

STATE OF TEXAS

COMMISSIONERS' COURT

MEETING MINUTES

COUNTY OF COLLIN

FEBRUARY 27, 2017

On Monday, February 27, 2017, 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 Webb led the Invocation.

Judge Self led the Pledge of Allegiance.

Commissioner Fletcher 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 2:20 p.m. The meeting was reconvened at 3:12 p.m. and adjourned at 3:51 p.m.

President Self called to order the meeting of the Collin County Health Care Foundation at 3:51 p.m. and adjourned the meeting at 3:51 p.m.

DECISIONS MANDATED BY LEGAL ENTITIES OUTSIDE OF COMMISSIONERS COURT AUTHORITY:

1. AI-42784 Purchase of a bed cover for Ranger Mankin's service vehicle as a donation to the Texas Rangers - Company B utilizing the District Attorney's State Forfeiture Fund and budget amendment in the amount of \$1,812 for same, District Attorney.

2. AI-42792 Budget amendment in the amount of \$2,266 to purchase a DJI Phantom 4 Quadcopter with 4K HD Camera, Batteries and Charging Hub utilizing the Drug Forfeiture Fund, Sheriff.

3. AI-42804 Personnel Changes, Human Resources.

FYI NOTIFICATION

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

2. Public Comments.

Jeremy Rosenthal, McKinney, came forward to speak on the FDA (Texas Fair Defense Act). Mr. Rosenthal is on the Board of Directors for the Texas Criminal Defense Lawyers Association. He has put the Board's Executive Director and Legislative Committee on notice to what is going on in Collin County regarding any attempt to change Article 26.05 of the Code of Criminal Procedure. In defense of the FDA he said the reason he suspects it exists is for the same reason the bean counters are not allowed in operating rooms, cockpits or allowed to call the shots in courtrooms. Money is secondary to the overall result. Indigent defense is not popular. Politically it is easy to beat up on and easy to cut. If the state adopts a measure giving direct control to Commissioners' Courts it will be easy for counties across the state whose Commissioners' Courts, other than the Commissioners of Collin County who are decent and fair, will grind indigent defense into dirt. Incarceration rates will go up across the state without indigent defense. Because counties get a free ride, maybe the answer would be for the Commissioners to pick up the tab at the TDC (Texas Department of Corrections) for more and more inmates if Article 26.05 is amended.

Judge Self asked what Mr. Rosenthal meant by "counties get a free ride". Mr. Rosenthal said, from his understanding, counties do not pay 100% of an inmate's stay at the state jail or the TDC.

Commissioner Hill asked who is actively working to amend Article 26.05. Mr. Rosenthal said the County has retained a law firm to inspect and/or challenge its constitutionality if necessary. Commissioner Hill said he is unaware of any discussion by the Court to amend Article 26.05. Commissioner Fletcher added, as a Commissioner she is required to follow the law and because she is not an attorney it is important to her to seek counsel from attorneys when needed. (Time: 1:36 p.m.)

Kristen O'Brien, Garland, came forward to request the indigent defense payments be released. Ms. O'Brien is a criminal defense attorney who has worked in indigent defense for the last 10 years. She said she does a good job keeping individuals out of jail or moving them out of jail quickly. She has an ethical and moral duty to do so. Ms. O'Brien moved countless cases last week not knowing if/when she would be paid. She is a single mother of two daughters and asked how she will support her family if her payment is not released. She said it is the government's job to make sure things are right and just. What is going on now is neither right nor just. (Time: 1:39 p.m.)

Bob Hultkranpz, McKinney, said the way the review of attorney payments was implemented was not thought out and the impact the decision would have was not considered. Mr. Hultkranpz does not believe there were any payments submitted for approval that were outside the parameters of the indigent defense system. If there were any, those should have been the only ones withheld. This isn't County CPS (Child Protective Services) or ad litem. Forty percent of the \$144,000 classified as indigent defense payments is for CPS cases.

It is not fair to lump together cases which go on for 18-months or more with three to four attorneys to those of attorneys with flat fees for all cases. Mr. Hultkranpz asked the Court to release the payments for February 20, 2017 and February 27, 2017.

Judge Self asked Mr. Hultkranpz if he would like the Court to try to change the law. Mr. Hultkranpz said when considering what is spent on indigent defense do not consider CPS cases because those are not criminal defense.

Commissioner Williams said she would like to release the payments which clearly meet the local rules; however, the County Auditor and the Board of District Judges have refused to provide the information needed to determine if the payments meet the standards. Commissioners Hill and Fletcher agreed with Commissioner Williams; backup information is needed to make a determination. (Time: 1:46 p.m.)

Katheryn Haywood, Allen, came forward to say she does not want to see Collin County become like Dallas County. There are more false convictions in Dallas County than any other county in the nation. Collin County is smaller, cleaner, more efficient and cares more about the constitution. She does not want to see second guessing of what due process means. In reference to an email sent out by Commissioner Susan Fletcher, Ms. Haywood agreed to everything the Commissioner said except for caps on indigent defense cases. Caps on these cases could be dangerous. For federal cases the cap is \$10,000 unless the case is so complicated or so burdensome that it requires going over that amount. The 5th Circuit Court of Criminal Appeals can go up to an unlimited amount. Ms. Haywood does not want to see a one-size fits all justice system. The quality of defense required to defend an unauthorized use of a motor vehicle case is very different than trying a child abuse case. She asked the Court to work with the District Judges and County Court at Law Judges. To her understanding some of the information required for payments is illegal to turn over such as expunctions. She feels criminal defense attorneys are an easy group to pick on because no one is behind paying for the defense of criminals. The quality of our county depends on the quality of those who practice in the least respected field of law.

Commissioner Fletcher said there was an option to her suggestion regarding a cap for indigent defense in the email. If there was a cap for indigent defense cases and a case had to go above the limit it would be nice if the Board of District Judges could, with a majority, vote to approve the increase rather than having to rewrite a plan for the case. She said the Court is not asking for information that is sensitive or illegal to release payments. The Commissioner wants to see a pay sheet to know the payments fit within the plan. Commissioner Williams added, the information requested is basic and the Court is not receiving it. (Time: 1:50 p.m.)

3. Presentation/Recognition:

- a. **AI-42801** Proclamation designating March 2017 as Procurement Month in Collin County, Purchasing.

Judge Self presented a proclamation to Michalyn Rains, Purchasing, recognizing March 2017 as Procurement Month in Collin County. The Judge expressed the Court's appreciation for the Purchasing Department's independence in the handling of the County dollars. (Time: 3:23 p.m.)

- 4. Consent agenda to approve:** Judge Self asked for comments on the remainder of the consent agenda. Hearing no comments, a motion was made to approve the remainder of the consent agenda. (Time: 3:24 p.m.)

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

- a. **AI-42766** Disbursements for the period ending February 21, 2017, Auditor.

Discussion began on the indigent defense bills held over from last week minus the non-criminal bills. The non-criminal checks have been cut. Jeff May, County Auditor, provided the Court with printouts of the non-criminal bills and the criminal bills. Mr. May said he had an attorney look over the information and continues to do so in order to make a recommendation on what the Auditor can and cannot release to the Court. The attorney recommended Mr. May inform the Court the list of bills are all within the exceptions of the fee schedule for the Indigent Defense Plan. Commissioner Williams asked how the Court is to know there are no judge's discretion exceptions on the list without information to prove so. Mr. May said he has checked and there are none on the list. Commissioner Hill asked if Mr. May is going to begin making the clarification to the Court on a regular basis letting the Court know where a judge has exercised discretion outside the fee schedule. Mr. May again said he is consulting his attorney on what information he can or cannot provide the Court. For cases that are not sealed Mr. May is required by law to determine if payments are owed by the County and legal. From what he can determine the payments fit within the current Indigent Defense Plan even with judge's discretion. As a result he has an obligation to present them to the Court. Mr. May understands the dilemma this places on the Court and hopes to have an answer on what can be provided within the week. He said there may need to be a clarification made to the law in some sort of fashion which is why he is consulting with an attorney.

Judge Self was satisfied Mr. May is moving toward what the Court needs if he can and recommended paying both lists from last week. Commissioner Hill provided the Court with a spreadsheet he created of invoices on the bills from the February 20, 2017 agenda which was given to Court members after the meeting last week. He is prepared to support paying those bills because they are all within fee schedule proper.

However, the Commissioner is not prepared to support the bills from now on without backup information. Commissioner Williams said the Auditor may not have intended to provide the information and may not provide it in the future. As long as this type of information is provided the Commissioner will support paying the items which meet local rules. Commissioner Hill added when the requested information is provided the approval process is easy, but until the Court knows the payments are within the plan a decision cannot be made.

A motion was made to approve both lists of indigent defense payments; \$24,950 – criminal and \$36,551.22 – non-criminal for the period ending February 14, 2017. (Time: 2:01 p.m.)

Motion by: Judge Keith Self

Second by: Commissioner Susan Fletcher

Vote: 5 – 0 Passed

COURT ORDER NO. 2017-133-02-27

Mr. May pulled check number 451246 payable to Katheryn Haywood and check number 451430 payable to Vanita Parker for the period ending February 21, 2017. These will be put on a future court agenda. Mr. May stated the remainder of the disbursements are within the fee schedule of the Indigent Defense Plan and did not have any judge's discretions; therefore, he asked for the Court to approve the disbursements. A motion was made to approve the payment of the indigent defense disbursements excluding the payment for Katheryn Haywood and Vanita Park for period ending February 21, 2017.

Following the motion, discussion continued on the Court needing information to prove all disbursements are within the Indigent Defense Plan. There was concern the resolution passed two weeks ago would need to be changed if these disbursements are approved without supporting information. Judge Self does not believe the resolution needs to be changed simply because the Court is working through this process with the Auditor and the Judges. Commissioner Webb will be willing to support the approval of the disbursements with the understanding that action will move forward to get the legal questions resolved. If action does not move forward he will not support future disbursements. Commissioner Hill does not want to force the Auditor's hand and would rather work together to find a compromise. With that said, the Commissioner recommended holding the disbursements until next week to get the information needed. With no further discussion, the motion carried. (Time: 2:18 p.m.)

Motion by: Commissioner Susan Fletcher

Second by: Judge Keith Self

Vote: 3 – 2 Passed

Nay: Commissioner Chris Hill and Commissioner Cheryl Williams

COURT ORDER NO. 2017-134-02-27

During the consent agenda the Court approved the remainder of the disbursements for the period ending February 21, 2017.

COURT ORDER NO. 2017-135-02-27

b. **AI-42705** Tax refunds totaling \$1,446,965.91, Tax Assessor/Collector.

COURT ORDER NO. 2017-136-02-27

c. **Receive and File, Auditor:**

1. **Final Audit Result(s):**

a. **AI-42785** Animal Services (1st & 2nd Quarter FY2015).

COURT ORDER NO. 2017-137-02-27

b. **AI-42787** Justice of the Peace, Precinct 2 (3rd & 4th Quarter FY 2015).

COURT ORDER NO. 2017-138-02-27

c. **AI-42788** Justice of the Peace, Precinct 3-1 (3rd & 4th Quarter FY2015).

COURT ORDER NO. 2017-139-02-27

d. **AI-42786** Justice of the Peace, Precinct 1 (4th Quarter FY2015).

Judge Paul Raleeh, Justice of the Peace, Precinct 1, came forward to explain two audit findings. The first was a \$0.10 fee not collected on some cases which amounted to \$300 not collected. This was a new fee for a moving violation that does not exist. The complication came in when police officers were writing tickets for expired driver's licenses which is not a moving violation. There is no statute in the transportation code for an expired driver's license. What was done to fix the issue was the implementation of an automated system. Police officers can no longer write in the title of the arrest, they must select the proper title on the automated system.

The second finding was being overpaid \$80 for a civil suit. This actually was not Precinct 1's issue. When a plaintiff wins a lawsuit, the defendant has to pay them. In this case the plaintiff could not be located; therefore, the defendant paid the money to the court. The court put the money in escrow in hopes the plaintiff comes to collect. If not, the money is turned over to the Treasury Department and then is sent to the state. (Time: 2:20 p.m.)

COURT ORDER NO. 2017-140-02-27

e. **AI-42789** Justice of the Peace, Precinct 3-2 (4th Quarter FY2015).

COURT ORDER NO. 2017-141-02-27

d. Miscellaneous

1. **AI-42799** 2016 Grant Adjustment Notice for the FY2016 UASI DFWA LETPA Grant through the Office of the Governor, Homeland Security Grants Division to move funds to the appropriate budget line items for a position change of one (1) Research Specialist to a Research Analyst, Fusion Center.

COURT ORDER NO. 2017-142-02-27

2. **AI-42805** Personnel Appointments, Human Resources.

COURT ORDER NO. 2017-143-02-27

3. **AI-42806** Personnel Changes, Human Resources.

COURT ORDER NO. 2017-144-02-27

GENERAL DISCUSSION

5. **AI-42717** **Public Hearing** – Placement of regulatory signs on various County Roads, Public Works.

Jon Kleinheksel, Public Works, came forward to request a public hearing for the placement of regulatory signs on county roads. Judge Self pulled three roads on the list which all have good to some restricted visibility, no accidents and low traffic counts. The Judge asked with those factors why stop signs are necessary. Mr. Kleinheksel said Public Works takes an overall approach to low volume roads looking at sightlines, schools, road alignment, curves, posted signs, visibility, type of road and eventual traffic development. We have 20-feet in the prescriptive easement and always try to err on the side of caution. Judge Self asked how many of the three-way stops do not have stop signs. Mr. Kleinheksel said most all have stop signs. Judge Self opened the public hearing at 3:27 p.m. and asked for comments. Hearing none, the Judge closed the public hearing at 3:27 p.m. A motion was made to approve the item. (Time: 3:27 p.m.)

Motion by: Commissioner Duncan Webb

Second by: Commissioner Susan Fletcher

Vote: 5 – 0 Passed

COURT ORDER NO. 2017-145-02-27

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

Judge Self gave a brief update on two items discussed at NCTCOG (North Central Texas Council of Governments) Executive Board meeting. The first was a resolution authorizing the agreement with the City of Dallas and Dallas County concerning the FY2017 Highway Traffic Patrol Program.

This is a \$6.6 million program; \$3 million from the RTC (Regional Transportation Council); \$3 million from Dallas County and \$600,000 from Dallas to allow the Dallas County Sheriff's Office to patrol the limited access highways in Dallas County. Commissioner Webb believed the \$3 million from the RTC was actually CMAQ (Congestion Mitigation and Air Quality Improvement Program) dollars. Judge Self said Collin County should possibly consider this program. The second item was the modifications to the FY2016 and FY2017 Unified Planning Work Program for the Regional Transportation Planning. Judge Self said he questioned the modification amounts for the planning document because they were so small compared to the billions the region spends on transportation. The Director of Transportation said the Executive Board does not get all the information. Judge Self believes the Director is going to begin providing the Executive Board more information on transportation. (Time: 3:30 p.m.)

NO ACTION TAKEN

7. AI-42580 85th Legislative Agenda for 2017, Commissioners Court.

a. **AI-42826** Collin County Judge Input for Feb. 23 Hearing on Indigent Defense Funding, County Judge.

Because the hearing on indigent defense was held midweek, with no time for the Court to discuss the matter, Judge Self sent a letter to the Texas House Appropriations Committee. The Judge said the letter has been translated into a resolution should the Court choose to pass it putting the weight of the Court behind it. With no further discussion, a motion was made to approve the resolution. (Time: 3:31 p.m.)

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

COURT ORDER NO. 2017-146-02-27

b. **AI-42825** SB 2 Ad valorem taxation.

Commissioner Hill said there is frenzy within the CUC (Conference of Urban Counties) and across the state opposing the property tax reforms especially at the local government level. The Commissioner is not sure that Collin County would be affected at the county government level because the Court continues to lead the way on being responsible at cutting county tax rates. He said it would be helpful for the Court to provide a voice on the other side of the discussion.

Judge Self stated the draft resolution is non-emotional, factual, does not cap on anything and shows transparency. A local election would have to be held. It is noted in the resolution that a uniform election date will be required. This is very important because a standalone election would cost almost \$500,000 and it may not provide the desired input due to low voter turnout.

Commissioner Fletcher was concerned with the unfunded mandate portion. There needs to be some language in the resolution that if the state continues to pass down additional mandates those mandates be exempt from the formula.

Commissioner Webb was concerned with the County's growth and the number of services the County has to provide along with trying to self-fund transportation infrastructure. He does not want to see the County in a situation of having to have a vote on an annual basis. It may become difficult to educate the citizens on needs of the County. Judge Self said this bill does not limit the County. Commissioner Hill said there is pressure on a fast growing county like Collin County. The budget will need to be increased and more resources provided as the County grows. The Commissioner is comfortable with SB2 because there are two relief measures inherent in the bill. First, the effective rate does not capture all the new property growth; therefore, the County is given the freedom to take all the new revenue without a cap. Second, if any local government felt like their situation is so significant they had to go beyond the cap all they have to do is get the taxpayers paying the bill to vote to approve it. Discussion continued.

Judge Self and Commissioner Williams agreed with Commissioner Fletcher regarding unfunded state mandates. Commissioner Fletcher recommended adding the following language to the resolution: *Collin County recognizes the burden of unfunded mandates placed on local governments. We hereby request an amendment that would require any unfunded mandates to be exempt from the formula used to determine budget growth.* The Court agreed. With no further discussion, a motion was made to approve the resolution supporting the Texas Property Tax Reform and Relief Act of 2017 with the additional language. (Time: 3:44 p.m.)

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

COURT ORDER NO. 2017-147-02-27

c. **AI-42824** SB 292 Creation of a grant program to reduce recidivism, arrest, and incarceration of individuals with mental illness.

Commissioner Williams said she will draft a resolution supporting this effort for the March 6, 2017 meeting. (Time: 3:45 p.m.)

NO ACTION TAKEN

Commissioner Williams said Senator Van Taylor has legislation requiring the Tax Assessor-Collector to collect for the NTTA (North Texas Tollway Authority) and other entities. It would be good for the Court to provide support for that effort. A proposed resolution will be on the next Court agenda. Commissioner Williams would also like to find someone to address the guardian ad litem payment structure because those costs have dramatically increased. (Time: 3:51 p.m.)

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

Judge Self added HJR73 to the March 6, 2017 agenda. (Time: 3:51 p.m.)

EXECUTIVE SESSION

Judge Self recessed Commissioners' Court into Executive Session at 2:20 p.m. under Paragraph 551.071, Legal to discuss the Collin County Felony Indigent Defense Plan.

Judge Self reconvened Commissioners' Court at 3:12 p.m.

Legal (551.071)

AI-42712 Collin County Felony Indigent Defense Plan and Texas Local Government Code Sec. 74.093, Commissioners Court.

Without violating attorney-client privilege, Judge Self said two issues were discussed in Executive Session: 1) the exception the Court believes is not found in the FDA (Texas Fair Defense Act); and 2) asking the Auditor to provide enough information so the Court can determine to pay attorney bills under the FDA. The Judge asked for comments from the Court.

Commissioner Webb would like to move forward with a lawsuit against the Auditor to find out if he can provide the information the Court requested and to also move forward in determining whether or not broad-based exceptions are legal. Commissioner Williams agreed. She supports taking measures to reach an agreement on information but in the event an agreement is not reachable she supports empowering the Court's attorney to move forward with a lawsuit.

Commissioner Hill said the Court needs to know if judges have unlimited discretion under the Code of Criminal Procedure to pay attorneys what they deem fair. In looking at the statute the answer is not there. Because we as the Court do not believe we have the authority to release money from the Treasury based on broad-based exceptions not found in state law we need to know if we are required to do so. Before legal action is taken the Commissioner would like to move forward with a voluntary agreement with the Auditor, without violating any of the Auditor's rules or requirements as he fulfills his constitutional duty, giving the Court minimal information needed to fulfill the Court's constitutional duty. Also there needs to be an agreement with the District Judges and County Court at Law Judges on whether or not the broad-exception clause is going to be utilized. The District Judges of Collin County changed their rules and have taken the broad-exception clause out of their rules. The Commissioner would like to see the same step taken by the County Court at Law Judges to keep moving ahead in agreement on these issues.

Judge Self stated the Auditor certifies every bill the Court pays, but for every other bill, the Court has the ability to hold discussions on whether to pay. In this case the Court does not have that ability. With no further discussion, a motion was made to give the Court's attorney the opportunity to negotiate with the County Auditor, the County Court at Law Judges and the District Court Judges. In the event the negotiations are not fruitful the attorney is authorized to move forward with any legal action necessary to resolve the two issues.

Following the motion and a second Commissioners Hill and Fletcher said they would like to hold the action to sue until the Court can discuss the results of the attorney negotiations. Judge Self offered an amendment to the motion: if the negotiations are not fruitful the attorney is authorized to prepare legal documents for the Court's approval at the next Court meeting. The amendment to the motion was accepted and the motion carried. (Time: 3:21 p.m.)

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

COURT ORDER NO. 2017-148-02-27

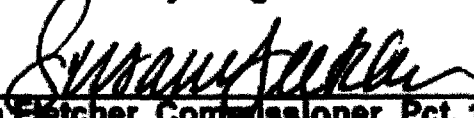
There being no further business of the Court, Judge Self adjourned the meeting at 3:51 p.m.



ATTEST:


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


Keith Self, County Judge


Susan Fletcher, Commissioner, Pct. 1


Cheryl Williams, Commissioner, Pct. 2


Chris Hill, Commissioner, Pct. 3


Duncan Webb, Commissioner, Pct. 4