 feet of right-of-way along 14 miles and, after taking the utilities out, generate revenue. Mr. Brown said that was easy, and he presented an explanation. Commissioner Jaynes wondered if they ran numbers to see what the bottom line would be. Mr. Brown said he needs to understand the agreement before he can run the numbers. Commissioner Jaynes also had a concern with moving the alignment in a major way. Discussion continued. Commissioner Jaynes said he doesn't want to spend taxpayer dollars on attorney fees. He wants Mr. Brown to pick up the attorney fees. Mr. Bilyeu said their attorney thinks they can get there at some point to reach an agreement as to the legal requirements.

Commissioner Jaynes said he is hung up on attorney fees. Mr. Bilyeu said they have probably spent $2,500 to $3,000 to date. Judge Self said let's add that to our discussion. He asked if the Court should take a vote on it. Commissioner Hoagland thinks we should move forward with free land to build a road, and he then made a motion to move ahead with this request and to ask our attorneys to put a cap on the legal fees. He asked Mr. Shepherd for an estimate of the legal fees. Mr. Shepherd presented various scenarios, and estimated the legal fees to be less than $10,000. Mr. Shepherd suggested putting a lid on legal fees at $5,000.

Commissioner Shaheen said in addition to caps on fees, he wants milestones. He thinks the next milestone is when we can get in front of the people who will put up the dollars to do this. Judge Self said that is not our job; whether they make money is inconsequential to us. Commissioner Shaheen said we've been talking about this for a year and he wants to find out if it will work and then move on. Discussion continued with Mr. Brown saying he wants to come back to next Monday's meeting.

Commissioner Hoagland restated his motion and added a cap to legal fees at $5,000. (Time: 10:12 a.m.)

Motion By: Director Jerry Hoagland
Second By: Director Matt Shaheen
Vote: 4 - 0 Passed

CCTRA RESOLUTION NO. 2010-3073-12-06

EXECUTIVE SESSION

There being no reason to recess into Executive Session and no further business of the Board the meeting was adjourned at 10:12 a.m.

Keith Self, President

Matt Shaheen, Director

Cheryl Williams, Director

Not Present
Joe Jaynes, Director

Duncan Webb, Director