

STATE OF TEXAS
COUNTY OF COLLIN

COMMISSIONERS' COURT
MEETING MINUTES
APRIL 28, 2014

On Monday, April 28, 2014, 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 Mark Reid, 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. Judge Self recessed the meeting at 2:46 p.m. and reconvened the meeting at 2:48 p.m.

President Self called to order the meeting of the Collin County Health Care Foundation at 2:47 p.m. and adjourned the meeting at 2:47 p.m.

FYI NOTIFICATION

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

Jeff May, County Auditor, stated there was a grant committee meeting delay due to the ERP (Enterprise Resource Planning) processes but the grant metrics will be placed on the Court agenda within the next month. Judge Self asked Bill Bilyeu, County Administrator, to provide the Court with an update on all grant metrics as well as the history of the 5% pay increase. (Time: 2:36 p.m.)

NO ACTION TAKEN

2. AI-38138 P-Card Disbursements, Auditor.

2. Public Comments.

Public comments were heard under General Discussion Item 6.

3. Presentation/Recognition:

a. Service Pins, Human Resources.

Greg Willis, District Attorney, presented a service pin to Andrea Westerfeld, Appellate Attorney, in recognition of her 10 years of service. (Time: 1:34 p.m.)

Judge John Roach, Jr., 296th District Court, presented Jeff May, County Auditor, a Certificate of Achievement for Excellence in Financial Reporting. The Auditor's office has received this recognition each year for the past 35 years. (Time: 1:35 p.m.)

4. Consent agenda to approve: Judge Self pulled items FY1 and 4c5 for discussion and asked for comments on the remainder of the consent agenda. Commissioner Webb pulled item 4c4. There being no further comments, a motion was made to approve the remainder of the consent agenda. (Time: 2:34 p.m.)

Motion by: Commissioner Cheryl Williams

Second by: Commissioner Mark Reid

Vote: 5 - 0 Passed

a. AI-38155 Disbursements for the period ending April 22, 2014, Auditor.

COURT ORDER NO. 2014-223-04-28

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

1. AI-38160 \$67,000 to purchase batteries for voting equipment, Elections.

COURT ORDER NO. 2014-224-04-28

c. Miscellaneous

1. AI-38153 Agreement in Principle Candidate List for FY2014, Auditor.

COURT ORDER NO. 2014-225-04-28

2. AI-38148 Grant application for the FY2014 State Criminal Alien Assistance Program (SCAAP) grant through the Bureau of Justice Assistance, Auditor.

COURT ORDER NO. 2014-226-04-28

3. AI-38151 Re-plat of The Hills of Lone Star Subdivision lot 37 into lot 37R, Engineering.

COURT ORDER NO. 2014-227-04-28

4. AI-38163 List of fleet vehicles recommended for repair due to damage from the recent hail storm and budget amendment in the amount of \$110,261 for same, Public Works.

Jon Kleinheksel, Public Works, came forward to present a request for approval on the repair of fleet vehicles that were damaged by hail. Commissioner Webb asked for clarification on how the damage to vehicles was classified. After a brief discussion on damage classification and repair options for the entire fleet of vehicles, the consensus of the Court was to repair only damage that was considered visible to the public on the 21 brand new vehicles. This includes 20 2014 models and one 2013 model. A motion was made to approve the repair to the 21 new vehicles with the caveat that repairs are deemed visible and necessary. (Time: 2:45 p.m.)

Motion by: Commissioner Duncan Webb
Second by: Commissioner Cheryl Williams
Vote: 5 - 0 Passed

COURT ORDER NO. 2014-228-04-28

5. AI-38175 Letter of support for the 2014 Transportation Investment Generating Economic Recovery (TIGER) application for the Cotton Belt Corridor Passenger Rail Project, Administrative Services.

Judge Self said the TIGER (Transportation Investment Generating Economic Recovery) submission was discussed in the NCTCOG (North Central Texas Council of Governments) Executive Board meeting this week. The Cotton Belt Corridor is one of three planning projects that were approved. The total project cost for the Cotton Belt Corridor is relatively minor at \$500,000 local and TIGER funds. It is expected the Regional Bicycle and Pedestrian Multi-Modal Network will be approved for construction. This project is estimated at \$30 million TIGER funds and \$23.7 million local funds. A motion was made to approve the item. (Time: 2:46 p.m.)

Motion by: Judge Keith Self
Second by: Commissioner Cheryl Williams
Vote: 5 - 0 Passed

COURT ORDER NO. 2014-229-04-28

6. AI-38167 Personnel Appointments, Human Resources.

COURT ORDER NO. 2014-230-04-28

7. AI-38168 Personnel Changes, Human Resources.

COURT ORDER NO. 2014-231-04-28

GENERAL DISCUSSION

5. AI-38126 Designation and ballot drawing of nine (9) public members (in lieu of nine elected officials) and four (4) alternate members from the 2013 Grand Jury members to be appointed and serve on the 2014 Salary Grievance Committee and any action, Commissioners Court.

The Court drew nine names from the ballot box to serve as public members of the 2014 Salary Grievance Committee as well as four names to serve as alternate members. The names of the nine individuals drawn to serve as public members were Donna Timbeross, Gillian Papanek, Bradley Allgood, Sandra Fletcher, Joseph E. Fockler, Masuma Ahamed, Todd Fouche, Virginia Barrett and Kaalen Angel-O'Bannon. The four alternates drawn were Stacie M. Gooch, Jonnie Barron, Kathy Nichols and Kathleen R. Garrison. The Court will return to this item for a vote on May 12, 2014. (Time: 2:49 p.m.)

6. AI-38119 Decision whether or not to become a Cooperating Agency for the Regional Management Plan/Environmental Impact Statement (RMP/EIS) process, County Judge.

Tracy Homfeld, Engineering, came forward to answer further questions of the Court regarding the BLM (Bureau of Land Management). Ms. Homfeld had submitted answers to questions from the April 21, 2014, court that were included in the Court Packet. Judge Self asked, since the Cooperating Agency meetings will not be open to the public, would they be open to Collin County if the decision is made not to participate. Ms. Homfeld stated no, this is like any other planning meeting. Only members of the committee would be invited to the meeting. If the County has questions, those questions would be answered but only after the process is over.

Judge Self noted that the response in the packet from BLM regarding federal minerals in Collin County suggests that there is oil and gas in the county. The Judge stated there is no drilling in Collin County and Ms. Homfeld agreed. Ms. Homfeld was asked where the 40,000 acres are located. Ms. Homfeld stated those acres are located only around Lake Lavon to the elevation the Corps of Engineers controls.

In the BLM letter to the Court, Cooperating Agencies do have obligations to contribute staff to the RMP/EIS (Management Plan/Environmental Impact Statement) team. Ms. Homfeld clarified this is referring to meeting attendance. By becoming a Cooperating Agency the County will become part of the planning process and can pull its participation at any time. Commissioner Hill asked if the County's voice would carry any weight and/or would the County have an equal vote in the process. Ms. Homfeld stated that from speaking with BLM, the Corps of Engineers would have the final say with resources and the permitting process and the County's involvement would be knowing what is going on with the process.

Commissioner Webb shared his concern with the water supply for this whole area and asked if the NTMWD (North Texas Municipal Water District) will have an opportunity to participate in the RMP/EIS process. Ms. Homfeld stated NTMWD has not been invited by the BLM but the Corps of Engineers will keep them apprised of the process. It has been mentioned that the Corps of Engineers is not going to allow any type of lease of minerals on federal property so this may be a moot point.

Commissioner Reid wanted to confirm which counties have signed the MOU (Memorandum of Understanding) thus far. Ms. Homfeld stated that Denton, Montague and Cooke Counties are the only counties that have signed the MOU. All the counties adjacent to Collin County have been invited to participate because they all have their own federal properties with resources. These lands are current federal properties where the BLM has control over resources.

Judge Self asked for public comments.

Cindy Meyer, Parker, came forward to express her concern of the BLM after researching the project. Ms. Meyer believes this reeks of Agenda 21, controlling resources controls the people. This is the way for the federal government to get what they want done by bypassing the federal and state elected officials by going down to the counties and communities to get their agenda passed. This is called the new collaborative decision process used by asking the counties and communities to sit at their table. They are masters of strategy and tactics in repackaging input as the consensus. With natural resources, primarily water, at stake Ms. Meyer feels the Court should delve deeper into this issue. She concluded by saying we are at their table; why are they not at our table as we have the resources. (Time: 1:46 p.m.)

Carroll Maxwell, McKinney, feels the BLM is using their authority as a fishing expedition to find justification to take ownership of private land. This is nothing more than an attempt by the federal government to exert the Agenda 21 process. Mr. Maxwell believes this is because private land ownership creates wealth which is not compatible with sustainable development and, therefore, it is to be eliminated. BLM's reason for pursuing this is for the development of recreational facilities around the lake. Mr. Maxwell asked the Court to become a part of this commission to make sure the BLM does not infringe on personal freedom and requested the Court make a public statement saying such. (Time: 1:49 p.m.)

Beverly Whittington, Richardson, addressed the Court by saying after hearing that the Corps of Engineers has complete authority, it concerns her greatly that BLM could take over the private property rights of the County. Ms. Whittington agrees this is a part of Agenda 21 and stated a decision without representation is a decision not in favor of the citizens but in favor of big government. Ms. Whittington asked the Court to stay involved in this process for the personal private property rights of American citizens. (Time: 1:50 p.m.)

Roy Serpa, Fairview, shared his concerns that interagency meetings are not public and Collin County is not represented in those meetings. Mr. Serpa asked the Court to consider what participation the County should have in this process. Mr. Serpa feels that the shared concerns of his fellow citizens should be reflected to the state and federal legislators. Bureaucracy cannot continue to control this country. Additional efforts by BLM to control more land and resources should be discouraged. Mr. Serpa hopes the Court will be actively involved to protect the interests of those in that area. (Time: 1:52 p.m.)

Michel Openshaw, Plano, came forward to express his distrust for the BLM. Mr. Openshaw worries the BLM will try use outlandish tactics to cut off the water supply to the County from Lake Lavon. Mr. Openshaw is undecided on the decision to become a Cooperative Agency, but is concerned with any limitations of legal recourse against BLM if the County is involved. Mr. Openshaw asked the Court if the decision is to participate that they send a representative that has a very skeptical eye to keep tabs on this process. Mr. Openshaw trusts the Commissioners' Court and implored them to continue to ask questions before the Court signs an agreement. (Time: 1:55 p.m.)

Ann Lieber, Prosper, came forward to share her views on this issue. Ms. Lieber posed the question: if this is a routine annual review, why did this seemingly come as a surprise to staff and the Court. Ms. Lieber stated that taxpayer money should not be spent where Collin County is just a stakeholder in the process. Ms. Lieber feels that there is a predetermined outcome and asked what is the intended outcome or purpose of this exercise. Everyone knows an environmental study is a precursor to some action, so what is that action. Ms. Lieber added, the term "stakeholder" guarantees you will be operating on an artificially leveled playing field. The term "stakeholder" gives each participant the same status regardless of legal authority or property rights. This is a direct implementation of Executive Order 13575 of the White House Rule Council that was established in 2011. Ms. Lieber asked the Court to respectfully decline the invitation for participation in the RMP/EIS process. (Time: 1:59 p.m.)

Barbara Harless, Murphy, addressed the Court by stating this agreement is all about complying with Agenda 21 from 1992 and it is not a coincidence that the last Texas resource management plan was dated 1996. The Texas Resource Management Plan of 1996 states that the plan affects the management of federal resources within the planning area for the next 20 years. It is now 18 years later and this shows that this is about the 1996 update and not about the annual EIS (Environmental Impact Statement) update. The 1996 update does not include the Bureau of Indian Affairs (BIA) anywhere in the plan. The BIA is operating in conjunction with the BLM on the current proposed agreement before the Court. The BIA signature is below the signature of the BLM. Ms. Harless is opposed to allowing the BIA to bring casinos and toll roads managed by the Indian Nation into Collin County. The BLM November 2013 newsletter listed six public open houses that have already occurred in six Texas cities regarding this update. The six cities included Wichita Falls, Fort Worth, Houston, Livingston, Lufkin and Amarillo.

Ms. Harless asked if the Court contacted any of those cities to determine if they signed an agreement identical to the one presented to Judge Self. Ms. Harless does not trust the BLM and is concerned with the private planning meetings that take place before public meetings that render any public input to be of minimal influence. (Time: 2:02 p.m.)

Harry Kircher, Plano, is disturbed by the fact that Collin County has no authority in the planning meetings. Mr. Kircher believes this is a land grab by the BLM. Mr. Kircher is undecided as to the County's participation as a Cooperating Agency but would like the Court to be aware of any ramifications that could occur if the decision is made to participate. Judge Self said the letter from the BLM does state that "nothing in this agreement will abridge or amend the authorities and responsibilities of the Collin County Commissioners' Court, BLM, BIA or any other party on any matter under their respected jurisdictions". State law determines the Commissioners' Court jurisdiction. Mr. Kircher asked if the Court had a map of the property. Judge Self explained the area is all of Lake Lavon; the outer reaches of the lake up to the level the Corps of Engineers controls. (Time: 2:06 p.m.)

Judge Self read aloud the public comment card of Deidra Dennis, Allen, to the Court: "Could the decisions of this Court impact efforts underway by the Governor, Attorney General and Ted Cruz regarding the Red River issues?" Judge Self stated the Court does not know at this time. (Time: 2:06 p.m.)

Derek Baker, McKinney resident and President of Collin County Conservative Republicans came forward to voice his opinion. Mr. Baker stated the study will happen regardless of the participation of the Court. If the Court declines the invitation to participate at this time, could the Court later accept BLM's offer to be a Cooperative Agency? If the Court declined to participate, would there be any meaningful way to find out the status and details of the study as it progressed? Judge Self stated the Court would not be able to find out the status and details as it progresses, and this seems to be similar to a non-disclosure agreement. Mr. Baker then asked since meetings are closed to the public, is there a specific prohibition against publishing details of said meetings for the benefit of Collin County? Mr. Baker feels that since the Court would have no voter authority the only way an agreement would be beneficial would be if the Court is privy to useful information regarding the study and could terminate early, or if the Court could publish the details for the public. Given the track record of the BLM and the unlikelihood that Collin County would tangibly benefit from the relationship, Mr. Baker respectfully suggested not participating in the process. (Time: 2:09 p.m.)

Corinne Smith, Sachse, asked if the Court will have the opportunity to make amendments to the MOU and submit back to the BLM. Ms. Smith does see the advantage of participating as a Cooperative Agency by having input and some decision making in the process of the agreements as well as the option to terminate participation at any time. Ms. Smith is concerned with the combination of the BLM and the environment impact statement converging into a new revision. Another concern is mitigation factors that could come into play to take or seize property.

Ms. Smith asked what is going on in our land deeds with developers and other entities that are getting investments, stakeholders, public and private partnerships and funding. Ms. Smith does not agree with some of the climate and green policies and will continue to research related U.S. codes to find out how specifications are agreed upon under the National Environmental Policy Act. Ms. Smith feels it is disconcerting that the only way to receive notification of the completion of the final draft of this plan is through the Federal Register. (Time: 2:13 p.m.)

Judge Self applauded the people for the thought and research put into this matter. It is apparent in the lack of trust at the federal level as most everyone has had the same opinion. In regards to the participation in the RMP/EIS process, the response the Judge has received has been evenly split with half believing participation is in the best interest of the citizens and the other half believing no participation is needed. The same goes for today's public opinions. The Judge said we cannot have it both ways and feels if the decision is to participate, there will soon be a voice of support for Collin County in the Texas Attorney General's office.

Judge Self opened the discussion to the Court. Commissioner Hill shared the question that Mr. Baker brought to the Court's attention: can the Court publish the details from the planning meetings? The Commissioner asked Ms. Homfeld to explain the nature of the meetings and how the Court can take the information beyond its own involvement. Ms. Homfeld stated that her experience with planning meetings is that there is a committee of people with vested interests who are involved in the planning process; the planning meetings that take place are typically not open to the public as it would be very expensive to do so. In speaking with the BLM, Ms. Homfeld does not see any issue with posting what is viewed in the planning meetings. BLM wants the Court to sign an MOU in order to have a stake or responsibility in attending those meetings. Ms. Homfeld will ask the BLM this specific question and report back to the Court. Judge Self commented on the answer to the posted question regarding the opportunity for appeals and protests if the Court does not participate; it appears that the Court would only have access once the draft is finished. Ms. Homfeld said anytime the Court could contact the BLM on the process they would supply the Court with information. This is just the typical planning process.

Commissioner Reid shared his concerns with the restricted nature of the language limiting the discussion or opinions to items the County has specific interest in. Ms. Homfeld stated the Corps of Engineers will have the majority of the vested interest in the property around the lake. Collin County is only given statutory authority for certain things but can definitely speak in regards to items in the planning meetings.

Judge Self asked if the BLM believes the Commissioners' Court is over all of the entities. Ms. Homfeld replied that in Oklahoma the county government does have that responsibility. For ease of contact and expenses the BLM thought the County would contact the stakeholder entities. It was explained to them that is not how county government works in Texas. This is another reason why the County should be involved to be able to let the local governments know the process that is going on.

Commissioner Webb commented if NTMWD is not a part of the process, the Commissioner feels there needs to be a voice on the committee to protect the water resources. Also, there is no confidentiality provision in the MOU that would prevent the Court from sharing information of the planning process. Commissioner Williams feels the terminology of the agreement is unfortunate because it suggests that by signing the MOU the Court is in agreement or support of whatever the final outcome will be.

There was discussion on who should be appointed to represent the County on this committee and what other agencies will be members. The Oklahoma field office covers a certain region and they are updating the resource plan for this particular region. The counties within that region have been invited to participate in addition to other stakeholder entities. Given the magnitude of the impact on the water supply it was suggested that Judge Self be appointed to serve on the committee because he is a public official, knowledgeable on the issue and sits on Commissioners' Court. Judge Self stated he would be willing to serve and, if appointed, would put forth a strong statement of the County's view. It was felt that the term "cooperative" in Cooperative Agency implies that the County is in agreement with all plans of the process. The term "participating" was suggested to replace "cooperative" in the agreement. There was concern that if the County does participate, the BLM will use the County's participation to justify doing whatever they want to do.

Following the discussion a motion was made to approve the County's participation in the RMP/EIS process with the MOU amended to read "Participating Agency" in place of "Cooperative Agency." The motion also includes the appointment of Judge Self to serve as Collin County's representative as well as the development of a public statement of the County's participation intentions. (Time: 2:33 p.m.)

Motion by: Commissioner Duncan Webb

Second by: Commissioner Chris Hill

Vote: 4 - 1 Passed

Nay: Commissioner Mark Reid

COURT ORDER NO. 2014-233-04-28

7. AI-38184 Selection of Engineer to perform a bridge analysis on CR 317 at Wilson Creek and further authorize staff to negotiate a scope and fee, Administrative Services.

Tracy Homfeld, Engineering, stated there was bridge deck failure on CR (County Road) 317 at Wilson Creek last Friday. The bridge was subsequently closed. Michalyn Rains, Purchasing, came forward to ask the Court to select an engineer based on qualifications and not on price to perform an analysis and write a scope with fees. Engineering recommends Binkley and Barfield C&P as they have been used in prior bridge projects. They already have designed the temporary repair. This repair is minimal and could be completed this week or next. The design and construction for permanent structure of the bridge would take approximately 120 days. The construction process will have to be put through the normal bid process. Residents currently have access to the bridge but will not have access during the 120-day construction period. Engineering has asked the Court to select Binkley and Barfield for this project forgoing the RFQ (Request for Quote) process. Savings from prior bond fund projects can be used to fund the permanent structure of the bridge. The scope and fee will come back to the Court for approval. At that time Engineering will provide the budget adjustment. Bill Bilyeu, County Administrator, can approve funds for the needed repair without further action. This requested approval is for selection of the engineer for the analysis and design of the complete repair and construction of the bridge. A motion was made to approve Engineering's recommendation. (Time: 2:53 p.m.)

Motion by: Commissioner Chris Hill
Second by: Commissioner Duncan Webb
Vote: 5 - 0 Passed

COURT ORDER NO. 2014-234-04-28

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

EXECUTIVE SESSION

The Court did not recess into Executive Session. There being no further business of the Court, Judge Self adjourned the meeting at 2:54 p.m.



Keith Self, County Judge

Mark Reid, 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, T E X A S