

STATE OF TEXAS

COMMISSIONERS' COURT
MEETING MINUTES
OCTOBER 24, 2016

COUNTY OF COLLIN

On Monday, October 24, 2016, the Commissioners' Court of Collin County, Texas, 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:

Judge Keith Self

Commissioner Susan Fletcher, Precinct 1

Commissioner Cheryl Williams, Precinct 2

Commissioner Chris Hill, Precinct 3

Commissioner Duncan Webb, Precinct 4

Commissioner Hill led the Invocation.

Commissioner Webb led the Pledge of Allegiance.

Judge Self led the Pledge of Allegiance to the Texas Flag.

1. Judge Self called to order the meeting of the Collin County Commissioners' Court at 1:30 p.m. and recessed into Executive Session at 1:45 p.m. The meeting was reconvened and immediately recessed in Open Session at 3:07 p.m. The meeting was reconvened at 3:08 p.m. and recessed at 3:21 p.m. The meeting was reconvened at 3:30 p.m. and recessed at 3:35 p.m. The meeting was reconvened and immediately recessed into Executive Session at 3:37 p.m. The meeting was reconvened at 3:57 p.m. and adjourned at 3:58 p.m.

President Self called to order the meeting of the Collin County Health Care Foundation at 3:35 p.m. and adjourned the meeting at 3:35 p.m.

President Self called to order the meeting of the Collin County Toll Road Authority at 3:36 p.m. and adjourned the meeting at 3:36 p.m.

FYI NOTIFICATION

1. AI-34688 Outstanding Agenda Items, Commissioners Court.

2. Addenda:

a. AI-42290 No. 3 to Online Auctioneering Services (RFP 2016-302) to make various changes to the Request for Proposal, Purchasing.

b. AI-42291 No. 4 to Replacement of Vehicle Lifts at Service Center (IFB No. 2016-119) to make various changes to the Invitation for Bid, Purchasing.

3. **AI-42308** Budget amendment in the amount of \$300 to utilize the DA State Forfeiture Fund (037) for the 2017 Texas SFST Refresher Course, District Attorney.

2. Public Comments.

Public comments were heard under General Discussion Item 6.

3. Presentation/Recognition.

4. **Consent agenda to approve:** Judge Self asked for comments on the consent agenda. Commissioner Webb pulled item 4f1 and Commissioner Hill pulled item 4d3. Judge Self deleted item 4j2. Hearing no further comments, a motion was made to approve the remainder of the consent agenda. (Time: 3:31 p.m.)

Motion by: Commissioner Susan Fletcher
Second by: Commissioner Cheryl Williams
Vote: 5 – 0 Passed

a. **AI-42303** Disbursements for the period ending October 18, 2016, Auditor.
COURT ORDER NO. 2016-804-10-24

b. **AI-42282** Tax refunds totaling \$564,719.90, Tax Assessor/Collector.
COURT ORDER NO. 2016-805-10-24

c. Award(s):

1. **AI-42287** Professional Services, Real Estate Broker Services (RFP No. 2016-289) to A.M. Scott Real Estate, Inc., Administrative Services.
COURT ORDER NO. 2016-806-10-24

2. **AI-42302** Public Works Weston Barn Metal Roof Replacement (IFB No. 2016-322) to KC Construction Services, Inc. and further authorize the Purchasing Agent to finalize and execute the Construction Contract, Construction & Projects.
COURT ORDER NO. 2016-807-10-24

d. Agreement(s):

1. **AI-42326** Interlocal Agreement with the City of Melissa for the design and construction of Davis Road from US 75 to Fannin Road (Bond Project No. 07-051) and budget amendment in the amount of \$1,350,000 for same. County participation NTE \$2,500,000, Engineering.
COURT ORDER NO. 2016-808-10-24

2. **AI-42328** Interlocal Agreement with the City of Melissa for the preliminary design of Davis Road from US 75 to FM 543 (Bond Project No. 07-00-65) and budget amendment in the amount of \$50,000 for same. County participation NTE \$50,000, Engineering.

COURT ORDER NO. 2016-809-10-24

3. **AI-42327** Interlocal Agreement with the City of Melissa for the design and construction of Fannin Road from SH 121 (Sam Rayburn Freeway) to approximately 2,300 feet south of Melissa Road (Bond Project No. 07-052). County participation NTE \$1,500,000, Engineering.

Commissioner Hill pulled this item because the cover sheet had two different descriptions of the project. Tracy Homfeld, Engineering, said the subject heading stated the correct project and the department action was incorrect. The project is for the design and construction of Fannin Road from SH 121 to approximately 2300 feet south of Melissa Road. With no further discussion, a motion was made to approve the item. (Time: 3:35 p.m.)

Motion by: Commissioner Chris Hill
Second by: Commissioner Susan Fletcher
Vote: 5 – 0 Passed

COURT ORDER NO. 2016-810-10-24

4. **AI-42329** Interlocal Agreement with the City of Melissa for the preliminary design of Telephone Road from US 75 to the Collin County Outer Loop (Bond Project No. 07-00-66) and budget amendment in the amount of \$125,000 for same. County participation NTE \$125,000, Engineering.

COURT ORDER NO. 2016-811-10-24

5. **AI-42330** Interlocal Agreement with the City of Melissa for the design and construction of Throckmorton Road from east of SH 5 to Sherley Lane (Bond Project No. 07-050). County participation NTE \$2,000,000, Engineering.

COURT ORDER NO. 2016-812-10-24

6. **AI-42332** Interlocal Agreement with the Town of Fairview for the design and right-of-way acquisition of Fairview Parkway from Stacy Road to Indian Springs and from Fairview Village Road to Medical Center Drive (Bond Project No. 07-019) and budget amendment in the amount of \$1,460,000 for same. County participation NTE \$3,060,000, Engineering.

COURT ORDER NO. 2016-813-10-24

7. **AI-42331** Interlocal Agreement with the Town of Fairview for the design and right-of-way acquisition of Frisco Road from SH 121 to SH 5 (Bond Project No. 07-018) and budget amendment in the amount of \$415,000 for same. County participation NTE \$540,000, Engineering.

COURT ORDER NO. 2016-814-10-24

e. Amendment(s):

1. **AI-42266** Amendment to Software, E-Citation/Ticketing for Sheriff's Office and Constables (Contract No. 02130-11) with Tyler Technologies, Inc. to make various changes to the contract and further authorize the Purchasing Agent to finalize and execute same, Information Technology.

COURT ORDER NO. 2016-815-10-24

2. **AI-42264** No. 1 to Audio Upgrade for County Courtrooms (RFP No. 2016-099) with Lantek Communications, Inc. to make various changes to the contract and further authorize the Purchasing Agent to finalize and execute same, Information Technology.

COURT ORDER NO. 2016-816-10-24

3. **AI-42306** No. 5 to Inmate Telephone Services (Contract No. 03191-12) with Securus Technologies, Inc. to add Location Based Services in the amount of \$694 per month, extend the contract for the period November 1, 2016 through and including October 31, 2017 and further authorize the Purchasing Agent to finalize and execute same, Sheriff.

COURT ORDER NO. 2016-817-10-24

4. **No. 1 to the Interlocal Agreement for Environmental Services to extend the contract for one (1) year through and including September 30, 2017 and further authorize the Purchasing Agent to finalize and execute same, Development Services:**

a. **AI-42320** City of Anna.

COURT ORDER NO. 2016-818-10-24

b. **AI-42318** City of Blue Ridge.

COURT ORDER NO. 2016-819-10-24

c. **AI-42319** City of Lowry Crossing.

COURT ORDER NO. 2016-820-10-24

d. **AI-42321** City of Melissa.

COURT ORDER NO. 2016-821-10-24

e. **AI-42322** City of Princeton.

COURT ORDER NO. 2016-822-10-24

f. **AI-42323** City of Wylie.

COURT ORDER NO. 2016-823-10-24

f. Change Order(s):

1. **AI-42309** No. 1 to Services: Morgue Transport (IFB No. 2015-170) with UT Southwestern Medical Center to include a price redetermination, extend the contract for one (1) year through and including September 30, 2017 and further authorize the Purchasing Agent to finalize and execute same, Medical Examiner.

Commissioner Webb pulled this item due to a 20% increase in cost after only one year. The original bid was \$100 per trip. Michalyn Raines, Purchasing, said the previous contract was \$125 per trip inside the county and \$175 per trip outside the county. When the County rebid the contract only two bids were received, a bid for \$100 per trip and a bid in the \$180 range per trip. After talking this through, the Commissioner said even with the 20% increase it is a better deal than rebidding. Ms. Raines said based on the numbers that is correct. With no further discussion, a motion was made to approve the item. (Time: 3:33 p.m.)

Motion by: Commissioner Duncan Webb
Second by: Commissioner Susan Fletcher
Vote: 5 – 0 Passed

COURT ORDER NO. 2016-824-10-24

2. **AI-42349** No. 2 to Construction, Restoration of Remediation Areas, 900 E. Park (IFB No. 2015-349) with SDB Contracting Services, Inc. to make various changes to the contract, budget amendment in the amount of \$30,000 and further authorize the Purchasing Agent to finalize and execute same, Construction & Projects.

COURT ORDER NO. 2016-825-10-24

3. **AI-42305** No. 5 to Food: Bread Products (IFB No. 04201-12) with Bimbo Bakeries USA, Inc. to add Mrs. Bairds 4.5 inch buns – 8 count package (Bid Item# 04201-12-01-04) to the contract and further authorize the Purchasing Agent to finalize and execute same, Sheriff.

COURT ORDER NO. 2016-826-10-24

g. Contract Renewal(s):

1. **AI-42286** Services: Prisoner Transport (IFB No. 04215-12) with Texas Prisoner Transportation Services, LLC to extend the contract for one (1) year through and including September 30, 2017, Sheriff.

COURT ORDER NO. 2016-827-10-24

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

1. **AI-42272** \$10,726 to reallocate funds for the Spay/Neuter Program, Development Services.

COURT ORDER NO. 2016-828-10-24

2. AI-42273 \$13,947 to reallocate funds for the Spay/Neuter Program, Development Services.

COURT ORDER NO. 2016-829-10-24

3. AI-42207 \$13,955 to establish the in kind match budget for the FY 2017 TxDOT DWI No Refusal Mandatory Blood Draw Grant, Auditor.

COURT ORDER NO. 2016-830-10-24

4. AI-42271 \$31,500 to establish the cash match budget for the FY 2017 District Attorney's Victim Assistance Coordinator Program Grant, Auditor.

COURT ORDER NO. 2016-831-10-24

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

1. AI-42297 October 3, 2016.

COURT ORDER NO. 2016-832-10-24

j. Miscellaneous

1. AI-42237 Re-appointment of Jason Browning as the County Fire Marshal for a two (2) year term, Administrative Services.

COURT ORDER NO. 2016-833-10-24

2. AI-42300 Address corrections on abandoned private road Turtle Creek Ln to Sheffield Dr (with associated address updates), GIS/Rural Addressing.

HELD

3. AI-42341 Personnel Appointments, Human Resources.

COURT ORDER NO. 2016-834-10-24

4. AI-42342 Personnel Changes, Human Resources.

COURT ORDER NO. 2016-835-10-24

GENERAL DISCUSSION

5. **AI-42289 Public Hearing** - Consideration and any action for the issuance of a "Mass Gathering" permit for the Vintage Market Days event on November 18-20, 2016 at Myers Park & Event Center in accordance to the Health and Safety Code 751, Special Projects.

Judy Florence, Myers Park, came forward to request a public hearing for the consideration and issuance of a "Mass Gathering" permit for the Vintage Market Days event on November 18-20, 2016. Judge Self opened the public hearing at 3:35 p.m. and asked for comments. Hearing none, Judge Self closed the public hearing at 3:35 p.m. With no discussion, a motion was made to approve the item. (Time: 3:35 p.m.)

Motion by: Commissioner Cheryl Williams
Second by: Commissioner Susan Fletcher
Vote: 5 - 0 Passed

COURT ORDER NO. 2016-836-10-24

6. **AI-42338** Jeffory Blackard Court of Appeals Number: 05-16-00408-CV; District Court Case Number: 380-05246-2015, Commissioner, Precinct 3.

Judge Self asked for public comments.

Jeff Blackard, McKinney, came forward to speak on the special prosecutor fees for the Ken Paxton, Texas AG (Attorney General), case. He said in the history of Collin County the most amount spent on a case was \$83,000 and the second most was \$58,000 for a capital murder case. The Paxton case is a failure to register case. There are hundreds of other attorneys who failed to register because of the Dodd-Frank Act. It is sad that only one attorney was targeted. The taxpayers in Collin County have realized what is going on and are irate. Mr. Blackard said his case against Collin County will be heard in the Court of Appeals on December 6, 2016 where the question will be asked: what are the special circumstances to spend \$330,000, which could increase to \$2 million, of taxpayer dollars on a failure to register case? He said the Commissioners' Court should have been asking the same question.

Carroll Maxwell, McKinney, said he believes in the rule of law and that all lawful court orders should be followed. However, he believes if there is any legal, ethical, and/or practical way to contest an order that would benefit citizens of Collin County, it should be done. He urged the Court to unanimously pursue it.

Ann Sampson, McKinney, came forward to speak on the matter of attorney fees for the Ken Paxton case. As a citizen, taxpayer and member of Grassroots McKinney she believes District Judge George Gallagher is in violation of state and county law because the special prosecutors of the case are receiving special and excessive fees. The Commissioners' Court has a fiduciary responsibility not to pay what they do not have to pay.

She said Representatives Scott Sanford and Jeff Leech and Senator Van Taylor agree there is sufficient uncertainty to pay this exorbitant fee and should be appealed to another court to determine whether the charge is legal. Ms. Sampson said the Court should appeal the fees or delay paying the bills to let concerned citizens get involved. She agrees with Commissioner Hill's concern that the special prosecutor invoices are inconsistent with the spirit and letter of the TFDA (Texas Fair Defense Act) guidelines in Collin County and incompatible with the TFDA policy established by Collin County District Judges. She asked for Commissioner Hill's resolution to be seriously considered in requesting an appellate review of the invoices regarding the excessive attorney fees.

Mike Giles, McKinney, came forward to speak for himself and on behalf of Grassroots McKinney. He said the Court members are honest, sincere and conscientious public servants who are doing what they think is right. Mr. Giles believes the Ken Paxton case has become an albatross and is a witch hunt on AG Paxton. The way the bills are being paid is illegal at the state level and in violation of county law, yet they are still being paid because Judge Gallagher has decreed to pay them. There is enough conflict that the bills should be challenged. Mr. Giles asked the Court to file an appeal the next time these bills are received or delay payment so that concerned citizens may file a case.

Sharron Albertson, Plano, agreed with the previous speakers regarding the Ken Paxton case. She said the Court was elected to protect the taxpayers and in this case it does not look that way. Ms. Albertson asked what does "without exception" really mean on the one page fee schedule for special prosecutors. The list shows a definite number to be paid, not payment up to \$2 million. What will be acceptable if the Court continues to pay the invoices without question?

Hiram Sasser, McKinney, also agreed with the previous speakers regarding the Ken Paxton case. He said the bills are outlandish and have exceeded what this type of case should cost. In May 2016 the County took legal position with the Texas Supreme Court that the Commissioners' Court has the authority and power to set this type of pay and that the District Court cannot interfere. The County should maintain this position and not change positions midstream by saying the County has to pay a bill ordered by the District Court. The only real law on this matter was the 1975 Texas AG Opinion that said it is the duty of the Commissioners' Court to resist paying bills they do not agree with and to see to the appellate process. In looking at the fee schedule there is an exception for unusual circumstances, but this is not an unusual case and exceptions do not apply. Even if they did apply, there is a cap on the exception. There is no other case the County has had where it was willing to spend \$1-2 million for prosecution. It is outrageous when this case could have been handled for free with a neighboring county or done with more limited resources. (Time: 1:44 p.m.)

Judge Self recessed Commissioners' Court into Executive Session at 1:45 p.m. in accordance with Chapter 551.071, Legal, to discuss Jeffery Blackard Court of Appeals Number: 05-16-00408-CV; District Court Case Number: 380-05246-2015.

Judge Self reconvened Commissioners' Court at 3:07 p.m.

Jeff May, Auditor, corrected a few things he heard during public comments. The \$58,000 Mr. Blackard referred to was for a felony murder case not a capital murder case. Since Collin County's existence there have been 29 capital murder cases which exceeded \$100,000 a piece with the highest topping \$880,000.

Commissioner Hill had several comments for the Court and people of Collin County. There has been much talk about the players of this case; those who have done their duty serving this community as judges, attorneys and the Commissioners' Court. Regardless of any vote today or in the future, Commissioner Hill is confident in the integrity of his colleagues of the Court. It is important to remember that all his colleagues are due the respect of their office which extends beyond Commissioners' Court to the District Courts, Appellate Courts, prosecutors pro tem and fulltime prosecutors for Collin County. There is much said on the optics of this case. There is a very important and fine line between the politics and justice of this case. Both have value and merit in their appropriate spheres. However, the politics of this case are irrelevant to this Body. The duty of this Court is administrative in nature, to protect the financial affairs of the County. It would be inappropriate for the Court to step across the line into the judicial matter of the case or any case. The Judiciary of Collin County and every county must be allowed to fulfill their task without interference of the Commissioners' Court in their role.

In this case and every day the role of this Court is administrative; to oversee the funds expended from the Treasury, the peoples' tax dollars. The Paxton case hinges around a fee schedule of the TFDA guidelines. The guidelines are established by the Board of District Judges of this county and every other county. There is an exception in this case that has come before the Court and will again. The exception is for payments that would exceed the TFDA guidelines. Collin County has never had an exception of this magnitude for a case. No justification has been provided to the Court as to why there is an exception of this magnitude, no limits have been set and no guidance has been given in order to budget appropriately or to prepare financially in a wise manner. At this time, there is no order pending or action to take specific to a bill to be paid for this case.

In the spirit of the duty of the Commissioners' Court, Commissioner Hill moved to approve the following resolution: Resolve the Collin County Commissioners' Court is committed to taking a careful review of future fee awards, and is committed to taking the necessary steps to protect our opportunity to seek appellate review of any order exceeding the Texas Fair Defense Act guidelines, which may include a formal request to stay any such excessive order and filing for a writ of mandamus in the court of appeals.

Commissioner Fletcher agreed with Commissioner Hill's concerns and thanked him for bringing the resolution forward. There are times when legislative bodies have differences of opinion and this is one of those times. The Commissioner went on to say she respects her colleagues, the judiciary and the taxpayers.

There was a brief discussion regarding the wording of the resolution. Judge Self said we have to be very careful as a Commissioners' Court being seen or attempting to place our thumb on the scale of justice in the case. He asked the Court to reserve its own discretion without unduly raising the expectations of the citizens on how the Court tries to find resolution of the exceptions.

The resolution was amended to read: Resolve the Collin County Commissioners' Court is committed to taking a careful review of future fee awards, and is committed to taking the necessary steps to protect our opportunity to seek appellate review of *an* order exceeding the ***Local Rules to Implement the*** Texas Fair Defense Act, which may include a formal request to stay any such excessive order and filing for a writ of mandamus in the court of appeals.

A motion was made and seconded to approve the resolution with amendments.
(Time: 3:20 p.m.)

Motion by: Commissioner Chris Hill
Second by: Commissioner Susan Fletcher
Vote: 5 – 0 Passed

COURT ORDER NO. 2016-837-10-24

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

EXECUTIVE SESSION

Judge Self recessed Commissioners' Court into Executive Session at 3:37 p.m. in accordance with Chapter 551.071, Legal, to discuss GT Construction, Inc. v. Collin County.

Legal (551.071)

AI-42339 Jeffery Blackard Court of Appeals Number: 05-16-00408-CV; District Court Case Number: 380-05246-2015, Commissioner, Precinct 3.

NO ACTION TAKEN

AI-42348 GT Construction, Inc. v. Collin County, Administrative Services.

Judge Self reconvened Commissioners' Court at 3:57 p.m. and asked for comments on the item. Commissioner Webb made a motion to file a counterclaim against GT Construction for damages associated with the 900 East Park Building in Plano.
(Time: 3:57 p.m.)

Motion by: Commissioner Duncan Webb
Second by: Commissioner Susan Fletcher
Vote: 5 – 0 Passed

COURT ORDER NO. 2016-838-10-24

There being no further business of the Court, Judge Self adjourned the meeting at 3:58 p.m.



Keith Self, County Judge

Susan Fletcher, Commissioner, Pct. 1

Cheryl Williams, Commissioner, Pct. 2

Chris Hill, Commissioner, Pct. 3

Duncan Webb, Commissioner, Pct. 4

ATTEST:

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