

THE STATE OF TEXAS §

COUNTY OF CAMERON §

BE IT REMEMBERED on the 17TH day of AUGUST, 1992 there was conducted a REGULAR Session of the Honorable Commissioners' Court of Cameron County, Texas, at the Courthouse thereof, in the City of Brownsville, Texas, for the purpose of transacting any and all business that may lawfully be brought before the same.

THE COURT MET AT:
1:30 P. M.

PRESENT:
ANTONIO O. GARZA, JR.
COUNTY JUDGE

LUCINO ROSENBAUM, JR.
COMMISSIONER, PRECINCT NO. 1

CARLOS H. CASCOS
COMMISSIONER, PRECINCT NO. 2

ADOLPH THOMAE, JR.
COMMISSIONER, PRECINCT NO. 3

NATIVIDAD VALENCIA
COMMISSIONER, PRECINCT NO. 4

JOE G. RIVERA
COUNTY CLERK

ABSENT:

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The meeting was called to order by Judge Antonio O. Garza, Jr. He then asked Commissioner Cascos, Precinct No. 2, to lead the Court and the Audience in reciting the Pledge of Allegiance to the Flag.

The Court considered the following matters as posted and filed for Record in the Office of the County Clerk on August 13, 1992, at 4:03 P. M.

(19) AUTHORIZATION TO PROCEED WITH THE DESIGN DEVELOPMENT PHASE BY THE FIRM OF WILHITE AND ASSOCIATES FOR THE CAMERON COUNTY HEALTH DEPARTMENT BUILDING

Mr. Rolando Martinez, Health Administrator, explained that the Design Development Phase of the Project would provide more definite figures on the cost of the remodeling of the Health Building.

At this time, Mr. Gayle D. Wilhite, Architectural Firm of Wilhite and Associates, presented a Status Report to the Court and elaborated on the need to relocate almost all the rest rooms in the building at an approximate cost of \$40,000.00, to comply not only with the Americans with Disability Act (ADA) requirements, but normal requirements.

Upon motion by Commissioner Cascos, seconded by Commissioner Rosenbaum and carried unanimously, the Design Development Phase for the Cameron County Health Department Building, by the Firm of Wilhite and Associates, was authorized.

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(21) EXECUTIVE SESSION

Upon motion by Commissioner Cascos, seconded by Commissioner Thomaе and carried unanimously, the Court met in Executive Session at 1:45 P. M. to discuss the following matters:

- a) Confer with Counsel regarding "eminent domain" litigation styled State of Texas and Cameron County vs. Gary D. Smith, et al., pursuant to Section 2(e) of Article 6252-17 (of the Texas Revised Civil Statutes);
- b) Confer with Counsel regarding lawsuit styled Pilar Lerma, Jr., vs. Joe G. Rivera, pursuant to Section 2(e) of Article 6252-17 (of the Texas Revised Civil Statutes); and
- c) Discuss potential litigation with respect to current Contract with Luz Briones for the Concession at Old Courthouse, pursuant to Section 2(e) of Article 6252-17 (of the Texas Revised Civil Statutes).

Upon motion by Commissioner Thomaе, seconded by Commissioner Rosenbaum and carried unanimously, the Court reconvened in Regular Session at 2:28 P. M.

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(22) ACTION RELATIVE TO EXECUTIVE SESSION

- a) Confer with Counsel regarding "eminent domain" litigation styled State of Texas and Cameron County vs. Gary D. Smith, et al.

Judge Garza reported that after some discussion, it was the consensus of the Court as determined by polling, that the Law Firm of Roerig, Oliveira and Fisher, Brownsville, Texas, should be directed to have "settlement authority" along the terms and conditions outlined in Executive Session regarding the litigation styled State of Texas and Cameron County vs. Gary D. Smith, et al.

Upon motion by Commissioner Thomae, seconded by Commissioner Valencia and carried unanimously, the Law Firm of Roerig, Oliveira and Fisher, Brownsville, Texas, was extended "settlement authority" along the terms and conditions outlined in Executive Session regarding the "eminent domain" litigation styled State of Texas and Cameron County vs. Gary D. Smith, et al.

- b) Confer with counsel regarding lawsuit styled Pilar Lerma, Jr., vs. Joe G. Rivera.

Judge Garza reported that the Court received a Status Report from Counsel, and that it was the Court's understanding that a Pre-Trial Conference would be held Friday, August 21, 1992, and after some discussion, it was the consensus of the Court as determined by polling, that Counsel be directed to continue representation in conjunction with Mr. Horacio Barrera, Attorney-At-Law, along the terms and conditions as outlined in Executive Session.

Upon motion by Commissioner Thomae, seconded by Commissioner Rosenbaum and carried unanimously, Counsel was directed to continue representation in conjunction with Mr. Horacio Barrera, Attorney-At-Law, along the terms and conditions as outlined in Executive Session regarding the lawsuit styled Mr. Pilar Lerma, Jr., vs. Mr. Joe G. Rivera; said litigation scheduled for a Pre-Trial Conference on Friday, August 21, 1992.

- c) Discuss potential litigation with respect to current Contract with Luz Briones for the Concession at Old Courthouse.

Judge Garza reported that after some discussion, it was the consensus of the Court as determined by polling, that Ms. Luz Briones be notified "instanter" as to the termination of the relationship with the County with respect to the provision of the Concession at the "Old Courthouse", and to seek proposals for the provision of Concession at said Courthouse.

Commissioner Thomae moved that Ms. Luz Briones be notified "instanter" as to the termination of the relationship with the County with respect to the provision of Concession at the "Old Courthouse", and that the Court seek proposals for the provision of Concession at said Courthouse.

The motion was seconded by Commissioner Rosenbaum and carried unanimously.

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(1) APPROVAL OF COUNTY CLAIMS

Commissioner Cascos moved that all the County Claims as presented by the County Auditor's Office be approved.

The motion was seconded by Commissioner Thomae and carried the following vote:

AYE: Commissioners Rosenbaum, Thomae and Valencia

NAY: None

ABSTAIN: Commissioner Cascos as to the claims of Waters Implement Company, Inc., Warrant No. 63759 in the amount of \$264.02 and Landair Travels, Inc., Warrant No. 63635 in the amount of \$457.00.

The Affidavit is as follows:

(2) **APPROVAL OF BUDGET AMENDMENTS AND/OR SALARY SCHEDULES**

Upon motion by Commissioner Valencia, seconded by Commissioner Rosenbaum and carried unanimously, the 1991/1992 Budget Amendment No. 38 was approved as outlined by the County Auditor's Office.

The Budget Amendment is as follows:

(3) APPROVAL OF MINUTES' OF AUGUST 3, AND AUGUST 10, 1992

Upon motion by Commissioner Thomae, seconded by Commissioner Rosenbaum and carried unanimously, the Minutes' of the Regular Meeting held August 3, 1992 at 1:30 P. M. and the Regular Meeting held August 10, 1992 at 3:00 P. M. were approved.

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(4) AUTHORIZATION TO ADVERTISE FOR ANNUAL BIDS FOR FISCAL YEAR 92-93

Upon motion by Commissioner Thomae, seconded by Commissioner Rosenbaum and carried unanimously, the advertisement for Annual Bids for the Fiscal Year 1992 - 1993 was authorized.

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(5) AUTHORIZATION TO OPEN BIDS FOR ROOF REPAIRS OF PASOL BUILDING AT 1405 E. ELIZABETH STREET

Upon motion by Commissioner Thomae, seconded by Commissioner Rosenbaum and carried unanimously, approval was given to open bids as received for the roof repairs of the Pasol Building at 1405 E. Elizabeth Street, Brownsville, Texas.

The bids received and opened are as follows:

Upon motion by Commissioner Thomae, seconded by Commissioner Rosenbaum and carried unanimously, the bids were referred to the Purchasing Agent for tabulation and recommendation to the Court of the best bid in one (1) week.

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(6) AUTHORIZATION TO AWARD OR REJECT AND RE-ADVERTISE FOR BIDS FOR HVA/C FOR CAMERON PARK COMMUNITY CENTER

Commissioner Valencia moved that the low bid of AC-1 Service, Brownsville, Texas, in the amount of \$23,078.20, be accepted for the Heating, Ventilation and Air Conditioning (HVA/C) for the Cameron Park Community Center.

The motion was seconded by Commissioner Cascos and carried the following vote:

AYE: Commissioners Rosenbaum, Cascos, and Valencia

NAY: Commissioner Thomae.

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(7) APPROVAL TO ADVERTISE FOR BIDS ON ONE (1) 1993 4-WHEEL DRIVE VEHICLE AND ONE (1) 1993 P/U (THESE VEHICLES WOULD BE FROM IN-STOCK FOR IMMEDIATE DELIVERY AND WOULD BE PAID FOR FROM FUND 90. TWO (2) VEHICLES TO BE TRADED IN)

Upon motion by Commissioner Cascos, seconded by Commissioner Rosenbaum and carried unanimously, the advertisement for bids for one (1) 1993 4-wheel drive vehicle and one (1) 1993 pick-up truck, with trade, was authorized; said vehicles are to be in-stock for immediate delivery and funds to be allocated from Fund 90.

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(8) AUTHORIZATION TO REFUND \$2,099.24 TO MRS. GENOVEVA G. DE FERNANDEZ FOR PAYMENT OF TAXES IN ERROR

Upon motion by Commissioner Thomae, seconded by Commissioner Rosenbaum and carried unanimously, the refund in the amount of \$2,099.24 to Mrs. Genoveva G. de Fernandez, Brownsville, Texas, for the erroneous payment of taxes was approved, as recommended by the County Auditor's Office.

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**(9) IN THE MATTER OF REQUEST FOR THE COUNTY TO
FUND OFFICE LEASES IN HARLINGEN FOR FISCAL
YEAR 1992-1993 FOR THE ADULT PROBATION
DEPARTMENT (REJECTED)**

Mr. Richard Santellana, Adult Probation Director, stated that he had submitted an Addendum to include Office Furniture for a total amount of \$19,884.00 Funding Request. He explained that it was necessary to approach the County for the funds to continue the lease of the two (2) Harlingen Offices and the additional Office Furniture, and that should those funds not be available, he would proceed to apply for funds from the State.

Upon motion by Commissioner Rosenbaum, seconded by Commissioner Thomae and carried unanimously, this Item was REJECTED.

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**(10) AUTHORIZATION TO GET A CELLULAR PHONE FOR
THE UNDOCUMENTED ALIEN COORDINATOR**

Ms. Linda Martinez, Juvenile Probation Staff, explained that the Monthly Service Fee of \$100.00 for a cellular phone would be provided by the Texas Juvenile Probation Commission (TJPC) Border Project State Budget, at no cost to the County.

Upon motion by Commissioner Thomae, seconded by Commissioner Rosenbaum and carried unanimously, the cellular phone for the Undocumented Alien Coordinator was authorized.

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**(11) AUTHORIZATION FOR COUNTY JUDGE TO EXECUTE
AMENDMENT NO. 1 ON THE SUB-RECIPIENT
AGREEMENT BETWEEN THE COUNTY AND THE CITY
OF HARLINGEN ON THE ADMINISTRATION OF THE
FRUIT OF THE LOOM PROJECT**

Commissioner Thomae moved that the County Judge be authorized to execute the Amendment No. 1 on the Sub-recipient Agreement between the County and the City of Harlingen on the Administration of the Fruit of the Loom Project.

The motion was seconded by Commissioner Cascos and carried unanimously.

The Amendment No. 1 is as follows:

(12) **APPROVAL OF RESOLUTION IN SUPPORT OF RIO GRANDE STATE CENTER**

Upon motion by Commissioner Valencia, seconded by Commissioner Cascos and carried unanimously, the Resolution in support of the Rio Grande State Center was adopted.

The Resolution is as follows:

(13) **CONSIDERATION OF REQUEST BY M. A. WESTBROOK
FOR CONFIRMATION OF NOMINEES TO CAMERON
COUNTY CHILD WELFARE BOARD**

Upon motion by Commissioner Valencia, seconded by Commissioner Thomae and carried unanimously, the following nominees to the Cameron County Child Welfare Board were approved, as requested by Mr. M. A. Westbrook:

Dr. Juan D. Villarreal, D. D. S., Harlingen, Texas

Mr. Robert Bennett, P. A., Harlingen, Texas.

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(14) **ACKNOWLEDGEMENT OF THE STATE BOARD OF TAX
PROFESSIONAL EXAMINERS FOR THE
RECERTIFICATION OF THE TAX ASSESSOR-
COLLECTOR, AS PROVIDED BY PROPERTY TAXATION
PROFESSIONAL CERTIFICATION ACT OF THE 68TH
LEGISLATURE**

Commissioner Cascos moved that the recertification of the Tax Assessor-Collector by the State Board of Tax Professional Examiners, as provided by the Property Taxation Professional Certification Act of the 68th Legislature, be acknowledged.

The motion was seconded by Commissioner Rosenbaum and carried unanimously.

The Letter of Certification is as follows:

(15) AUTHORIZATION FOR THE PREPARATION OF FINAL STRIP MAP AND DESIGN OF ROADWAY ALIGNMENT FOR FM 106 (GENERAL BRANT ROAD AND BUENAVISTA ROAD) AS PER TEXAS DEPARTMENT OF TRANSPORTATION MINUTE ORDER NO. 899195

Commissioner Thomae moved that the preparation of the final Strip Map and Design of the roadway alignment for FM 106, that being General Brant Road and Buenavista Road, as per the Texas Department of Transportation Minute Order No. 899195, be authorized.

The motion was seconded by Commissioner Valencia and carried unanimously.

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(16) IN THE MATTER OF LEASE AGREEMENT BETWEEN MADISON BUILDING TRUST AND CAMERON COUNTY FOR OFFICE SPACE FOR COUNTY ENGINEERING AND RIGHT-OF-WAY DEPARTMENT (TABLED)

Upon motion by Commissioner Cascos, seconded by Commissioner Rosenbaum and carried unanimously, this Item was TABLED.

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(17) APPROVAL OF FUNDING FOR DRAINAGE IMPROVEMENTS TO SEARCY RANCH ROAD IN CONJUNCTION WITH THE HARLINGEN IRRIGATION DISTRICT CAMERON COUNTY NO. 1, AS PER REQUEST FROM PRECINCT NO. 4

Commissioner Valencia explained that he had requested that the Engineer's Office handle the problem of drainage improvements at Searcy Road, but that the cost would be more than the initial amount estimated because of the delays.

Mr. Andy Cueto, County Engineer, explained that Commissioner Valencia wanted the County Engineer's Office to fund the repairs, in the amount of \$1,500.00, since his Office used to have a Line Item in the Budget for Bridge repairs, and added that the work requested would only be a temporary measure.

Commissioner Cascos questioned why the Item was before the Court if it was Precinct No. 4's Budget matter, and added that the recent allocation of additional funds to each Precinct, in the amount of \$55,000.00, provided funds for the repairs.

Commissioner Valencia responded that he was requesting that money be transferred from the Surplus Fund because he did not have the money in the Budget for the repairs since the monies were already encumbered.

At this time, Commissioner Valencia described some problems experienced by residents in the area and added that if the conditions were not improved that it would increase the potential for law suits.

Commissioner Valencia moved that the additional amount of \$2,500.00 from Surplus Fund be set aside for Drainage Improvements to Searcy Ranch Road, in conjunction with the Harlingen Irrigation District, Cameron County No. 1, as requested by Precinct No. 4 Commissioner.

The motion was seconded by Commissioner Thomae and carried the following vote:

AYE: Commissioners Rosenbaum, Thomae and Valencia

NAY: Commissioner Cascos and Judge Garza.

At this time, the County Auditor's Office stated that there were no Surplus Funds in the Road and Bridge Fund.

Judge Garza stated that since there were no Surplus Funds in the Road and Bridge Fund, then the action taken on Item No. 17 was mute.

At this time, Mr. Cueto stated that he had some Surplus Funds that could be transferred, but that he was hesitant to do so because it would set a precedent, since historically, the Bridge Repair Line Item had not been used for this purpose. He added that he had no problem with the Court creating and funding an "Engineered" Drainage Improvement System Line Item in the future.

Commissioner Valencia moved that the amount of \$2,500.00 be transferred from the County Engineer's Surplus Fund, that being Line Item No. 096, for the Drainage Improvements to Searcy Ranch Road, in conjunction with the Harlingen Irrigation District, Cameron County No. 1, as per the request from Precinct No. 4 Commissioner.

The motion was seconded by Commissioner Thomae and carried unanimously.

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(18) IN THE MATTER OF DISCUSSION AND POSSIBLE ACTION CONCERNING THE DETERMINATION OF PLAT REQUIREMENTS PURSUANT TO LOCAL GOVERNMENT CODE SECTION 232.0046 CONCERNING THE FOLLOWING DESCRIBED PROPERTY: [TABLED]

The North 9.25 acres of the East 15 acres out of the West 50.00 acres of Survey 24 as described by Deed of Record in Volume 876, Page 705 of the Cameron County Deed Records and 9.25 acres out of 15.0 acres out of Survey 24 as described by Deed of Record in Volume 958, Page 181 of the Cameron County Deed Records, said property fronting on Bouldin Road for approximately 976.8 feet and having a depth of approximately 825.0 feet and containing a total of 18.50 acres.

At this time, Mr. Jack Brown, Public Engineer, stated that the Statutes required that Commissioners' Court make the determination on whether a plat was required on certain instances since the people concerned wanted to buy the described property but did not want to plat it.

Mr. Andy Cueto, County Engineer, stated that he had spoken to the potential buyers and that they do not want to subdivide but would if required to do so, and added that the County Subdivision Ordinance required that a plat be prepared and filed for Record, but that the Court could grant a variance.

Mr. Brown stated that the matter was a legal question, that being whether a plat was legally required and not that of a variance request.

Mr. Doug Wright, Cameron County Counsel, stated that since there was a County Policy requiring a plat, that ultimately the Commissioners' Court had the legislative authority to designate whether or not to grant a variance. He reviewed the administrative process available through the County Engineer's Office and added that if the party was not satisfied, the matter could be appealed through the Commissioners' Court for a final determination.

There was a discussion regarding the appeal process, the platting requirements and the need to adhere to the County Ordinance, and Mr. Brown again stated that it was not a matter of granting a variance, but rather of determining whether a plat was legally required or not.

Commissioner Thomae moved that a variance of the plat requirements be granted concerning the following described property:

The North 9.25 acres of the East 15 acres out of the West 50.00 acres of Survey 24 as described by Deed of Record in Volume 876, Page 705 of the Cameron County Deed Records and 9.25 acres out of 15.0 acres out of Survey 24 as described by Deed of Record in Volume 958, Page 181 of the Cameron County Deed Records, said property fronting on Bouldin Road for approximately 976.8 feet and having a depth of approximately 825.0 feet and containing a total of 18.50 acres.

The motion died for lack of a second.

Commissioner Cascos moved that the subdivision plating requirements, pursuant to Local Government Code Section 232.0046, be required concerning the following described property:
The North 9.25 acres of the East 15 acres out of the West 50.00 acres of Survey 24 as described by Deed of Record in Volume 876, Page 705 of the Cameron County Deed Records and 9.25 acres out of 15.0 acres out of Survey 24 as described by Deed of Record in Volume 958, Page 181 of the Cameron County Deed Records, said property fronting on Bouldin Road for approximately 976.8 feet and having a depth of approximately 825.0 feet and containing a total of 18.50 acres.

The motion died for lack of a second.

At this time, Mr. Wright suggested that potential buyers meet with the County Engineer's Office and explain what they were proposing in order for the Court to make a clear determination on the matter.

Upon motion by Commissioner Thomaе, seconded by Commissioner Cascos and carried unanimously, this Item was TABLED for one (1) week, and to advise the proponents of the action.

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(20) AUTHORIZATION TO TRAVEL AND/OR APPROVAL OF TRAVEL EXPENSES

Upon motion by Commissioner Thomaе, seconded by Commissioner Rosenbaum and carried unanimously, the following travel expenses were approved, subject to availability of funds in their budget:

- a) Ms. Yvette Salinas, Women, Children and Infants Director, to Corpus Christi, Texas, to attend Texas Association of Local WIC Directors, on October 5-8, 1992;
- b) Commissioner Valencia to Austin to attend Texas Association of Counties Conference on August 19-21, 1992, and to Denison, Texas;
- c) Parks Director to Austin, Texas, to attend Texas Parks and Wildlife Department (TPWD) Commission's Annual Public Meeting on August 26-27, 1992; and to attend TPWD Parks Advisory Board Meeting on August 28, 1992 in Bastrop, Texas.

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There being no further business to come before the Court, upon motion by Commissioner Thomaе, seconded by Commissioner Rosenbaum and carried unanimously, the meeting was adjourned.

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APPROVED this 24th day of August, 1992.

ANTONIO O. GARZA, JR.
COUNTY JUDGE

ATTEST:

JOE G. RIVERA,
COUNTY CLERK AND EX-OFFICIO CLERK
OF THE COMMISSIONERS' COURT OF
CAMERON COUNTY, TEXAS