

STATE OF TEXAS
COUNTY OF COLLIN

COMMISSIONERS' COURT
MEETING MINUTES
OCTOBER 1, 2012

On Monday, October 1, 2012, 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 Matt Shaheen, Precinct 1
Commissioner Cheryl Williams, Precinct 2
Commissioner Joe Jaynes, Precinct 3

Absent:
Commissioner Duncan Webb, Precinct 4

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

1. Judge Self called to order the meeting of the Collin County Commissioners' Court at 2:30 p.m. The meeting was recessed into the Health Care Foundation at 3:58 p.m.
2. President Self called to order the meeting of the Health Care Foundation at 3:58 p.m. The meeting was adjourned at 3:58 p.m. and the meeting of the Collin County Commissioners' Court was reconvened.

DECISIONS MANDATED BY LEGAL ENTITIES OUTSIDE OF COMMISSIONERS COURT AUTHORITY:

1. AI-35822 Budget amendment in the amount of \$24,852 to reallocate funds from the Out of County Sex Offender Program (Fund 45) to Juvenile Probation (Fund 18) to provide stipends funding for two (2) ISP Officers, two (2) Drug Court Officers, one (1) training Officer and to supplement the salary of H. Lynn Hadnot for FY2013, Juvenile Probation.
2. AI-35855 Personnel Changes, Human Resources.

FYI NOTIFICATION

1. **AI-34688** Outstanding Agenda items, Commissioners Court.

2. Addenda:

a. **AI-35839** No. 1 and 2 to Construction, Towers and Zip Lines (IFB No. 07334-12) to extend the bid date and additional pre-bid dates, Purchasing.

b. **AI-35840** No. 1 and 2 to Printing, General Office Forms (IFB No. 05249-12) to extend the due date and to edit a line item to allow for bidding on different quantities, Purchasing.

3. **AI-35821** Informational Report - RTR Funds (1st Quarter FY2012), Auditor.

2. Public Comments. Public comments were heard under item 4c1.

3. Presentation/Recognition:

a. Service Pins, Human Resources.

4. **Consent agenda to approve:** Judge Self stated there was a public comment card submitted for item 4c1. Judge Self pulled item 4h1 for discussion and asked for additional comments on the consent agenda. Hearing none, a motion was made to approve the remainder of the consent agenda. (Time: 2:32 p.m.)

Motion by: Commissioner Matt Shaheen

Second by: Commissioner Joe Jaynes

Vote: 4 - 0 Passed

a. **AI-35843** Disbursements for the period ending September 25, 2012, Auditor.

COURT ORDER NO. 2012-720-10-01

b. Award(s):

1. **AI-35837** Printing, General Office Forms (IFB No. 05249-12) to various vendors, Purchasing.

COURT ORDER NO. 2012-721-10-01

c. Agreement(s):

1. **AI-35606** Interlocal Agreement with the City of Farmersville for Reinvestment Zone No. 1 and further authorize the County Judge to finalize and execute same, Administrative Services.

Farmersville Mayor Joe Helmberger was present to speak. In the last Commissioners' Court meeting there was discussion of an oversight under item section 4a. Mayor Helmberger said the verbiage is now perfect and he thanked the Court for working with Farmersville on the changes.

The issue remaining is under Tax Increment Participation, which reads: "In addition, the use of County funds is limited to roadways and storm water drainage structure projects."

The Mayor was concerned with the word "structure". A structure could be a box culvert or a bridge or something concrete that you can put your hands around. When roadways are designed, there are drainage issues that aren't really associated with one structure in particular. The structures that get built will have to outfall to a creek somewhere. He would like the section under III a to read: "roadways and their respective storm water drainage systems." The Mayor was concerned that County funds would not be able to be used if a specific structure was not built. Commissioner Jaynes asked about keeping the current verbiage and eliminating the word "structure". Commissioner Williams and Mayor Helmberger agreed. The item would read: "storm water drainage projects." Commissioner Jaynes made a motion to amend the item to delete the word "structure". (Time: 2:34 p.m.)

Motion by: Commissioner Joe Jaynes
Second by: Commissioner Matt Shaheen
Vote: 4 - 0 Passed

COURT ORDER NO. 2012-722-10-01

2. **AI-35767** Interagency Agreement with Dallas County to accept the FY2013 North Texas Auto Task Force grant funds to reimburse Collin County a sum covering 80% of the salary and fringe benefits of one (1) Investigator (NTE \$82,585 - Collin County Match \$19,597) through and including August 31, 2013 and further authorize the County Judge to finalize and execute same, Sheriff.

COURT ORDER NO. 2012-723-10-01

d. Amendment(s):

1. **AI-35820** No. 2 to CSCD/SCORE (Contract No. 09440-10) with Collin County Supervision and Corrections to extend the contract for one (1) year through and including September 30, 2013, further authorize the County Judge to finalize and execute same, CSCD.

COURT ORDER NO. 2012-724-10-01

2. **AI-35824** No. 2 to Personal Services Agreement: Deceased Livestock Pickup (Contract No. 09443-10) with Jan Kearney to extend the contract for one (1) year through and including September 30, 2013 and further authorize the Purchasing Agent to finalize and execute same, Development Services.

COURT ORDER NO. 2012-725-10-01

e. Change Order(s):

1. **AI-35818** No. 3 to Maintenance: Elevators/Escalators (IFB No. 02360-09) with Texas Independent Elevator Company to extend the contract for one (1) year through and including September 30, 2013 and further authorize the Purchasing Agent to finalize and execute same, Facilities.

COURT ORDER NO. 2012-726-10-01

2. **AI-35817** No. 4 to Maintenance: Elevators/Escalators (IFB No. 02360-09) with Schindler Elevator Corp to extend the contract for one (1) year through and including September 30, 2013, add two (2) additional escalators effective November 1, 2012 at a cost of \$690 per month, include callbacks due to escalator safeties being tripped and service during normal working hours, include hourly rates for service calls for services not included in the contract and further authorize the Purchasing Agent to finalize and execute the same, Facilities.

COURT ORDER NO. 2012-727-10-01

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

1. **I-3A5835** \$6,368 to replace restroom stall panels in Justice Center Pod 5C, Construction & Projects.

COURT ORDER NO. 2012-728-10-01

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

1. **AI-35828** September 10, 2012.

COURT ORDER NO. 2012-729-10-01

h. Miscellaneous

1. **AI-35645** Acceptance of the FY2013 DWI No-Refusal Mandatory Blood Draw Program grant with the Texas Department of Transportation (TexasDOT) in the amount of \$97,108.14 to provide funding for nurses to assist county law enforcement personnel in DWI enforcement, Auditor.

The item for the Court's consideration was the acceptance of a grant for the FY2013 DWI No-Refusal Mandatory Blood Draw Program. Monika Arris, Budget and Finance, came forward to explain changes to the back-up for this item. IT comments needed to be deleted on the attachment by the Grant Review Committee. The changing for the

match, \$12,660.14, is coming from the D.A.'s general fund budget. The remaining will come from the drug forfeiture fund rather than the D.A. service fund. Ms. Arris stated there will be an agenda item to do that budget adjustment in a future court. Judge Self said Commissioner Webb wanted it clarified that there will not be a fax line. Ms. Arris said that was correct. Commissioner Williams added all funds were generated from the D.A. rather than the Collin County taxpayer general fund. Ms. Arris replied \$12,660.14 is coming from the Collin County taxpayer general fund. It's for a full-time position that the D.A. currently has in his budget. A portion of that individual's salary is covered by this grant.

Commissioner Jaynes said he would vote against this. The Commissioner had a philosophical difference with limited government pulling someone over and drawing blood. Commissioner Williams felt the same. She struggles with this every time it comes before the Court and she feels an individual should be able to refuse. Judge Self had the same concern, although he understands this matter has been well vetted by Texas courts and found to be acceptable. Commissioner Williams recognizes these are the D.A.'s dollars and she hates to not allow him to apply for a grant. He has come before the Court and explained the program in the past. Commissioner Shaheen asked if District Attorney Willis could be present for the next Commissioners' Court meeting.

Ms. Arris said the grant needed to be signed or approved today. Judge Self said he understands the desires by the public to be able to see if someone is driving drunk and to save money based on the rate of conviction; however, he thinks there are serious concerns with a mandatory program. Sheriff Box was asked for comments. The Sheriff had none.

Without further discussion, a motion was made to deny acceptance of the grant.
(Time: 2:39 p.m.)

Motion by: Commissioner Joe Jaynes
Second by: Commissioner Cheryl Williams
Vote: 4 – 0 Passed

Judge Self returned the discussion to Item 4h1 at 3:11 p.m.

District Attorney Greg Willis entered the courtroom to talk about the blood warrant issue. He was present to answer questions and explain the program. Judge Willis stated the term "mandatory" is a misnomer. What typically happens is a police officer will pull over the driver of a car that is swerving. Based upon the officer's training and experience, he can see signs the person has been driving intoxicated. The officer makes an arrest and presents that person with the choice for a blood or breath test. The breath test is easier. If the person refuses, the officer can offer a blood test. If the person again refuses to give a breath or blood test, on no-refusal weekends, the officer can swear out a warrant and lay out all the reasons as to why that officer believes that person has driven while intoxicated which is a crime in the State of Texas. In Texas driving is a

privilege, not a right. In exchange for that privilege, individuals agree to give a sample of their breath if requested by an officer who believes that individual to be intoxicated. However, you can refuse. If you refuse, the officer has the right to comply, under law, with our constitution. If a judge reviews the officer's sworn statement and sworn affidavit and then makes a decision that he believes it's more likely than not (probable cause standard) that the legal standard has been met, the judge will sign off on that. Through the legal authority of the judge granting that search warrant, the person is taken to the jail where nurses who are paid out of this grant money, in a sanitary and humane way, draw the blood.

Judge Willis noted for cases for 2011, when individuals refused to give a sample and a judge signed the warrant for a blood draw, the average blood alcohol level was over twice the legal limit. These individuals are endangering the lives of other citizens. There are exceptions. If an individual has had prior DWI arrests or if there is a child in the car, mandatory blood draws are done per legislature. Judge Willis stated this program is a beautiful example of how checks and balances in our system can work.

Jane Roden, Misdemeanor Chief, was present. Ms. Roden stated a very small number of blood draw cases go to trial. Continuing, Judge Willis said they have a 95% plea rate. He believes this will keep our citizens safe. He believes in personal liberty and he believes the checks and balances that are in place protect our citizens from unreasonable searches and seizures. Commissioner Jaynes said it's a philosophical issue. The Commissioner thinks other roadside tests are sufficient for probable cause. He feels this is intrusive.

Judge Willis gave an example of a sexual assault. All the evidence is pointing to one individual. If a judge looks at the search warrant affidavit and decides the legal standard has been met, the judge will sign off on it and a DNA sample will be taken. Commissioner Jaynes felt there was a big difference. In one case you have the evidence; you're just trying to link it up with a possible defendant. In this case you're seeking evidence. Judge Willis added, if a judge doesn't sign off on a search warrant affidavit, and the individual refuses to give a sample of their breath or blood, he can't be forced to do so. The warrant process is the way to prevent unreasonable searches and seizures. The judge decides; not the officer. If an individual has been detained unjustly and a judge supports that, then that individual will retain their refusal.

Following discussion, Judge Self informed Judge Willis the Court is not denying his right to do this program. The Court voted against this grant. If Judge Willis wants to fund the program, he can do that. All the Court is discussing is this grant. Judge Self stated even if no blood warrant is issued, a suspect can be arrested on the officer's testimony and video. Judge Willis said if he had the lawful authority to enter into this grant, he would do so; however, the Commissioners' Court has to approve it. Judge Willis added it hampers his ability to protect the citizens. He then asked the members of the Court, if the Supreme Court and the Texas Court of Appeals has decided this is constitutional, does this Court believe it is unconstitutional? Judge Self said the Commissioners' Court

doesn't talk in terms of constitutionality. Our job is to be comfortable with what is being demanded of our citizens. Discussion continued. Judge Self said the cop on the beat has the responsibility to stop somebody before they hurt somebody else. This discussion is about what occurs after the fact.

Following additional discussion, Commissioner Shaheen said this is constitutional. If it has gone through the legal process and has been found to be constitutional and the citizen is protected through the warrant process, Commissioner Shaheen said he would be fine with it. Commissioner Jaynes has concerns about privacy issues. Commissioner Williams said this is the D.A.'s dollars. If the Court can get a third vote on it, she would be okay with it. She requested more information, particularly as to how it is constitutional. Commissioner Shaheen made a motion to accept the grant for the no-refusal blood draw program after considering the D.A.'s comments about the safety of our citizens. Judge Willis said per the Supreme Court, "given the nature of blood alcohol evidence, a warrantless blood draw is actually reasonable". In the State of Texas, the blood draw would have to go through the warrant process.

Ms. Roden stated there are times a breath test has a zero reading for alcohol because there are drugs in the person's system. A blood warrant will be requested so a determination can be made on the presence of drugs in the individual's system. The process for obtaining the warrant is explained further.

Commissioner Williams said she would second the motion with great reservation. If these were dollars controlled by the Commissioners' Court, she wouldn't use it in this manner. Judge Self thinks this is a program that could be used for good or ill. It's a one-year grant. Judge Self said because of personal respect for Judge Willis, he will support this. Commissioner Jaynes said his lack of support has nothing to do with respect for Judge Willis. (Time: 3:51 p.m.)

Motion by: Commissioner Matt Shaheen
Second by: Commissioner Cheryl Williams
Vote: 3 – 1 Passed
Nay: Commissioner Joe Jaynes

COURT ORDER NO. 2012-730-10-01

2. **AI-35823** FY2013 Pay for Performance increases, Human Resources.

COURT ORDER NO. 2012-731-10-01

3. **AI-35856** Personnel Appointments, Human Resources.

COURT ORDER NO. 2012-732-10-01

GENERAL DISCUSSION

5. AI-35831 Public Hearing – application for Junkyards, Automotive Wrecking and Salvage Yards submitted by Nevada Import Parts & Auto, Inc. to be located at 1500 W. FM 6, Nevada, Texas, Development Services.

Judge Self stated this item would be held for a future court. (Time: 2:40 p.m.)

HELD

6. AI-35619 Public Power Pool (P3) update, Facilities.

Donald Lee, Executive Director of Texas Conference of Urban Counties in Austin, came forward. Mr. Lee thanked Commissioner Shaheen for his work on the Policy Committee and thanked the Court's professional staff for their work on the tech share program. Collin County has saved taxpayers millions of dollars through a collaborative effort with tech share.

Mr. Lee had a power point entitled "Public Power Pool (P3) 2012 Procurement". By way of history, P3 was the first aggregator in the State of Texas to do a contract in the deregulated market and they remain the largest aggregator in the State of Texas. P3 is proud of the reputation they have with suppliers; they run a very numbers driven and very businesslike procurement process with a lot of transparency back to the counties and their professional staffs. P3 has developed alternative ways to track performance in savings which is not easy in a non-transparent market place where there is no index of retail prices and the price of electricity changes daily. Over the last ten years P3 members have saved over \$119 million.

P3 is in the middle of a procurement process right now for a contract that begins in 2014 because they are seeing historically low energy prices. The energy market is the most volatile commodity market in the world. Mr. Lee stated they are seeing pricing that they haven't seen since the first years of deregulation. The group currently pays \$67 per megawatt hour. The most recent information shows prices at less than \$50 per megawatt hour. P3 is working with six suppliers in the competitive bid process and they had a strong response to their initial RFP.

Mr. Lee had a slide listing the advantages of a P3 membership, the strongest being their commitment to transparency and competitive bidding. Brokers in the market place take a payment from suppliers of 2-3% as opposed to P3's ½%. Suppliers will then build that 2-3% into their cost. P3 offers customized services and Collin County is in the lead with taking advantage of that. Consultants are available to the County and have worked with staff to save Collin County money at no extra charge.

Mr. Lee complimented Dan James, Facilities Director, for his efforts. In conclusion, Mr. Lee stated he is proud of the fact that this process is working. He appreciates the

Court's commitment to saving money. Judge Self thanked Mr. Lee for coming in.
(Time: 2:55 p.m.)

NO ACTION TAKEN

7. AI-35864 Courthouse Security presentation, Homeland Security.

Kelley Stone, Homeland Security, came forward with Sheriff Terry Box. A Power Point presentation entitled "Collin County Courthouse Security" was shown to Court members and the audience. By way of background, in 2005 Sheriff Box and Mr. Stone approached the Commissioners' Court about forming a courthouse security committee. The Committee is made up of department heads and elected officials.

Subcommittees were formed to update the security plan and to see what they could do to work smarter with the number of people they had working in the facilities. Security surveys were conducted. The subcommittee went around and looked at gaps and made recommendations to Mr. Bilyeu about improving some of those measures. This year there were two training sessions for floor wardens at the Bloomdale Courthouse and two training sessions at the 900/920 Buildings in Plano.

Local Government Code 291.003 is clear about the control of the courthouse: "The county sheriff shall have charge and control of the county courthouse, subject to the regulations of the Commissioners' Court."

Mr. Stone stated he and Sheriff Box have worked together for a number of years. What they have in place works well. Mr. Stone's formula for security is cost plus inconvenience equals a level of security. Peak times at the courthouse are 7:30 a.m. to 9:30 a.m. There are four x-ray machines and four magnetometers. Numbers can vary from 150 up to 600 jurors coming through security. The Supervisor gets there early to start up the machines and unlock doors. The building opens at 7:00 a.m. Four guards arrive at 7:00 a.m. and there are three guards that work from 8:00 a.m. until 5:00 p.m. Due to a shortage in staff, only three of the four machines can be operated. Additionally, there are two officers that work the 2:00 p.m. to 10:00 p.m. shift.

Throughout the day security guards check stairwells, exits and the parking lots. There have been challenges with doors being propped open during construction. The contractor has been asked not to do that as it breaches security. After hours security guards are unlocking and locking doors for housekeeping, following them around and doing searches throughout the building for unauthorized persons.

Sheriff Box continued with the presentation by explaining the duties of his transfer deputies. Transfer deputies transport inmates to court; they service 19 courts each day. They also assist in the AG (attorney general) courts twice a week; provide security and conduct observations while inmates are in court; and provide relief for bailiffs when requested. Transfer deputies operate the control room and monitor cameras and security systems. Additionally, they provide security for the central jury room.

The Sheriff's office is also responsible for court deputies. The duties of a court deputy include: check and monitor security cameras; maintain a visual on the Homeland Security checkpoint and act on any violations; respond to locations within the courthouse when dispatched; make arrests when necessary; seize and secure contraband; monitor fire lanes to ensure they are clear of illegally parked vehicles; make security rounds within the courthouse and parking lots; and provide extra security when requested.

Judge Self asked about doors being propped open. Mr. Stone replied it was a construction problem that has been resolved. Employees will also prop doors open for convenience but most of the areas have cameras. Following discussion, Mr. Stone said the role of the Courthouse Security Committee is to make recommendations to Mr. Bilyeu for the Court's consideration. Judge Self stated the Court will thoroughly vet some of the security issues in Executive Session. The Judge asked about coordination for exercises with people with live rounds. A person with a live weapon reacting to an unknown exercise could make a mistake. Sheriff Box said there are no training exercises without all parties being informed beforehand. Mr. Stone said we have a draft policy that addresses that and it will be discussed at the next security meeting. Continuing, Mr. Stone said right now we're training floor wardens on what to do in the event of severe weather or evacuations. The role of the floor warden is to make sure everyone goes out in the proper direction and that the building is evacuated. Commissioner Jaynes asked about the last drill which only affected a couple of courts. Mr. Stone replied training exercises were done when the courthouse was closed on the weekend under a controlled environment. (Time: 3:11 p.m.)

NO ACTION TAKEN

8. AI-35285 Medicaid 1115 Waiver, Regional Health Partnership, Administrative Services.

Bill Bilyeu, Administrative Services, came forward with an update to the Medicaid 1115 Waiver. Mr. Bilyeu, Judge Self and Dr. Hornsby are scheduled to meet with multiple hospitals to talk about DSRIP (Delivery System Reform Incentive Payment) projects. Everything is in place and deadlines are coming up quickly. Public hearings must be held on health assessments and a decision must be made on DSRIP projects.

Dr. Leigh Hornsby, Public Information Associates, provided additional input. She stated there was a meeting with HHSC (Health and Human Services Commission) officials last week to discuss some of the latest developments with the state and centers for Medicaid and Medicare services. They are continuing to work on the RHP (Regional Health Partnership) plan.

One new item that needed their attention concerned the participation of a safety net hospital. Commissioner Williams added, we did not know we had a safety net hospital in our RHP and the safety net hospital did not know they were a safety net hospital. A safety net hospital is one that has a certain percentage of uninsured patients and 15%

Medicaid patients. In conclusion, Mr. Bilyeu said there are problems with private hospitals coming forward with DSRIP projects. (Time: 3:57 p.m.)

NO ACTION TAKEN

9. AI-34804 83rd Legislative Agenda for 2013, Commissioners Court.

Judge Self said they had an excellent meeting this morning with the legislators. It was recommended to meet again before the session starts. (Time: 3:58 p.m.)

NO ACTION TAKEN

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

Commissioner Williams wants to make sure the review of the tax assessor's office comes to a future court. (Time: 3:58 p.m.)

Following Executive Session, Judge Self requested a future agenda item be a review of the success of the training of the floor wardens in the security plans of the courthouse. (Time: 4:24 p.m.)

EXECUTIVE SESSION

Judge Self recessed the meeting of the Commissioners' Court and called to order the meeting of the Health Care Foundation at 3:58 p.m.

Judge Self reconvened the meeting of the Commissioners' Court at 3:58 p.m. and recessed into Executive Session under Chapter 551.072, Real Estate, and 551.076, Security, of the Local Government Code at 3:58 p.m. The meeting was reconvened at 4:22 p.m.

Real Estate (551.072)

AI-35836 UDCF Building, Administrative Services.

NO ACTION TAKEN

Security (551.076)

AI-35870 Courthouse Security Measures, Homeland Security.

NO ACTION TAKEN

There being no further business of the Court, Judge Self adjourned the meeting at 4:24 p.m.



ATTEST:

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

Keith Self, County Judge

Matt Shaheen, Commissioner, Pct. 1

Cheryl Williams, Commissioner, Pct. 2

Joe Jaynes, Commissioner, Pct. 3

Duncan Webb, Commissioner, Pct. 4