

THE STATE OF TEXAS

COUNTY OF COLLIN

Subject: Repayment Plan, City of Weston – Public Works

On March 12, 2012, the Commissioners Court of Collin County, Texas, met in regular session with the following members present and participating, to wit:

Keith Self
Matt Shaheen
Cheryl Williams
Joe Jaynes
Duncan Webb

County Judge, Presiding
Commissioner, Precinct 1
Commissioner, Precinct 2
Commissioner, Precinct 3
Commissioner, Precinct 4

During such session the court considered a request for approval of a ten year repayment plan with the City of Weston.

Thereupon, a motion was made, seconded and carried with a majority vote of the court for approval of a ten year repayment plan with the City of Weston for work to be done on mutual boundary roads 208, 209, 216 and 1096 and the reconstruction of a segment of CR 206 within the Weston City Limits. Same is hereby approved in accordance to the attached documentation.

Keith Self, County Judge

Matt Shaheen, Commissioner, Pct. 1

Cheryl Williams, Commissioner, Pct. 2

Joe Jaynes, Commissioner, Pct. 3

Duncan Webb, Commissioner, Pct. 4



ATTEST:

Stacey Kemp, Ex-Officio Clerk
Commissioners Court
Collin County, T E X A S

Jon Kleinheksel

From: pharrington <pharrington@ci.weston.tx.us> on behalf of 'City of Weston' <cityhall@ci.weston.tx.us>
Sent: Monday, July 02, 2012 10:38 AM
To: Jon Kleinheksel
Cc: 'City of Weston'
Subject: Mutual Boundary Road Paving in Weston

Jon,

This is to confirm Weston's request to remove CR 216 and CR 1096 in Weston from our previous commitment to participate in the County's program to pave Mutual Boundary Roads in Weston. Due to our having misinterpreted the total cost to the City in the chart presented to us, we are restricted by budgetary limitations to participating in paving only CR 208 and CR 209.

In good faith, we have submitted a check for our first payment of principal and interest on the original amortization schedule which included work already completed for us on CR 206, and intend for it to be deposited with the County Treasury. Once the renegotiation of the agreement has been approved by the Commissioners Court, we will look for a new amortization schedule from the Treasury with our first payment having been credited.

Please contact me for further details or for any questions.

Thank you.

Regards,

Patti Harrington
Mayor
City of Weston
P.O. Box 248
301 Main Street
Weston, TX 75097
(972) 382-1001
(972) 382-8409 FAX

Jon Kleinheksel

From: pharrington <pharrington@ci.weston.tx.us>
Sent: Wednesday, May 09, 2012 12:01 PM
To: Jon Kleinheksel
Subject: RE: Mutual Boundary Roads Paving

Can you come to Weston City Hall Tues. 9:00?

From: Jon Kleinheksel [<mailto:jkleinheksel@co.collin.tx.us>]
Sent: Wednesday, May 09, 2012 10:54 AM
To: pharrington
Subject: RE: Mutual Boundary Roads Paving

Patti~

We may have to meet again to discuss the logistics' of these proposed changes. Would it be possible to meet and discuss the issue ?

Jon

From: pharrington [<mailto:pharrington@ci.weston.tx.us>]
Sent: Wednesday, May 09, 2012 10:49 AM
To: Jon Kleinheksel
Subject: RE: Mutual Boundary Roads Paving

Jon,

Good to hear about CR 206. I will be driving it later today. We know residents are thrilled and we are feeling good about a safer route for all who travel it. The billing for CR 206 was already in the payment/amortization schedule we received.

The reason for our excluding CR 216 and CR 1096 is budgetary. Both the Council and I misintrepreted the total cost for all four roads based on the pricing table we were given. The annual payment of \$24K + interest is prohibitive for us. I apologize for your having to put this before the Court again.

Patti Harrington
Mayor
City of Weston
P.O. Box 248
301 Main Street
Weston, TX 75097
(972) 382-1001
(972) 382-8409 FAX

From: Jon Kleinheksel [<mailto:jkleinheksel@co.collin.tx.us>]
Sent: Wednesday, May 09, 2012 9:42 AM
To: pharrington

Cc: City of Weston; Joe Jaynes; Monika Arris; Bill Bilyeu
Subject: RE: Mutual Boundary Roads Paving

Mayor~

Additionally, we have nearly completed the CR 206 rehabilitation work that lies completely within Weston's City limits. As soon as we complete CR 206 we will notify our Treasury Dept. to initiate the billing process.

In the event there are any deviations from the initial Court order, {repayment approval} Commissioner's Court will have to be involved and the Treasury Dept. will have to be notified....

Jon

From: Jon Kleinheksel
Sent: Wednesday, May 09, 2012 9:29 AM
To: 'pharrington'
Cc: 'City of Weston'; Joe Jaynes; Monika Arris; Bill Bilyeu
Subject: RE: Mutual Boundary Roads Paving

Mayor~

Although we could possibly work around CR 1096 as this road serves only a cemetery, I am unable to arbitrarily remove CR 216 from the mutual road discussion. I am at least obligated to upgrade the portion of CR 216 in which we share a mutual boundary.

CR 216 shared boundary cost portion is; \$23,897.28

Also, I will have to take this item to Commissioner's Court for re consideration as the Court has previously approved a repayment schedule for Weston.

Please advise...

Jon

From: pharrington [<mailto:pharrington@ci.weston.tx.us>]
Sent: Wednesday, May 09, 2012 7:39 AM
To: Jon Kleinheksel; Gary Enna
Cc: 'City of Weston'
Subject: FW: Mutual Boundary Roads Paving

From: pharrington [<mailto:pharrington@ci.weston.tx.us>]
Sent: Wednesday, May 09, 2012 6:25 AM
To: 'Jon Kleinheksel'; 'Gary Enna'
Cc: 'City of Weston'
Subject: Mutual Boundary Roads Paving

Gentlemen,

At its May 8, 2012 meeting, the City Council voted to exclude CR 1096 and CR 216 from the paving program. CRs 208 and 209 are still approved for the county's paving program.

Please advise the appropriate department of these changes so that a new amortization/payment schedule can be calculated.

Thank you.

Regards,

Patti Harrington
Mayor
City of Weston
P.O. Box 248
301 Main Street
Weston, TX 75097
(972) 382-1001
(972) 382-8409 FAX

Jon Kleinheksel

From: Greg Hudson <ghudson@holaw.net>
Sent: Thursday, June 28, 2012 6:15 PM
To: Jon Kleinheksel
Subject: ltr to Kleinheksel regarding municipal obligation for shared access road upgrade costs 6-28-12
Attachments: ltr to Kleinheksel regarding municipal obligation for shared access road upgrade costs 6-28-12.docx

Jon, please review this draft letter regarding the lack of statutory authority for the County to recoup its costs should it pave a Mutual Boundary Road and seek partial repayment from a municipality in the absence of an interlocal agreement. I suspect you know this to be the answer, but here it is in writing. Let's discuss tomorrow and I will revise and finalize.

I will finish the template interlocal agreement revisions, and address the City of Weston issues in the morning.

Thanks
Greg

Greg Hudson
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CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGE

June 28, 2012

Mr. Jon Kleinheksel,
Director, Collin County Public Works
700-A Wilmeth Road
McKinney, Texas 75069

Re: County authority regarding recoupment of repair and maintenance of
shared County Roads

Dear Jon:

This letter is in response to your question concerning the County's authority to recoup amounts spent by the County to repair and/or maintain Mutual Boundary roads, that is roads that are partially owned by the County and a municipality whose municipal boundaries extend onto the road.

For example, in 1966 the City of Van Alstyne strip annexed a two-foot strip in the middle of a county roadway. Later, the City of Anna attempted to strip annex a five-foot strip along the centerline but drew a court challenge from Van Alstyne as it overlapped with Van Alstyne's earlier annexation. So, as a result of the lawsuit settlement Anna is left with a strip one and one-half feet wide on the south side of Van Alstyne's two-foot strip in the center of the road, with the County owning the remainder. Technically, three and one-half feet of the roadway are in the municipal boundaries of the cities of Van Alstyne and Anna.

The County now proposes to pave the Mutual Boundary roads pursuant to its Commissioners Court order of November 2011, as a continuation its 2005 commitment to pave all County roads so as to recognize economic, safety and environmental benefits.

Given portions of the Mutual Boundary roads are owned by municipalities, it is logical that such municipalities share proportionally in the costs of the roadway upgrades. The County has offered the participating municipalities a menu of remuneration options for city staff to consider, along with a template interlocal agreement. The County Public Works Department has circulated a letter to the affected municipalities offering to perform the paving work with no labor and equipment charge and further offering upon completion to invoice the municipality for only one-half of the cost of materials, thereby affording the municipality a substantial savings in total project cost as compared to an outside contractor. The County has prepared a template interlocal agreement to

Mr. Jon Kleinheksel
June 28, 2012
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memorialize these understandings, including the amounts to be paid by the participating municipalities.

Several of the targeted municipalities have indicated to the County that due to budget constraints they do not have the funding to pay their respective share of the road upgrades. The County Commissioners have asked whether the work can be performed by the County Public Works Department with the affected municipalities having a legal duty under the law to repay the County.

I have researched Texas law on this issue and can find no provisions which would grant the County a lien, or other repayment right against a municipality, should the County proceed with the road upgrades without a valid contract with the affected municipality. While there exist provisions in Chapter 251 of the Transportation Code (namely section 251.012, copy attached) which allow Counties to spend County money for the improvement or repair of a street in a municipality located in the County, these provisions do not grant the County lien rights or other reimbursement guarantees.

For this reason, I urge the County to seek to enter into interlocal agreements with the affected municipalities with such agreements providing for ultimate recoupment by the County of the City's share of such costs as a matter of contractual agreement, which would be generally enforceable in a court of law, such there occur a breach of contract through nonpayment.

I am happy to discuss this matter with you further.

Sincerely,

J. Greg Hudson

Sec. 251.012. COUNTY AUTHORITY IN MUNICIPALITY. (a)
With the approval of the governing body of a municipality,
the commissioners court of a county may spend county money
to finance the construction, improvement, maintenance, or
repair of a street or alley in the county that is located
in the municipality, including the provision of:

- (1) necessary roadbed preparation or material;
- (2) paving or other hard covering of the street
or alley;
- (3) curbs, gutters, bridges, or drainage
facilities; or
- (4) any construction, improvement, maintenance,
or repair allowed under Section 791.032, Government Code,
if the commissioners court finds that the county will
receive benefits as a result of the work on the street or
alley.

(b) County work authorized by this section may be
done or financed:

- (1) by the county through the use of county
equipment;
- (2) by an independent contractor with whom the
county has contracted;
- (3) by the county as an independent contractor

with the municipality; or

(4) by the municipality, with the municipality to be reimbursed by the county.

(c) A county acting under this section has, to the extent practicable, the same powers and duties relating to imposing assessments for the construction, improvement, maintenance, or repair as the municipality would have if the municipality were to finance and undertake that activity.

(d) A county acting under Subsection (b) may not spend bond proceeds for the construction of a new road in a municipality unless the construction is specifically authorized in the election approving the issuance of the bonds, regardless of the source of the money used to acquire the equipment used to construct the road.

(e) The authority granted by this section is in addition to the authority of a county provided by a local road law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 671, Sec. 2, eff. Sept. 1, 1999

CC Mutual Boundary Situation Report

City	City's Shared Cost	Funding Mechanism	Status	Comments
St. Paul	\$18,000	Self Financed	Complete	Paid with City funds
Anna	\$1,500,000	Bond Reduction	Complete - Adopted by Court	
Lucas	\$27,000	2 yr payback	Complete - Adopted by Court	
Wylie	\$500,000	Bond Reduction	Complete - Adopted by Court	
Princeton	\$333,000	Bond Reduction	Complete - Adopted by Court	
Weston	\$203,000	10 yr payback	Adopted by Court	Seeks to renegotiate scope of previous commitment adopted by CC on 3/12/12
Melissa	\$286,000	10 yr payback request	Pending	County attorney is drafting new ILA
Lowry Crossing	\$165,000	10 yr payback request	Pending	County attorney is drafting new ILA. \$165,000 is earmarked for MB roadwork. The remaining \$623,000 is for City work
	\$788,000			
Celina	\$2,087,000	Bond Reduction or Municipal Bond	In Progress	Celina is contemplating either a Bond Reduction or revenue from G.O. Bonds to finance MB roads
McKinney	\$670,000	Bond Reduction	In Progress	
Farmersville	\$98,000	Municipal Bonds	In Progress	May Bond Election was successful. Project planning is proceeding on CR557. Orange St. still in negotiations
Frisco		<i>Being Developed</i>		
Lavon	\$11,000	Considering Payment		
Nevada	\$17,000			Has requested city work to be performed while City Council considers options regarding the MB program. Their enthusiasm for the MB program appears to be minimal
New Hope	\$10,000	Self Financed		Will pay County Treasury upon completion of work w/ city funds

Royce City	\$37,000/\$6,500	Self Financed	1 road approved, 1 road uncertain	City Council authorized CR588 participation with 2 payments, 1 each in FY'12 and FY'13; hoping for private development and improvements to CR677
Josephine	\$55,000	None		No Funding
Van Alstyne	\$24,000	None		No Funding
Garland	\$19,000	None		Chose not to participate