

State Of Texas	§	Court Order
Collin County	§	2019-xxx-06-10
Commissioners Court	§	

An order of the Commissioners Court approving the filing of the May 7, 2019 Minutes.

On Tuesday, May 7, 2019, 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 Chris Hill
 Commissioner Susan Fletcher, Precinct 1
 Commissioner Cheryl Williams, Precinct 2
 Commissioner Darrell Hale, Precinct 3
 Commissioner Duncan Webb, Precinct 4

Commissioner Hale led the Invocation.
 Judge Hill led the Pledge of Allegiance.
 Commissioner Fletcher led the Pledge of Allegiance to the Texas Flag.

1. Judge Hill called to order the meeting of the Collin County Commissioners Court at 9:30 a.m. and recessed the meeting at 11:45 a.m. The meeting was reconvened at 11:56 a.m. and adjourned at 1:21 p.m.

President Hill called to order the meeting of the Collin County Health Care Foundation at 1:21 p.m. and adjourned the meeting at 1:21 p.m.

DECISIONS MANDATED BY LEGAL ENTITIES OUTSIDE OF COMMISSIONERS COURT AUTHORITY:

1. AI-46424 Amendment No. 4 to CSCD, Sex Offender Counseling (RFP No. 2016-290) with Fletcher Counseling, Inc., LSOTP to increase the contract amount effective September 1, 2018 through and including August 31, 2019, Adult Probation.
2. AI-46440 Donation of \$2,000 to Hope's Door utilizing the District Attorney State Forfeiture Fund, District Attorney.
3. AI-46480 Personnel Changes, Human Resources.

FYI NOTIFICATION

1. AI-46449 Pre-Trial Release Bond Office 2018 Annual Statistical Summary, Sheriff.

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

3. AI-46456 Turnover, Human Resources.

4. AI-46457 Volunteer Terminations, Human Resources.

5. **Notification of budget adjustment(s)/amendment(s), Auditor:**

a. AI-46452 \$1,140 to State Forfeiture Funds (1036) for Patrol Equipment, Sheriff.

2. **Public Comments.** Public comments were heard under General Discussion item 5.

3. **Presentation/Recognition.**

Judge Hill and the Commissioners joined in recognizing Sheriff Jim Skinner and the adult and juvenile detention officers and employees of Collin County and issued a proclamation declaring May 5-11, 2019, Detention Officer and Employees Week in Collin County. (Time: 9:35 a.m.)

Sheriff Skinner recognized a special guest, Sheriff Mark Lamb, Pinal County, Arizona. Sheriff Skinner and Sheriff Lamb work together on the Criminal Highway Interdiction Program. (Time: 9:36 a.m.)

4. **Consent agenda to approve:** Judge Hill pulled check number 489877 payable to Marc Fratter from item 4b for separate consideration and asked for comments on the remainder of the consent agenda. Commissioner Fletcher pulled item 4k3 for recusal. Commissioner Hale also pulled item 4k3 for discussion. Hearing no further comments, a motion was made to approve the remainder of the consent agenda. (Time: 9:37 a.m.)

Motion by: Commissioner Duncan Webb

Second by: Commissioner Cheryl Williams

Vote: 5 – 0 Passed

a. AI-46443 Disbursements for the period ending April 30, 2019, Auditor

COURT ORDER NO. 2019-320-05-07

b. ~~AI-46444~~ Indigent Defense Disbursements, Auditor

Judge Hill said the check payable to Marc Fratter is subject to the agreement Mr. Fratter made with Collin County. Mr. Fratter is to pay back funds in the amount of \$140,000. The check will be remitted to the County Treasury on behalf of that obligation. A motion was made to approve the item. (Time: 9:38 a.m.)

Motion by: Judge Chris Hill

Second by: Commissioner Cheryl Williams

Vote – 5 – 0 Passed

COURT ORDER NO. 2019-321-05-07

c. ~~AI-46395~~ Tax refunds totaling \$350,089.68, Tax Assessor/Collector.

COURT ORDER NO. 2019-322-05-07

d. Advertisement(s):

1. ~~AI-46435~~ Construction, Reroof Collin County 920 E. Park Blvd., Plano (IFB No. 2019 183), Construction & Projects.

COURT ORDER NO. 2019-323-05-07

2. ~~AI-46459~~ GPS Offender Monitoring (RFP No. 2019-169), Sheriff.

COURT ORDER NO. 2019-324-05-07

3. ~~AI-46390~~ Construction, Road: Collin County Outer Loop Access Road from Dallas Parkway to East of SH 289 (IFB No. 2019-109), Special Projects.

COURT ORDER NO. 2019-325-05-07

e. Award(s):

1. ~~AI-46428~~ FireEye Security Appliance, Dynamic Threat Intelligence Subscription License and Extended Service Agreement (Coop Quote No. 2019-156) to Set Solutions, Inc., Information Technology.

COURT ORDER NO. 2019-326-05-07

2. ~~AI-46415~~ Liquid Asphalts (IFB No. 2019-114) to various vendors, Public Works.

COURT ORDER NO. 2019-327-05-07

3. AI-46396 Liquid Asphalt Application Services (IFB No. 2019-106) to Tommy G. Rose dba Rose contracting, Public Works.

COURT ORDER NO. 2019-328-05-07

4. AI-46419 Vehicle, 12 Passenger Van (Contract No. 2019-197) through the Goodbuy Cooperative Contract to Lake Country Chevrolet, Inc., Public Works.

COURT ORDER NO. 2019-329-05-07

5. AI-46423 Vehicle, F250 Truck (Contract No. 2019-200) through the Goodbuy Cooperative Contract to Silsbee Ford, Inc., Public Works.

COURT ORDER NO. 2019-330-05-07

6. AI-46418 Vehicle, F350 Truck (Contract No. 2019-206) through the Goodbuy Cooperative Contract to Silsbee Ford, Inc., Public Works.

COURT ORDER NO. 2019-331-05-07

7. AI-46450 Body Armor, Carriers, and Plates (Contract No. 2019-218) through the Buyboard Cooperative Contract to GT Distributors, Inc., Sheriff.

COURT ORDER NO. 2019-332-05-07

f. Agreement(s):

1. AI-46434 Interlocal Cooperation Agreement with the Town of St. Paul for Fire Inspection and Fire Plan Review Services for Commercial Buildings effective October 1, 2019 through and including September 30, 2020, Fire Marshal.

COURT ORDER NO. 2019-333-05-07

2. AI-46406 Interlocal Agreement with Ellis County per Texas Government Code 791.001-791.029, Purchasing.

COURT ORDER NO. 2019-334-05-07

3. AI-46239 Master Intergovernmental Cooperative Purchasing Agreement with National Intergovernmental Purchasing Alliance Company d/b/a Omnia Partners Public Sector and further authorize the Purchasing Agent to finalize and execute same, Purchasing.

COURT ORDER NO. 2019-335-05-07

g. Amendment(s):

1. AI-46401 Amend the Tyler Technologies Master Services Agreement to add Odyssey Jury Software Module and authorize the Purchasing Agent to finalize and execute same, Information Technology.

COURT ORDER NO. 2019-336-05-07

h. Change Order(s):

1. AI-46460 No. 4 to Construction, Road: Dallas North Tollway Southbound Frontage Road, US 380 to FM 428 (IFB No. 2018-203) with Mario Sinicola & Sons Excavating, Inc. to add improvements to First Street in Prosper and further authorize the Purchasing Agent to finalize and execute same, Special Projects.

COURT ORDER NO. 2019-337-05-07

i Budget adjustment(s)/amendment(s):

1. AI-46433 \$10,282 to establish a budget for Fund 1998 (Veterans Court) for FY2019, 296th District Court.

COURT ORDER NO. 2019-338-05-07

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

1. AI-46420 April 8, 2019.

COURT ORDER NO. 2019-339-05-07

2. AI-46453 April 15, 2019.

COURT ORDER NO. 2019-340-05-07

k. Miscellaneous

1. AI-46442 Amend the FY2019 Fee Schedule to include Alternative Dispute Resolution System fees for Civil Cases (CCP 152.004(a)) not to exceed \$15 and Criminal Cases (CCP 152.007(a)) not to exceed \$350, District Clerk.

COURT ORDER NO. 2019-341-05-07

2. AI-46455 Amend the FY2019 Fee Schedule to include Alternative Dispute Resolution System fees for Civil Cases (CPRC 152.005) not to exceed \$5 and Criminal Cases (CPRC 152.007) not to exceed \$350, Justice of the Peace, Precinct 1.

COURT ORDER NO. 2019-342-05-07

3. **AI-46463** Amended list of equipment manufacturers for IT procurement standards, Information Technology.

Commissioner Hale said nowhere else in the policy is a previous resolution or court order reference except for in the Watchguard Video section. He asked if the court order was referenced because IT wanted it referenced or because it was mandated to IT by the Court. Caren Skipworth, CIO, said the reference to the court order is in the policy because IT went out for an RFP (Request for Price) and Watchguard Video was awarded an IT project. Ms. Skipworth said technology standards generally change quarterly depending on the projects for the fiscal year; therefore, the list is brought to Court often. With no further discussion, a motion was made to approve the item. Commissioner Fletcher did not participate in the vote. (Time: 9:39 a.m.)

Motion by: Commissioner Darrell Hale

Second by: Commissioner Cheryl Williams

Vote: 4 – 0 Passed

Abstained: Commissioner Susan Fletcher

COURT ORDER NO. 2019-343-05-07

4. **AI-46467** Redesignation of Private Road 5670 to Kim Ct with associated address updates, GIS/Rural Addressing.

COURT ORDER NO. 2019-344-05-07

5. **AI-46478** Termination of contract for Kitchen Equipment for Collin County Jail (IFB No. 2018-102) with 1st Choice Restaurant Equipment & Supply, LLC, Purchasing.

COURT ORDER NO. 2019-345-05-07

6. **AI-46481** Personnel Appointments, Human Resources.

COURT ORDER NO. 2019-346-05-07

7. **AI-46482** Personnel Changes, Human Resources.

COURT ORDER NO. 2019-347-05-07

GENERAL DISCUSSION

5. **AI-46470** US Highway 380 Preferred Alignment, County Judge.

Kathy Seei, Prosper, came forward to speak on the US 380 alignment. Ms. Seei worked for AECOM who did studies for this project. AECOM is a unique company composed of architects, engineers and forward thinkers who helped invent the integrated building model of design build. She said engineers are trained

to make decisions based on what's known in the present; architects and scientist focus on the future. What is known appears to be financially expedient in the present, but not in the future. Ms. Seei said it's possible that transportation of today will be transitioning to the transportation of the future when the roadway is built out. If so, planning to lay more concrete at the expense of one of the most beautiful areas in Collin County will look foolish in the future as will all the engineering dollars spent to plan for this roadway. She urged the Court to listen to Mr. Perryman and to keep US 380 on its current alignment.

Jerry Brown, McKinney, came forward to address the Court. It was his understanding that TxDOT (Texas Department of Transportation) has decided to exit on US 380 east of Tucker Hill. This was pleasing to him because he is a resident of Walnut Grove. Mr. Brown said the McKinney City Council and TxDOT have sat on their hands for years. A lot of this could have been dealt with prior to traffic becoming heavy and McKinney bringing in businesses like Costco, Kroger and many others. He penned a letter to the McKinney City Council on this subject and asked what their excuse is on this heavy traffic. He hopes the decision made by TxDOT will alleviate some of the traffic.

Tara Voigt, McKinney, opposes a US 380 bypass. Ms. Voigt quoted Joshua 1:9 and said the bypass will soon take her home. In March Ms. Voigt was among others who went to Austin to be heard at the state level with TxDOT. More than being heard they were educated on state safety. She said it has been over 20,000 days since Texas went without one fatality on Texas roads. From January to March of this year there were 3,700 fatalities with a majority occurring in DFW and surrounding areas. She was shocked when the Red A alignment was back on the table due to the west dropdown which appears to make a 90-degree angle. She questioned the safety of this angle. Ms. Voigt doesn't believe TxDOT has truly looked into the Perryman study and feels people are looking at the bypass versus the Green route as dollar signs. The Perryman study has fiscal and annual benefits of over \$1.6 billion in one year. This would make up for the cost of the project with \$1.6 billion continuing year after year. The Denton bypass happened and is rarely used because the shortest distance between two lines is a straight line. People would rather sit in traffic than going up and out of their way. Ms. Voigt compared this situation to the movie Cars and said she has a problem with bypassing the business who chose to stay on US 380.

Ron Justice, Prosper, came forward. Mr. Justice said not fixing US 380 is ridiculous. The decisions McKinney has made and continues to make on US 380 are ridiculous. As a native Texan, Mr. Justice hopes the Court has the political will to pass their resolution. The resolution represents Collin County not McKinney. He believes McKinney are bullies and will continue to bully this project along to get their wishes.

Jenny Gosser, McKinney, filled out a blue card opposing the US 380 bypass, but chose not to speak.

Jason Blake, McKinney, said this process has been a long saga. TxDOT has made the call and there is concern that a Court vote against the bypass will later be changed. Residents are stuck not knowing if the

Court can do other things and whether those things can be effective. Even if things are settled here today the residents are still in limbo. Mr. Blake asked the members of the Court to share their plans.

Judge Hill reminded the audience the Court considered a motion three weeks ago to adopt a resolution. The resolution was pulled back in order to hear what McKinney supports and opposes. The Court has heard from McKinney and TxDOT and the Judge believes it is a good time to move forward to discuss what position the Court will take. The Court has done an excellent job of leading through the difficult decisions related to transportation. It was the Court, several years ago, that first said there is not a regional solution for the coming population for transportation. He said the cities and towns have not adequately prepared, but there must be a regional solution and the Court must push in that direction.

Judge Hill put forth a resolution for approval. The proposed resolution the Judge presented had some adjustments made from the one in the public court packet which were denoted in red. He said the Town of Prosper unanimously oppose the Red B alignment and the Red E alignment. Prosper ISD (Independent School District) unanimously oppose the Red B alignment and the Red A alignment. The City of McKinney unanimously oppose the Red A alignment. He said all the Red alignments going through the various towns are unanimously opposed by those towns. Judge Hill said the Court is looking for one city or town to say what they do support within their jurisdiction. Prosper supports the Green alignment through their jurisdiction. McKinney has not yet said what they support in their jurisdiction. The Judge has heard the suggestion that the route should go outside everyone's jurisdiction, putting it on those in the unincorporated area which is the community of Walnut Grove.

Judge Hill read aloud several lines of the proposed resolution:

WHEREAS, the Prosper Independent School District, in a resolution adopted unanimously on October 15, 2018, expressed its strong opposition to the Red A alignment and the Red B alignment; and

WHEREAS, the Prosper Town Council, in a resolution adopted unanimously on March 26, 2019, expressed its strong opposition to the Red B alignment and the Red E alignment; and

WHEREAS, the McKinney City Council, in a letter from the mayor on April 24, 2019, expressed its unanimous opposition to the Red A alignment; and

WHEREAS, the proposed bypass alignments that bisect the Walnut Grove community are more destructive and more harmful than the Red A alignment, the Red B alignment, and the Red E alignment.

Now, therefore, be it resolved that the Collin County Commissioners Court:

Section 1 In agreement and solidarity with the Prosper Independent School District, opposes the Red A alignment and the Red B alignment; and

Section 2 In agreement and solidarity with the Town of Prosper, opposes the Red B alignment and the Red E alignment; and

Section 3 In agreement and solidarity with the City of McKinney, opposes the Red A alignment; and

The Judge said if the towns and cities are not going to support routes in their town or city then he is going to join them in that, but he will also oppose the proposed bypass alignment that bisects the Walnut Grove community which is stated in Section 4 of the proposed resolution.

Judge Hill went on to read aloud the following sections of the proposed resolution:

Section 5 Supports the current (Green) alignment between the Denton County line and FM 1827 as the best option for a freeway in the US 380 corridor; and

Section 6 Urges TxDOT to join the Collin County Commissioners Court in supporting the current (Green) alignment between the Denton County line and FM 1827...

The Judge said TxDOT recommends the Red A alignment and the Court has seen TxDOT's presentation. He referred to slide 20 of the TxDOT presentation which shows that the Red A alignment is only superior to the Red B alignment in one out of 13 criteria. In five they are equivalent and in seven the Red B alignment is equivalent to the Red A alignment. TxDOT's own data shows the Red B alignment to be superior to the Red A alignment. Judge Hill pressed TxDOT on this in the elected official briefing he attended and he believes TxDOT expects the Red A alignment will fail. The City of McKinney is very aware the Red A alignment is inferior to the Red B alignment and will completely oppose every effort to build the Red A alignment.

The Town of Prosper knows the Red B alignment is superior to the Red A alignment and is carefully looking for ways to protect the Red B alignment from becoming the new preferred route when the Red A alignment fails.

The Judge also shared slide 22 of the TxDOT presentation outlining why TxDOT chose the Red A alignment. The Red A alignment affects fewer acres of planned development. The Red A alignment does not go through an existing neighborhood or through an existing commercial area. Judge Hill said the one factor TxDOT hung their hat on is that the Red A alignment does not impact/displace ManeGait Therapeutic Horsemanship. He said this is very noble of TxDOT, but if their data shows the Red A alignment to be inferior to the Red B alignment which immediately got people thinking how to get the nonprofit out of the way. He said ManeGait did not ask to be in the center of the controversy.

The Judge fears this is moving into a new phase where everyone will continue to talk about what they are against and will double down and fight about what they are against. It is time to be for something and not against everything. He reread Sections 5 and 6 of the proposed resolution and said he realizes it is the most expensive and the most difficult route, but does not believe the Red A alignment was ever going to be built nor the Red B alignment. That is unless and until one of these cities decides they are going to support the route in their own jurisdiction.

Commissioner Webb will not support the resolution. He is interested in a freeway through the US 380 corridor and does not care where it goes. It is up to the jurisdictions, impacted along the corridor, and TxDOT to come up with the solution. That does include the Court because the County has unincorporated areas that could be impacted. To the extent of those areas, the Court does have a voice in the solution. The Commissioner said if someone doesn't show the leadership to try to bring the parties together to work this out the County will be like Sunnyvale was with US 190. For 20 years US 190 didn't get improved because jurisdictions couldn't reach an agreement. Ultimately, the George Bush Turnpike was built. The Commissioner is very concerned because this County doesn't have 20 years to deal with this. He said even if everyone is on board tomorrow, the earliest we would see concrete will be eight to ten years. The earliest this whole thing will work from west to east is 20 years. Commissioner Webb believes the County is the appropriate party to take the leadership role in getting all parties together. The worst thing that could occur would for this to just sit with no solution.

Commissioner Webb said he can't support the Green alignment at this time because of a letter Raytheon sent to the City of McKinney. Raytheon opposes the Green alignment and threatened to leave McKinney if it is chosen. Raytheon is the largest employer in McKinney employing 3,500 people. The Commissioner said the Green alignment will cost \$2 – \$2.2 billion. That is \$1 billion more in taxpayer money than the next solution. The Commissioner referenced a letter the Court received today from the mayor of McKinney. The letter said to not mistake their opposition of the Red A alignment as being in favor of the Green alignment. McKinney is not in favor of the Green alignment because of Raytheon. He said if Raytheon could be tweaked, then the Green alignment would be the best route, but if we can't get Raytheon to back off then we will have to go a different way.

From the Commissioner's prospective the bigger issues are going to be east of US 75 because there are no solutions to solve those issues. He wants the County to be the one to push to bring the parties together because the worst of all worlds is to continue to stagnate and not reach an agreement. The environmental process generally takes two to four years. If this continues to stagnate the process will be just like Sunnyvale. The Commissioner is working on arranging meetings with Raytheon and other parties to see what can be done to solve the issues.

Judge Hill said the Commissioner made valid points and agreed someone needs to step up to be the leader. McKinney needs to tell the Court what alignment they do support in their jurisdiction. The Judge

doesn't want to continue to wait for them to decide, he wants to lead and show support for something. He has and will continue to take the position that he will support what the cities want in their jurisdictions.

The Judge agrees with Commissioner Webb on Raytheon. It is a significant issue and not to be taken lightly. Raytheon has sent a letter stating concerns about the safety and security of their campus which needs to be taken seriously. TxDOT has responded with the Green North Shift alignment moving totally off the Raytheon campus and says they can mitigate Raytheon's concerns. This would eliminate the \$1 billion to buyout Raytheon.

Judge Hill proposed an additional section to the resolution that read:

Section 7 Urges TxDOT to mitigate the concerns of Raytheon in McKinney in the development of the current (Green) alignment.

Commissioner Hale seconded the motion. The Commissioner believes passing the resolution is taking a leadership position. In the letter from McKinney it said they would consider the Green alignment if Raytheon's issues are mitigated. By going with the Green alignment it keeps things going at a quicker rate because the EIS (Environmental Impact Study) will be much smaller and much more limited resulting in a shorter timeframe for the assessment phase for much of US 380.

Commissioner Fletcher said there have been good comments today and she respects her colleagues on their positions. The Commissioner spoke out on the issue two months ago and was told not to speak. She felt it was her right to speak and as a stakeholder it was a period of time when TxDOT was still taking information. There was still the opportunity to weigh in and she was willing to go that route alone if needed. Of all the comments she received from 2015 – 2018, 99% were all in favor of the Green alignment. Things changed in 2019 with homeowner groups and associations forming and getting very involved in the process. She said this is a very difficult and divisive issue for the County. Two weeks ago she seconded the motion put forth by Commissioner Hale and after discussion of the Court the motion was pulled back. The last thing she wants to do is lose momentum in this project. Doing nothing is not an option. Commissioner Fletcher said we have to respond to the growth; we can't just react to it. We have to look long-term and make decisions that will impact the community three decades down the road. If there isn't a true east west corridor, that is not a freeway. And without traffic control the County will be in a world of hurt.

Commissioner Fletcher said TxDOT is coming from an unemotional perspective. Over 120 engineers over two years took time to look at this and put forth the best option. She is thankful they took input from citizens. To date they have taken in over 15,000 comments and are still taking them. Yesterday, like her colleagues, she attended one of the TxDOT briefings on US 380. She said the content was both

materially and figuratively the same and was also presented at the courthouse for the public. She is also aware that TxDOT has been very clear the Green alignment will not pass the EIS. TxDOT is not going to completely change their mind. Passing a resolution at this point will create false hope. She does not want to lose ground with this resolution and delay the process creating a situation like US 190. The Commissioner said she cannot in good faith vote for this resolution even though she is very much in favor of a Green alignment.

She would prefer it to come from TxDOT, but she was assured in the briefing a Green alignment will not pass the EIS. The Red A alignment is not the Commissioner's preferred alignment; however, it does have the least impact and she has always advocated for the least impact.

Judge Hill asked if Commissioner Fletcher would support a resolution to buyout ManeGait, if they are willing to sell, shifting to the Red B alignment. The Commissioner said she would not support that resolution because it is TxDOT's decision. She again said any resolution at this point is unhelpful to the process.

Commissioner Hale said in the briefing he attended, TxDOT said both the Red A alignment and Green alignment with a north shift would support their goals. Both are viable options. Judge Hill agreed, but Commissioners Williams, Webb and Fletcher did not hear that in the briefings they attended. Judge Hill said TxDOT stated the Green alignment is superior to all Red alignments in regards to traffic volumes on the actual alignment. Commissioner Hale continued, if you are for the Green alignment, then you vote "yes", you support it. Otherwise, the vote is against it.

Commissioner Hale said in looking at just the numbers, the Red B alignment is the better route. The Commissioner asked TxDOT what their decision matrix is and they finally said it is a qualitative decision not quantitative. If that is the case, the Court must move forward with what the Court feels is the best route possible. He feels the Green alignment is the best. It will affect more businesses, but those can be mitigated. If veto authority is given beyond governments to local businesses that is not leading. Sitting back letting TxDOT tell the Court what we should do is not leading. The Court must lead even if it is uncomfortable. Discussion continued.

Commissioner Fletcher said she didn't get anything like that from TxDOT. She asked Judge Hill if he spoke with Mohamed "Mo" Bur, TxDOT District Engineer, regarding the Green alignment and the inability for it to pass the EIS. Judge Hill said he did not have a private conversation with Mo, but during the conversations with the briefing crowd he did ask him several questions. The Judge said Mo does believe the Green alignment will be nearly impossible or impossible to pass the EIS. Mo has maintained the position that the Green alignment will be the most difficult and most expensive route. The Judge agreed with that statement.

Commissioner Fletcher also agreed with the statement, but said she agrees with the Perryman statement that the money can be made back if the route is viable. She doesn't want to waste time trying to go down a route knowing there will be a roadblock at the end. The Commissioner asked why the Court will not let TxDOT bring the solution to the Court if the Green alignment is a viable route. Judge Hill said he doesn't think TxDOT believes the Red A alignment will ever be built. Commissioner Williams said there was no indication of that in the briefing she attended.

Judge Hill clarified for the audience that there were three different elected official briefings in order for all elected officials from the various entities to attend without having a quorum. All five Court members were able to attend a briefing.

Judge Hill reiterated his position of supporting what the cities are for and against. He believes the Court needs to lead with the route that is the current alignment.

Commissioner Williams said there shouldn't be any veto authority from any one city, neighborhood or entity. Prosper has indicated they have no objection to a bypass as long as it's not in their jurisdiction. McKinney indicated they are not opposed to a bypass in general. The Commissioner is reluctant to take a bypass of any type off the table because if the jurisdictions end up there then it will be harder for the Court to take back a resolution rather than staying silent. She is not prepared to support the resolution today and encourages additional discussions between McKinney, TxDOT and Prosper. She feels the Court will hamper itself if any one entity is allowed to block a potential roadway.

Commissioner Hale said the EIS requires two routes and a potential third to be analyzed; therefore, if the Court supports the Green alignment it will make it the second route to be analyzed in the EIS process. It is very likely the Red B alignment would be the third route analyzed.

Commissioner Williams would like to nail down the Green alignment and alignments for Red B and Red E in order to move towards purchasing rights-of-way where we know there is agreement. Commissioners Webb and Fletcher agreed. Commissioner Fletcher again said she wants to hear back from TxDOT that the Green alignment is a viable option. Commissioner Williams said she would support a resolution that includes support for the Green alignment to that point and asking TxDOT to include the Green alignment as the second option in EIS.

Commissioner Webb said he is trying to get meetings with the involved parties to look at concepts. He feels it is too early for the Court to support the Green alignment when later the support for the alignment may need to change. More work needs to be done on all the routes. The Commissioner is concerned with the coming need for a third airport in DFW; therefore, the alignment for the east side involving the McKinney airport is critical. Discussion continued.

Judge Hill said when the Red A alignment fails he doesn't see the Green alignment as the next go to option; it will be the Red B alignment and the fight will continue. The Judge wants to show what the Court supports and not what they don't. He believes it is disingenuous to say the Court should not speak on this matter when some members of the Court thought it appropriate to boldly speak on this three weeks ago even though TxDOT said not to speak; yet, now TxDOT is asking for feedback and some of the Court thinks it isn't appropriate to do so.

Discussion continued on what the cities said they will not support and what TxDOT will move forward with for an EIS. The EIS of the Red A alignment will be anywhere from one to four years. Addressing the audience, Commissioner Williams said there is nothing the Court can do today that will alleviate the uncertainty for anyone.

Commissioner Hale said TxDOT wants resolutions back, for and against alignments as well as alternatives. They want this Court to lead.

Commissioner Fletcher proposed getting clarification on what TxDOT wants from the Court specifically and whether they would entertain a Green alignment for an EIS. Judge Hill referred to slide 34 of the TxDOT presentation which shows the next phases of the process. During the presentation TxDOT declared that input from the public is important at every step and is now looking for feedback. He said they had asked the Court to be silent and not pass a resolution until they made theirs, but now is the Courts opportunity to give feedback.

Commissioner Fletcher asked the Judge to table the resolution until it is known from TxDOT that the Green alignment is a viable route and that they will entertain it.

Judge Hill asked Clarence Daugherty, Engineering, if it is fair to say TxDOT's position is that everything is on the table until such time a decision is made following an EIS. Mr. Daugherty said it is fair to say TxDOT will entertain the Green alignment in the EIS, but they have also said the possibility of it being approved is very small. He believes they would let the EIS prove it. Mr. Daugherty said as long as there is an alternative with fewer impacts and lesser costs it will be hard to get the Green alignment approved. Commissioner Williams said even if the Court supports the Green alignment, TxDOT will have to exhaust the Red A alignment to get to the Green alignment. The EIS of the Red A alignment will go forward.

Judge Hill said a McKinney representative contacted him and said he will be contacting TxDOT to ask them to do simultaneous studies of the Green alignment and the Red A alignment. Commissioner Fletcher would be willing to go forward with TxDOT looking at both alignments at the same time. It may cost a little extra time and money, but if that's what it takes to give certainty to this Court and the public she is supportive. More information is always better.

Judge Hill said given more information is always better, should the Court ask TxDOT to explore the Red B, Red A and Green routes at the same time. Commissioner Fletcher said TxDOT has recommended the Red A alignment. Judge Hill said what TxDOT has been doing up to this point is different than what we are talking about them doing from this point forward. Mr. Daugherty said it will be a much more detailed analysis. The feasibility study is very similar to what they will be doing, but it does not constitute the environmental evaluation.

Commissioner Williams asked if it is fair to say that as TxDOT goes through the EIS and finds a fatal flaw with the Red A alignment, they will have to look at some other potential pathway. Mr. Daugherty said if they find a fatal flaw in the Red A alignment they would look at an alternative, but to this point that is something the study so far has accomplished. They have not found a fatal flaw with the Red A alignment which is why it has been recommended.

Judge Hill asked Mr. Daugherty to explain entity support as part of the environmental analysis. Mr. Daugherty said sometimes it makes a difference whether a project will undergo an environmental analysis versus an EIS based on the degree of conflict among entities. This is part of what they look at, but not to the degree that it's a vote. TxDOT said they would not absolutely rule out moving forward if there was some opposition from an entity. Generally they won't move forward if there is opposition.

Commissioner Fletcher asked if Mr. Daugherty if TxDOT would entertain looking at both the Green alignment with the north shift at the same time as the Red A alignment with the same amount of scrutiny and giving equal consideration if the Judge amends his resolution. Based on the answers given so far from TxDOT, Mr. Daugherty believes TxDOT would entertain the alternative alignment.

Commissioner Fletcher said the financial piece of the Green alignment with a north shift are covered by the Perryman study. If the area around Raytheon and Collin College were to be rebuilt the financial piece would be fulfilled. She wants to know she isn't creating false hope for people on something that is never going to happen. Having the Red alignment is still better than doing nothing, the no build option is not an option for her. She said if the Judge amended his motion to have both routes considered, she would be amenable to that. She still believes in the Green alignment, but from everything she has heard TxDOT has said no. Daugherty said TxDOT will not consider a change to their position after their recommendation is made, but have made it clear they could entertain alternatives in the environmental process.

Commissioner Webb wanted it to be clear that he is not pro Red alignment, not pro Green alignment. He said he is pro project. The Commissioner is working to get a meeting with Raytheon's president and key people to hash out what needs to occur. Even with the north shift on the Green alignment, he doesn't believe it will change Raytheon's position, but he is willing to try. He said he is committed to working on the other alignments to get all the municipalities to agree on a route.

Commissioner Webb doesn't want the Court to trap itself by taking a position now. He had also spoke with Mo and asked what TxDOT's position would be if he were to come to him with a consensus of all entities on where the alignment should go and the answer was they would consider the alignment in the environmental process.

Judge Hill also clarified he is not anti Red alignment which may not please people. He does believe the Green alignment is better long term. If McKinney or Prosper say they support one of the Red alignments then he will support them also. In the absence of that, no one is willing to support a bypass route in their jurisdiction. Judge Hill said he met with many elected officials within the County on what everyone could live with and thought he was close to getting four mayors, himself and the president of Collin College to sign a letter agreeing on an acceptable route which was the Green alignment. Unfortunately, it fell apart. McKinney was close to agreeing, but just couldn't do it. They would like to look at the Teal alignment. The Judge doesn't believe there is a route that all will support and TxDOT isn't looking for 100% support. TxDOT is looking to get enough support from the community to push forward on a route. The Green alignment has the most support in the community.

Judge Hill offered revisions to the proposed resolution. Strike Section 6 in its entirety and replace it with the previously added Section 7. The Judge then added a new Section 7 that reads:

Section 7 Urges TxDOT to study the current (Green) alignment between the Denton County line and FM 1827 during the environmental process.

With those changes, Judge Hill amended his motion. Commissioner Hale accepted the amendment.

Commissioner Williams said the problem she has with the proposed resolution is that she does not oppose the Red B, Red A or Red E alignments.

Judge Hill offered amending the words "In agreement and solidarity with" under Sections 1 - 3 to the words "Recognizes that". Discussion continued.

Commissioner Hale said changing this would keep the Court from presenting that these entities have veto authority over the process. It makes the Court's motion in response to what has been seen from fellow entities.

Commissioner Williams suggested an additional paragraph in reference to the letter McKinney sent the Court today regarding concerns with the Red A alignment and the Green alignment.

Commissioner Webb left the meeting at 11:39 a.m.

Judge Hill amended the proposed resolution to include a 9th whereas paragraph:

WHEREAS, the McKinney City Council, in a letter from the mayor on May 7, 2019, expressed serious concerns with the Red A alignment and the Green alignment.

Judge Hill clarified his amendment of Sections 1 - 3 which will now read:

Section 1 Recognizes that the Prosper Independent School District opposes the Red A alignment and the Red B alignment; and

Section 2 Recognizes the Town of Prosper opposes the Red B alignment and the Red E alignment; and

Section 3 Recognizes that the City of McKinney opposes the Red A alignment;

Commissioner Hale seconded the amendments presented. With no further discussion, the motion carried. (Time: 11:45 a.m.)

Motion by: Judge Chris Hill

Second by: Commissioner Darrell Hale

Vote: 4 - 0 Passed

COURT ORDER NO. 2019-348-05-07

Judge Hill recessed the meeting at 11:45 a.m.

The meeting was reconvened at 11:56 a.m.

6. AI-46507 Intent to submit an application for the FY2020 Discretionary Grant for a Managed Assigned Counsel Program through the Texas Indigent Defense Commission for the grant period from October 1, 2019 through and including September 30, 2020, 380th District Court.

Judge Ben Smith, 380th District Court, came forward to give a presentation on the district courts' request to seek a TIDC (Texas Indigent Defense Commission) grant to fund a MAC (Managed Assigned Counsel) Program. Judge Smith said the Auditor's office is receiving on average 1,100 plus of court appointed counsel pay sheets per month. In FY2018 the district and county courts disposed of 16,144 criminal cases. Each case involves at least one pay sheet. The indigent defense spending is a significant part of the County's budget with \$9 million budgeted for this year and \$9.7 million spent in FY2018. Past year spending for indigent defense includes: \$8.7 million in FY2017, \$8.4 million in FY2016, and \$7.1 million in FY2015. To date, \$3.6 million has been spent in FY2019. Because of this volume, the district

judges are asking for approval to apply for a discretionary grant through TIDC. The deadline to apply is May 10, 2019.

Judge Smith reviewed the background of the MHMC (Mental Health Managed Counsel) Program run by Alyse Ferguson. The MHMC has been successful in the reduction of the average days in jail, for competency cases only, from 277 days in 2012 to 140 days in 2017 saving \$412,160. Mental health bond savings comes in at \$945,828. The MHMC has become a benchmark in Texas for the management of criminal cases related to mental health.

The request for approval of the Court is to implement a comprehensive MAC Program that would subsume the MHMC with the goal of extending the MHMC's accomplishments to all criminal felony and juvenile cases.

Under the current system, Texas trial court judges have the authority and control over appointment of and payment to indigent defense counsel. To some extent, Judge Smith believes that when the fee schedule changed from a flat fee schedule to an hourly rate schedule it was not anticipated on how much more time and attention would be necessary to properly review and approve pay sheets. The unfortunate situation of an attorney over billing the County made the judges want to examine the indigent defense system and payment system to make it better in order for that situation to never occur again.

Commissioner Hale asked if it would be easier to go back to a flat rate system because the MAC would not have the knowledge the judges do on what has and hasn't been done in the courtroom by the assigned counsel. The Commissioner doesn't see how the knowledge will be transferred from the judges to the MAC. Judge Smith said there is some challenge in vetting the out of court services being claimed by an attorney with an hourly rate schedule. In-court services can be vetted and verified fairly easy by the judge or MAC. For example, Ms. Ferguson handles the MHMC for all the district and county courts and it hasn't been an issue for her to review those pay sheets. She vets and approves them. The pay sheets are then forwarded to the presiding judge for final approval.

Judge Smith doesn't see there will be a problem by extending a MAC to all cases in the county with the exception of misdemeanor cases. Going back to a flat fee schedule, which he feels is likely, would decrease problems even further with vetting the claimed services. The flat fee can't be applied to all types of cases in every event so an hourly rate will still be needed for capital murder representations and CPS (Child Protective Services) cases.

Commissioner Hale asked if the MAC would be the final approval of pay sheets or will that always go back to the judge for responsibility. Judge Smith said the MAC director will have the final authority of the pay sheets because the trial judges will delegate the authority. The judges would play no part in the

reviewing of pay sheets or the approval of compensation. This is an important aspect of the program from a constitutional perspective for the importance of indigent defense representation being independent of the judiciary especially when it comes to attorney appointments, attorney approval, vetting of services and approval of payments.

The Commissioner said the first parts of this are great, but is worried that if this type of system had been in place during the previous incident the director of the MAC would have been the responsible party for the overpayments. It was instrumental having the judges' assistance as being fellow responsible parties in rectifying the situation. Commissioner Hale likes the judges being involved in the approval process of pay sheets.

Commissioner Hale said there are also unrequested budget amounts the Court would have to come up with during the budget process that haven't gone in for formal request. Judge Smith said the grant does require a match from the County. In each year, subsequent of the first year, the amount of the match reduces as the County would then be obligated to contribute additional sums toward the budgetary requirements if the program continues.

Judge Smith said when the judges looked at the situation involving Marc Fratter and indigent defense as a whole they saw the solution having three distinct pieces all important to having a successful, transparent, and efficient indigent defense system in Collin County. The electronic payment system will increase the ability to collect data and share the data for reporting. The proposed oversight panel would be involved in regularly reviewing what's happening with the review and payment of pay sheets. Although, the MAC director would have authority to review and approve payments it wouldn't be happening in a vacuum. There will still be eyes on the process with a transparent system. The MAC will also alleviate the issue of judges not knowing when and why an attorney has been removed from the attorney wheel. A problem with the current system is the indigent defense counsel's dependence on judiciary may create the appearance that decisions are based on favoritism or bias, conflict of interest or political influence. Removing the judges from the process with an MAC will remove that perception.

If the Court approves the grant application and later the program, the Code of Criminal Procedure 26.04 permits the judges to delegate authority to a MAC Program. The MAC can be run by a nonprofit, by a bar association or by a county. Judge Smith said having a comprehensive MAC will improve oversight, accountability, efficiency and confidence in the integrity of decisions made. The justice system and rule of law work best when each participant can fulfill its role independently.

It is important for judges to be detached, disinterested and unbiased and also be able to decide cases based on the law and facts. This is implicated when judges are actively involved in these decisions with respect to attorneys litigating these cases in their courts.

There was a brief discussion on the equity of the judicial process.

Judge Smith continued, judges will always have some discretionary ability within the plan to make decisions on appointing counsel, the review of pay sheets or the payment, the granting of motions to appoint experts or investigators. All of those things being handled by one office in a uniform manner will contribute greatly to an impartial system and not a preferential one. It will give greater assurance against the appearance of fraud, negligence or inappropriateness.

Judge Smith shared a chart comparing the current system to the proposed MAC. The indigent determination, the establishment and maintaining of lists, the appointment of counsel, the monitoring of first attorney contact/interview which is the current responsibility of the judges would be the responsibility of the MAC director under the new program. Currently there is no system to identify and facilitate inmate release on reduced or personal bonds. The MAC would fill that void. The review and approval of applications to be included on a list is currently a responsibility of the judges but would be delegated to the MAC director. In addition, the MAC director would monitor and limit attorney caseloads, provide mentorship and supervision of attorneys, and monitor and enforce compliance with professional requirements of attorneys. The MAC would handle inmate complaints, attorney discipline and removal from the wheel, the review and approval of compensation requests, and ensure compliance with statutory and regulatory indigent defense requirements.

Judge Smith compared the process to a three-legged stool and said all the district judges are unanimous and believe each one of the three pieces/legs are vital to implementing the best system. Each piece has a distinct part to play in the whole. The first leg is the electronic payment sheet system that will make the data accessible and transparent. The second leg is fixed-rate flat fees that will create consistency and simplicity. The third leg is the MAC which will establish a stronger degree of independence, ensure quality of services, ensure uniform application, and improve efficiency.

Commissioner Hale has issues with the compensation approval being delegated down to an employee. The Commissioner likes the aspect of flat rates and sees how the independence from the judiciary is important. He asked how requests for experts are currently handled to avoid conflicts of interest. Judge Smith said each judges' approach may be different, but typically the defense attorney files an ex parte motion which is under seal. The attorney orally presents what they believe is necessary to minimally establish the line to support the motion. After facts are presented, the judge may ask additional questions. Most judges will grant or deny a motion based on the initial presentation of facts or on the basis of the request. As for Judge Smith, it makes him a little uncomfortable to quiz the attorney beyond the question of why they need an investigator or expert.

Judge Smith said the MAC director who would be reviewing and approving pay sheets would not be an unqualified person. It would be a skilled and experienced attorney like Ms. Ferguson.

Commissioner Hale asked if the situation of overpayment by an attorney were to happen under a MAC would letters from the director carry the same weight as from a judge to an appeals court judge. Judge Hill said if it came to that point there would no longer be a MAC director employed. Judge Smith said it is a valid concern, but it is appropriately addressed by the system that would be in place. The MAC director will not be alone, there will be the oversight panel overseeing on a broad level. The panel would include the constitutional county judge, the statutory county court at law administrative judge and local administrative district judge.

Commissioner Williams said the director would be selected by the panel and the panel will receive any reporting requests to follow trends or situations. She said the county court judges have indicated they are not interested in participating at this time, so she assumes that the county court local administrative judge would not be included in the panel at this time. Commissioner Williams asked why the president/chair of the local defense bar association would not be included in the panel. She believes it would be important to have the defense bar represented. Judge Smith agreed and said originally when Judge Hill and he were discussing what the panel would look like, the first inclination was that the president of the criminal bar association would serve as one of the three panel members. He then had reservations with that because there is a 99% chance that person would have financial interest in the decisions the panel makes. He said it is both correct and incorrect to say the county courts will not be involved because once all the indigent defense duties are subsumed into the MAC, all the current duties the county courts use the indigent defense office/MHMC for will become part of the MAC umbrella. At this time the county court judges are not interested in delegating specific duties to the program that the district courts are embracing. If at any time any of the seven county court judges want to delegate the pay sheet responsibilities to the MAC they could.

Judge Smith said once he began having concerns about having a member of the bar association on the panel, he and Judge Hill decided to approach Judge Corrine Mason, County Court at Law 1. He said even if the county courts weren't participating at all, he could not think of anyone in this county more qualified or an expert on the subject matter than Judge Mason. Judge Smith does agree it is important for the defense bar to have a voice and he has invited the current president of that association to be a non-voting member to participate in discussions.

Commissioner Williams said she is a strong proponent of a MAC primarily due to the justice issues and the fact there is not a good system to address attorney complaints and adequate representation. There are much bigger issues than the efficiency and cost saving issues. The bigger issues are the disparity between litigants. Having judges separated from those decisions and making sure the County is providing justice at the level expected is crucial. The proposed MAC is a system that will do this in the fairest way possible. Discussion continued.

Commissioner Fletcher said she agreed with the points made by Commissioner Williams and said it is important for the Court to give Judge Smith administrative support in order for him to be on the bench more often. The MAC will take care of a lot of the issues of people not feeling they are being treated fairly. The Court has the opportunity here to participate in a program with funding available.

Commissioner Williams said this request is to submit the application, but it doesn't mean there is a commitment to the program as written, should it be approved. If there are still reservations the Court could still turn it down. She thinks it is highly appropriate to move to the next step.

Judge Smith thanked the Court for their consideration.

Commissioner Fletcher made a motion to approve the item. Commissioner Williams seconded the motion.

Commissioner Hale said in agreement with Commissioner Williams's statement he believes it would be fine to go ahead with the request at this time, but there will be a few issues that need to be ironed out before the budget phase.

Judge Hill said he is grateful for the work Judge Smith and Judge Mason have put into this proposal. However, he is not at a point to support it yet, but said he will fulfill his duties if the item is approved. The Judge proposed revising the panel to include the local administrative district judge, the constitutional county judge and a county commissioner. Commissioner Fletcher thought it to be a friendly amendment and deferred to Commissioner Williams. Commissioner Williams said it could be problematic to have two judges and one commissioner. She would prefer to amend the motion to include a commissioner in addition to the three originally proposed members.

Judge Hill referred to page 615 of the court packet and said changes to the application could impact the support letter currently in the court packet. He suggested amending the application. Commissioner Fletcher agreed with the suggestion by Commissioner Williams

Commissioner Williams moved to approve the item with the addition of a county commissioner appointed by the county judge to the proposed members listed in Paragraph 1. Establish MAC Oversight Board under the Implementation section. The amended motion was seconded.

Judge Hill asked if he will be willing to carry the motion for a four person panel to the district judges to inquire if there is still judicial support for the application. Judge Smith agreed he would. With no further discussion the motion carried. (Time: 1:18 p.m.)

Motion by: Commissioner Cheryl Williams

Second by: Commissioner Susan Fletcher

Vote: 3 – 1 Passed

Nay: Judge Chris Hill

COURT ORDER NO. 2019-349-05-07

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

Judge Hill said there were two presentations of interest which were included in the court packet. The first was a water flood control plan for DFW and the second was a population estimate presentation. He said the US Census Bureau and the NCTCOG (North Central Texas Council of Governments) have both put out their 2018 census estimates and Collin County has cleared 1 million people in both. (Time: 1:20 p.m.)

NO ACTION TAKEN

8. **AI-46446** Board/Commission Appointments, Commissioners Court:

a. Health Care Foundation Advisory Board.

b. Parks Foundation Advisory Board.

Commissioner Fletcher reappointed BJ Bjorklund and Theresa Counter to the Health Care Foundation Advisory Board and reappointed Brian Dale to the Parks Foundation Advisory Board. A motion was made to approve the appointments. (Time: 1:20 p.m.)

Motion by: Commissioner Susan Fletcher

Second by: Commissioner Cheryl Williams

Vote: 4 – 0 Passed

COURT ORDER NO. 2019-350-05-07

9. AI-45660 86th Legislative Agenda for 2019, Commissioners Court:

a. SB29/HB281

A motion was made to approve a resolution in support of SB29/HB281. (Time: 1:21 p.m.)

Motion by: Judge Chris Hill

Second by: Commissioner Darrell Hale

Vote: 4 – 0 Passed

COURT ORDER NO. 2019-351-05-07

b. Proposed Magistrate Bill

c. Additional District Courts

d. Creation of the Van Alstyne Municipal Utility District No. 2

e. Creation of the North Celina Municipal Management District No. 3

f. Lakehaven Municipal Utility District of Collin County

g. Collin County Municipal Utility District No. 2

h. Walker Farms Municipal Utility District

i. SB2/HB2

j. HB 1245

k. HB 705

l. Texas CUC – Principles of the Urban Counties Policy Platform

m. Texas CUC – Bills Filed

n. Any other legislative items

10. Future agenda items without discussion.

EXECUTIVE SESSION

The Court did not recess into Executive Session. There being no further business of the Court, Judge Hill adjourned the meeting at 1:21 p.m.