

STATE OF TEXAS
COUNTY OF COLLIN

COMMISSIONERS' COURT
MEETING MINUTES
NOVEMBER 14, 2016

On Monday, November 14, 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

Judge Self led the Invocation.
Commissioner Fletcher led the Pledge of Allegiance.
Commissioner Williams 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 the meeting at 2:05 p.m. The meeting was reconvened and immediately recessed into Executive Session at 2:06 p.m. The meeting was reconvened at 3:26 p.m. and adjourned at 3:42 p.m.

President Self called to order the meeting of the Collin County Health Care Foundation at 2:05 p.m. and adjourned the meeting at 2:05 p.m.

President Self called to order the meeting of the Collin County Toll Road Authority at 2:05 p.m. and adjourned the meeting at 2:05 p.m.

DECISIONS MANDATED BY LEGAL ENTITIES OUTSIDE OF COMMISSIONERS COURT AUTHORITY:

1. AI-42424 Personnel Changes, Human Resources.

FYI NOTIFICATION

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

2. **AI-42403** Change Order No. 1 to Construction, Bridge, County Road 664 over Branch of Arnold Creek (IFB No. 2016-221) to reflect a change in the quantities utilized, Special Projects.

Commissioner Webb pulled this item because the change order references two different amounts and these numbers need to match. (Time: 1:34 p.m.)

2. Public Comments.

3. Presentation/Recognition:

a. Service Pins, Human Resources.

4. **Consent agenda to approve:** Judge Self pulled item 4f3 and then asked for comments on the consent agenda. Commissioner Webb pulled item 2 from FYI Notification and items 4b2, 4b3 and 4f8. Commissioner Fletcher pulled item 4f1. With no further comments, a motion was made to approve the remainder of the consent agenda. (Time: 1:33 p.m.)

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

a. **AI-42369** Disbursements for the period ending November 8, 2016, Auditor.
COURT ORDER NO. 2016-868-11-14

b. Award(s):

1. **AI-42375** Services, Professional Audit (RFP No. 2016-161), Auditor.
COURT ORDER NO. 2016-869-11-14

2. **AI-42377** Replacement of Vehicle Lifts at Service Center (IFB No. 2016-119) line items 1-8, including the trade-in of five (5) existing lifts to Reeder Distributors, Inc. and further authorize the Purchasing Agent to finalize and execute the Construction Contract, Construction & Projects.

Commissioner Webb pulled this item because there is no liquidated damages provision set forth in Subparagraph 7(J) in the event the work is not completed within 135 days. The Commissioner would like the provision to read, "Contractor shall pay the Owner the sum of One Hundred Dollars (\$100.00) per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the work."

Bill Bilyeu, County Administrator, said he was okay with the change, but any further discussion would need to be done in Executive Session with an attorney present. With no further discussion, a motion was made to approve the item with the change made. (Time: 1:35 p.m.)

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

COURT ORDER NO. 2016-870-11-14

3. AI-42419 Services: GPS Monitoring (RFP No. 2016-251), Purchasing.

Commissioner Webb pulled this item because the calculations show the County will spend \$6.50 per day for the monitoring while the County will be charging only \$6.00 per day under the current fee schedule. The Commissioner would like to see the fee schedule modified as soon as possible since the County will be losing \$0.50 per person per day. Jeff May, County Auditor, said the total estimated cost would be between \$2,000 and \$4,000. Monika Arris, Budget, said the fee schedule has already been submitted and cannot be changed until FY2018.

In the future, Commissioner Webb would like the amount on the fee schedule to equal the contract rate. With no further discussion, a motion was made to approve the item. (Time: 1:37 p.m.)

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

COURT ORDER NO. 2016-871-11-14

c. Agreement(s):

1. AI-42413 Interlocal Agreement with the City of Princeton for Beauchamp Blvd. from US 380 to Monte Carlo Blvd. Improvements – Phase II (Bond Project No. 07-00-33) and budget amendment in the amount of \$3,000,000 for same. County participation NTE \$3,000,000, Engineering.

COURT ORDER NO. 2016-872-11-14

2. AI-42404 Interlocal Agreement with the City of Allen for funding through the 7th Series – 2007 Parks/Open Space Project Funding Assistance Program (Bond Project No. 07PG84) for improvements to the Cottonwood Creek/Heritage Village Hike and Bike Trail project, Special Projects.

COURT ORDER NO. 2016-873-11-14

3. **AI-42405** Interlocal Agreement with the Town of Fairview for funding through the 7th Series – 2007 Parks/Open Space Project Funding Assistance Program (Bond Project No. 07PG86) for the Sloan Creek to Fairview Parkway Trail Connection project, Special Projects.

COURT ORDER NO. 2016-874-11-14

4. **AI-42406** Interlocal Agreement with the City of Josephine for funding through the 7th Series – 2007 Parks/Open Space Project Funding Assistance Program (Bond Project No. 07PG88) for improvements to the Josephine City Park Phase II project, Special Projects.

COURT ORDER NO. 2016-875-11-14

5. **AI-42407** Interlocal Agreement with the City of Lucas for funding through the 7th Series – 2007 Parks/Open Space Project Funding Assistance Program (Bond Project No. 07PG90) for improvements to the East Winningkoff Trailhead project, Special Projects.

COURT ORDER NO. 2016-876-11-14

6. **AI-42408** Interlocal Agreement with the City of McKinney for funding through the 7th Series – 2007 Parks/Open Space Project Funding Assistance Program (Bond Project No. 07PG91) for improvements to the Bonnie Wenk Park Phase II project, Special Projects.

COURT ORDER NO. 2016-877-11-14

d. Amendment(s):

1. **AI-42391** No. 1 to Agreement: Professional Services for General Veterinary Services (Contract No. 2016-069) with Taylor J. Tillery, DVM, PLLC 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.

COURT ORDER NO. 2016-878-11-14

2. **AI-42392** No. 1 to Agreement: Professional Services for Spay and Neuter Services (Contract No. 2016-068) with Taylor J. Tillery, DVM, PLLC 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.

COURT ORDER NO. 2016-879-11-14

3. **AI-42411** No. 6 to Physician Services (Contract No. 07335-10) with Dr. James Shupe 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, County Clerk.

COURT ORDER NO. 2016-880-11-14

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

1. **AI-42415** October 24, 2016.

COURT ORDER NO. 2016-881-11-14

f. Miscellaneous

1. **AI-42350** Exemption to the bid process per VTCA Local Government Code 262.024(4), a personal or professional service, for Bickerstaff Heath Delgado Acosta LLP for legal services and further authorize the Purchasing Agent to finalize and execute the Engagement Agreement, Administrative Services.

Commissioner Fletcher pulled this item and said if the Court is going to consider something that is potentially controversial in which the Court may not be in full agreement, it should be discussed before the Court is encumbered. The Commissioner also sought a legal opinion, and it was different than the opinion received from Bickerstaff Heath Delgado Acosta LLP. With no further discussion, a motion was made to approve the item. (Time: 1:39 p.m.)

Motion by: Commissioner Cheryl Williams

Second by: Commissioner Duncan Webb

Vote: 3 – 2 Passed

Nay: Commissioners Susan Fletcher and Chris Hill

COURT ORDER NO. 2016-882-11-14

2. **AI-42416** Amend Court Order No. 2016-831-10-24 for a budget amendment in the amount of \$31,500 to establish the cash match budget for the FY 2017 District Attorney's Victim Assistance Coordinator Program Grant to reflect a budget amendment in the amount of \$15,750 instead of \$31,500, Auditor.

COURT ORDER NO. 2016-883-11-14

3. **AI-42412** Deny approval of the Final Plat for the Flatland 598 Subdivision, Engineering.

Dana Huntoon, Royse City, came forward to address the Court. Ms. Huntoon works for LJ Homes, LLC who purchased the property with the intent of splitting it into two lots and building two homes. The final plat was denied due to a road frontage shortage and LJ Homes is seeking a variance.

Bill Bilyeu, County Administrator, said the subdivision regulations require 200 feet of frontage. These lots do not meet the County's subdivision requirements, and staff has recommended denial of the final plat. While there have been a few approved in the past that were within five feet of the subdivision requirements, there is no history of approving lots of this level. One of the lots is short by almost 25% of the required frontage. Commissioner Williams said this is so far outside of the subdivision regulations that she cannot support a variance of this level. With no further discussion, a motion was made to deny approval of the Final Plat. (Time: 1:42 p.m.)

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

COURT ORDER NO. 2016-884-11-14

4. **AI-42400** Reimbursement of fencing materials in the amount of \$5,085.75 to Mr. Ken Roose for property along CR 557, Public Works.

COURT ORDER NO. 2016-885-11-14

5. **AI-42387** Acceptance of the FY2016 UASI DFWA LETPA Grant in the amount of \$250,000 through the Office of the Governor, Homeland Security Grants Division to fund the salary and benefits for a Fusion Center Analyst for 22.5 months and two (2) Fusion Center Research Specialists for 12 months, Sheriff.

COURT ORDER NO. 2016-886-11-14

6. **AI-42379** 2016 Tax Roll, Tax Assessor Collector.

COURT ORDER NO. 2016-887-11-14

7. **AI-42425** Personnel Appointments, Human Resources.

COURT ORDER NO. 2016-888-11-14

8. **AI-42423** Addition of the Fire Marshal's canine to the current liability policy, Human Resources.

Commissioner Webb pulled this item because this is a unique situation where the County will have a dog that is owned by an outside entity. The person coming to work for the County is going to use the dog which has been trained as a result of an agreement with State Farm. Under the Arson Canine Training Scholarship Application with State Farm, it imposes certain duties upon the applicant related to caring for the dog and vet services. However, the County cannot use public funds for a private dog.

The Commissioner said the Court needs to approve the contract to use the dog's services and to get liability insurance for the dog. Also, Judge Self would need to sign the contract as opposed to Jason Browning, Fire Marshal. With no further discussion, a motion was made to approve the item. (Time: 1:45 p.m.)

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

COURT ORDER NO. 2016-889-11-14

GENERAL DISCUSSION

5. AI-42368 Discuss possible Planning Board review and recommendations for major transportation funding 2017 - 2020, County Judge.

Judge Self referred to the Tax Rate Impact Analysis "Eye Chart" which showed a \$300 million potential future bond program and then said TxDOT may not be ready for our major highway match funding until 2021. The Court has outsourced an economic study on US380, a traffic study on US380 and a north/south study. The Judge asked the Court to discuss what it should be doing in the meantime.

Commissioner Webb suggested the Court plan for \$400 million every five years assuming there will be a funding shortage of \$2 billion. In the last RTC (Regional Transportation Council) meeting, it was proposed that Collin County receive just under \$1 billion of the ten-year allocation funding. This represents just over 21% of the monies for the East Region and is approximately half a billion dollars more than what Denton County will receive. Much of this money is slotted for our major corridors, and the County needs to start moving on these. The money will start to appear within the next two years. Commissioner Webb feels the County needs to fund more of this which will increase the odds of receiving a bigger share of the funds. There was a brief discussion regarding funding.

Judge Self asked the Budget Office to redo the Eye Chart with better estimates on the interest rates to see how much we can bond and stay close to the \$0.055. Commissioner Webb would like to have projects shovel-ready for when the federal dollars start flowing so the funding doesn't all go to Dallas and Tarrant County shovel-ready projects.

Commissioner Williams said the Court and Planning Board should also consider projects that will help mitigate congestion other than just the LARs. Commissioner

Webb said the primary arterials that feed directly into the LARs are included.
(Time: 2:01 p.m.)

NO ACTION TAKEN

6. **AI-38983** North Central Texas Council of Governments (NCTCOG) Executive Board monthly update, County Judge.

Judge Self updated the Court on the last NCTCOG (North Central Texas Council of Governments) Executive Board meeting. The only item of interest was neither Collin County nor Denton County voted to join the Economic Development District in North Central Texas and therefore will not be represented on the Board. The Board will represent 6.8 million people. (Time: 2:02 p.m.)

NO ACTION TAKEN

7. **AI-33858** RTC monthly update, Commissioner, Precinct 4.

Commissioner Webb updated the Court on the last RTC (Regional Transportation Council) meeting. The big item on the agenda was the allocation of revenues for the Regional 10-Year Plan. Collin County ended up at just under \$1 billion slotted for the LARs corridors. Final approval will occur in December. The Commissioner is sending a letter saying thank you but we will need more money.

Next the RTC Legislative Program which looked identical to two years ago was approved.

The Council also entered into a data-sharing agreement with Waze. The Waze Connected Citizens Program is a transportation data-sharing partnership between public entities and Waze. The region will receive a feed of Waze's roadway incident and traffic jam information and share its road closure and major incident information with Waze. Waze gets their information faster than TxDot (Texas Department of Transportation) gets theirs. The Commissioner downloaded Waze and said it was impressive. It knew of a road blockage and gave three alternatives around it and calculated the fastest route.

Lastly, there was an information item regarding the official end of the Ozone Season, and this was the best year ever in terms of Ozone. We are in a declining trend and new car design seems to have made a huge impact as does rain and temperature.
(Time: 2:06 p.m.)

NO ACTION TAKEN

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

EXECUTIVE SESSION

Judge Self recessed Commissioners' Court into Executive Session at 2:06 p.m. under Paragraph 551.071, Legal in accordance with Local Government Code, to discuss the Indigent Legal Defense payment to Matthew Goeller and secondly to discuss GT Construction, Inc. vs. Collin County.

AI-42435 Indigent Legal Defense payment to Matthew Goeller Case No. 380-80686-99, Administrative Services.

Judge Self reconvened Commissioners' Court at 3:26 p.m. and asked for discussion on the Indigent Legal Defense payment to Matthew Goeller. Commissioner Williams would like to not pay this and move forward to challenge the item. Commissioner Webb agreed. Judge Self said the issue is what are the special exceptions and then he passed out four items to the Court. The first is the January 7th email to the District Judges that Bill Bilyeu, County Administrator, sent on the Court's behalf asking for guidance on their local rules. The second item is the April 18th email asking the District Judges for their interpretation of the local rules to which the Court received no response. The third item is an October 26th letter from Judge Self to Judge Gallagher asking for his help on the special exceptions. The fourth item is the November 3rd letter from Judge Gallagher responding to Judge Self's letter. Judge Gallagher cited a section of the Texas Code of Judicial Conduct and a section of the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas basically saying he will refrain from any comments. The operative paragraph states, "It is anticipated that the criminal cases involved in the State of Texas vs. Warren Kenneth Paxton, Jr. will be tried in the spring of 2017. It is my hope that you and the other members of Commissioners' Court respect my ethical obligations as referenced above."

This puts to bed the issue that the Court has not requested guidance on the special exceptions. A motion was made and seconded that the Court not pay the Matthew Goeller bill and proceed with challenging that bill as being outside the discretion of the judge that ordered it.

Commissioner Hill is pleased that his colleagues share his concern over the growing cost and exceptions to the Texas Fair Defense Act guidelines that were adopted in the County. He will vote no on this because the Commissioner feels this is the wrong bill to appeal and it fails three tests. Firstly, it fails the financial sense test. The Commissioner has been advised that it could cost upwards of \$100,000 to appeal this \$5,000 bill owed to Mr. Goeller. It fails the common sense test as well. The Commissioner does not think any of his colleagues would attest that this invoice is a reasonable or suitable surrogate for the real issue that is before the Court. The reality is we may be faced with the potential of a \$1 million to \$1.5 million invoice on another matter, and a \$5,000 invoice is not a reasonable surrogate. It does not allow us to test the limits of discretion. Thirdly, it fails the judicial limits test. The core underlying issue at hand is whether or not the judges have the discretion to approve additional payments and to what degree or amount.

Commissioner Hill said if the pending \$1 million to \$1.5 million invoice for the Attorney General issue and the \$5,000 invoice to Matthew Goeller were reversed, we would appeal the \$1 million to \$1.5 million invoice. We would not appeal the \$5,000 invoice regardless if that had to do with the Attorney General case. The Court would apply pressure where it is needed.

Judge Self said the citizens have demanded an answer to the special circumstances. The County has not received a bill in the case that Commissioner Hill cites for 10 months and there seems to be no bill on the horizon. Judge Self said special circumstances is a statewide issue, and we are asking for a judicial ruling of what is the limit of judicial discretion across the state. The Judge agrees that this is not a surrogate but rather a stand-alone statewide test of the judicial limits principle.

Commissioner Hill does not believe we will get the answer the citizens are looking for by using the Matthew Goeller case. Commissioner Williams said the principle remains the same regardless of the dollar amount. Does any single district judge have the authority to go outside of the fee schedule that they instituted? Does the special exceptions rule they have set up in their local rules violate the statute? A lengthy discussion ensued.

Commissioner Fletcher said she was conflicted after hearing advice in Executive Session and questioned, if the Court were to prevail on this issue, would that help us with the greater bill. And if it fails, would that affect the more egregious bill? With no further discussion, Judge Self asked for a vote to not pay this and challenge the item. (Time: 3:42 p.m.)

Motion by: Commissioner Cheryl Williams

Second by: Commissioner Duncan Webb

Vote: 3 – 2 Passed

Nay: Commissioners Chris Hill and Susan Fletcher

COURT ORDER NO. 2016-890-11-14

AI-42441 GT Construction, Inc. v. Collin County, Administrative Services.

NO ACTION TAKEN

With no further business of the Court, the meeting was adjourned at 3:42 p.m.



Keith Self

Keith Self, County Judge

Susan Fletcher

Susan Fletcher, Commissioner, Pct. 1

Not Present

Cheryl Williams, Commissioner, Pct. 2

Chris Hill

Chris Hill, Commissioner, Pct. 3

Duncan Webb

Duncan Webb, Commissioner, Pct. 4

ATTEST:

Stacey Kemp

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