

THE STATE OF TEXAS §

COUNTY OF CAMERON §

BE IT REMEMBERED on the 21st day of MAY 2002, there was conducted a REGULAR Public Meeting 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:

5:30 P.M.

PRESENT:

GILBERTO HINOJOSA
COUNTY JUDGE

PEDRO "PETE" BENAVIDES
COMMISSIONER PRECINCT NO. 1

CARLOS H. CASCOS, C.P.A
COMMISSIONER PRECINCT NO. 2

DAVID A. GARZA
COMMISSIONER, PRECINCT NO. 3

RICHARD VALDEZ
COMMISSIONER, PRECINCT NO. 4

JOE G. RIVERA
COUNTY CLERK

Mary Robles Deputy Clerk

ABSENT:

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The meeting was called to order by Judge Pro-tem Carlos Cascos C.P.A., at 5:34 P.M. He then asked Reverend Bob Clark, Brownsville resident, for the invocation and he led the Court and the audience in reciting the Pledge of Allegiance.

The Court considered the following matters as posted and filed for Record in the Office of the County Clerk on May 17, 2002, at 1:35 P.M.:

NOTE: JUDGE HINOJOSA AND COMMISSIONER VALDEZ JOINED THE MEETING AT THIS TIME.

PRESENTATION

**(1) PRESENTATION AND POSSIBLE APPROVAL OF
THE SERGEANT JOSE M. LOPEZ STATUE
MAQUETTE**

Mr. Remi Garza, Administrative Assistant, reported that a committee was appointed to help Mrs. Eileen Barry, Sculptor, develop the design of the statue intended to recognize Sergeant Jose M. Lopez at the Veterans International Bridge of Los Tomates. He stated that Mrs. Barry had put together two (2) designs based on ideas discussed by the committee and on a conversation she had with Sergeant Lopez.

Mrs. Eileen Barry, Sculptor, presented the following two (2) Maquettes and stated that the original statue would be 8 ½ feet to 9 ½ feet tall:



Judge Hinojosa stated that Figure No. 2 was almost an exact duplicate of a picture taken while Sergeant Lopez was being awarded a Medal of Honor, and Figure No. 1 represented him during battle. He stated that the statue would honor Sergeant Lopez and all other Veterans, and that the committee was recommending that Figure No. 2 be selected.

Mrs. Eileen stated that the statue would stand on a 6' bronze pedestal and suggested that a historical relief be used.

Commissioner Garza stated that Figure No. 2 depicted an American Soldier and that Figure No. 1 depicted World War II, noting that the use of the 50 caliber weapon had saved many lives.

Commissioner Garza moved that Figure No. 1 be approved.

The motion was seconded by Commissioner Cascos, and the vote was as follows:

AYE: Commissioners Cascos and Garza,

NAY: Commissioners Benavides, Valdez, and Judge Hinojosa.

Commissioner Garza moved that Figure No. 2 be approved.

The motion was seconded by Commissioner Cascos.

Judge Hinojosa clarified that Sergeant Lopez preferred Figure No. 1, and requested the opinion of the Veterans' Office.

Mr. Salvador Salinas, Veterans Office, noted that the Veterans' Office favored Figure No. 2.

Mr. Garza suggested that the battle be depicted on the relief.

Commissioner Benavides asked whether the cost for the relief was included in the budgeted amount.

Mr. Garza responded negatively.

Upon motion duly made by Commissioner Garza that Figure No. 2 be approved.

The motion was seconded by Commissioner Cascos, and the vote was as follows:

AYE: Commissioners Cascos and Garza,

NAY: Commissioners Benavides, Valdez and Judge Hinojosa.

Upon motion made by Commissioner Benavides, seconded by Commissioner Garza and carried unanimously, Figure No. 1 was approved:



ACTION ITEMS

(8) CONSIDERATION AND ADOPTION OF A RESOLUTION PROHIBITING ANY ROUTE STUDY OF THE WEST RAIL RELOCATION PROJECT WHICH GOES THROUGH THE COMMUNITY OF SAN PEDRO

Commissioner Cascos stated that some residents of San Pedro might want to have an expanded corridor of one or two miles and noted the need to identify what the community entailed.

Judge Hinojosa highlighted the need to assure that the railroad would not go through or near populated areas, and that setting limited distances from the populated areas on Highway 281 would conflict with the West Rail Relocation Project.

Commissioner Cascos noted the need to define “near”.

Judge Hinojosa questioned the manner in which “near” could be defined, and stated that the West Rail Relocation Project could not take place if limits were set from all populated areas on U.S. Highway 281.

Mr. John Hudson, Traffic Engineer, stated that the land evaluation would commence at the San Pedro boundary. He explained that due to houses and two (2) cemeteries located at the boundary the area would be avoided.

Mrs. Silvia Suarez, San Pedro resident, thanked Judge Hinojosa for listening to the concerns expressed by the residents of San Pedro during a meeting previously held.

Judge Hinojosa suggested that the Resolution indicate “through or near”, and noted his believe to be that the railroad would not go near San Pedro.

Commissioner Cascos defined the boundaries of San Pedro to be from East, U.S. Highway 281 intersecting with Old Military Highway and from West, U. S. Highway 281 intersecting with FM 1421.

Judge Hinojosa proposed that the Resolution be modified in order to define the boundaries of San Pedro.

Upon motion by Commissioner Garza, seconded by Commissioner Cascos and carried unanimously, the Resolution prohibiting any Route Study of the West Rail Relocation Project which goes through the Community of San Pedro was adopted.

The Resolution is as follows:

[REDACTED]

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

Mr. Xavier Villarreal, Budget Officer, reported that the Salary Schedules were inclusive of the three (3) new Detention Officer Positions, the increase in compensation to Slot No. 79 of the Sheriff's Department, an increase of hours to a position, and the new Filing Clerk Position in the District Clerk's Office. He stated that the Budget Amendments consisted of the transfer of Lapsed Salaries in the County Clerks's Office and General Maintenance.

Commissioner Valdez moved that the 2002 Fiscal Year Budget Amendment No. 2002-23 and the Salary Schedules be approved.

The motion was seconded by Commissioner Garza and carried as follows:

AYE: Commissioners Benavides, Garza, Valdez and Judge Hinojosa,

NAY: Commissioner Cascos; only as to the increase in compensation to Slot No. 79 of the Sheriff's Department, the increase of hours to a position, the new Filing Clerk Position in the District Clerk's Office and the transfer of Lapsed Salaries for Extra Help within the County Clerk's Office.

The Budget Amendments and Salary Schedules are as follow:

[REDACTED]

(3) **APPROVAL OF MINUTES:**

A) **APRIL 24, 2002 - SPECIAL MEETING**

Commissioner Cascos moved that the Minutes for the Regular Meeting held April 24, 2002, be approved.

The motion was seconded by Commissioner Benavides and carried unanimously.

[REDACTED]

(4) **APPROVAL OF THE SPACE ALLOCATION PLAN
FOR THE OLD SHERIFF'S OFFICE**

Mr. Juan Bernal, County Engineer/Public Works Director, presented the Committee's recommendations concerning the Space Allocation Plan for the Old Sheriff's Office.

Commissioner Cascos asked if concerns existed regarding the connection to the Elections Office.

Judge Hinojosa stated that due to the present conditions and strong odors Area No. 529.00 could only be used as storage.

Commissioner Cascos asked whether the Water Closet would remain.

Mr. Bernal responded in the affirmative.

Commissioner Cascos moved that the Space Allocation Plan for the Old Sheriff's Office be approved.

The motion was seconded by Commissioner Garza.

At this time, Judge Hinojosa explained that the Constables Office, Precinct No. 2, was not included in the Allocation Plan because it would be housed at the New Sheriff's Substation located at Cameron Park.

Upon motion duly made by Commissioner Cascos, seconded by Commissioner Garza and carried unanimously, the Space Allocation Plan for the Old Sheriff's Office was approved.

The Plan is as follows:

[REDACTED]

(5) **CONSIDERATION AND POSSIBLE ACTION REGARDING PUBLISHED NOTICE OF INTENT TO ISSUE AN AMOUNT NOT TO EXCEED \$7.35 MILLION CERTIFICATES OF OBLIGATION, SERIES 2002.**

Mr. Remi Garza, Administrative Assistant, requested that the Arroyo Fire Station and the Law Enforcement Substation be included in the original Order as needed and stated that the amount of the Certificate of Obligation would not be affected, adding that the inclusion was a formality with the United States Department of Agriculture (USDA) as part of the Grant/Loan Procedure. Mr. Garza stated that the Bond Counsel would insert the language into the Notice Published on May 19, 2002, if the Court would ratify it.

Judge Hinojosa stated that the County Auditor had requested that the Arroyo Fire Station and Law Enforcement Substation Project be included in the bond issue, adding that if said project was not included in the Original Order the USDA Grant could not be obtained.

Mr. Garza stated that the USDA loan form required to be backed-up by the Tax Certificates of Obligation.

Commissioner Cascos moved that the Resolution authorizing the publication of Notice of Intent to issue an amount not to exceed \$7.35 Million Certificates of Obligation, Series 2002, be adopted.

The motion was seconded by Commissioner Benavides.

Commissioner Garza questioned the need to include the Arroyo Fire Station and the Law Enforcement Substation in the list of projects.

Mr. Garza stated that the Bonds were issued for certain things as a formality.

Upon motion duly made by Commissioner Cascos, seconded by Commissioner Benavides and carried unanimously, the Resolution authorizing publication of Notice of Intent to issue an amount not to exceed \$7.35 Million Certificates of Obligation, Series 2002, was adopted and the New Publication Notice and the Original Order were substituted.

The Resolution is as follows:

(6) **IN THE MATTER REGARDING AVOCADO PATCH ROAD (TABLED)**

Mr. Juan Bernal, County Engineer/Public Works Director, stated that the Avocado Patch Road was a Public Road never maintained by the County. He stated that area residents were requesting that road improvements be made, but that due to the County's Policy his Office could not work on Public Roads except when requested by the Court. He recommended that the residents address their concerns to the Court.

Mr. Doug Wright, Commissioners' Court Legal Counsel, agreed that the County could not work on Public Roads.

Mr. Zuñiga, Precinct No. 3 resident, stated that the Contractor, who built his home, had researched and had determined that the Avocado Patch Road was not a Private Road, adding that the road had been maintained by area residents.

Judge Hinojosa questioned the requirements to accept the road into the County Road System.

Mr. Wright stated that there were two (2) procedures: one) having the area residents present a petition; and two) by Prescriptive Right.

Commissioner Cascos noted the need to review and/or modify the County Road Acceptance Policy should there be a need, and asked if maintenance to the road had ever been conducted by the County.

Mr. Bernal stated that the road was never maintained.

Commissioner Garza questioned whether the road was a County Road or a Public Road.

Mr. Bernal stated that the Subdivision Plat identified the road as a Public Dedicated Road that was never accepted into the County Road System.

Mr. W.G. Reist, Precinct No. 3 resident, stated that he has resided in the area for over nineteen (19) years and that the County had previously worked on Avocado Patch Road.

Judge Hinojosa explained that a similar situation was presented with Leal Road and that the Policy was modified in order to accept the road into the County Road System based on the history of the work conducted on the road.

Mr. Bernal stated that the records did not indicate that work had been conducted to Avocado Patch Road from the date of his employment.

Commissioner Garza asked what was being requested of the County.

Mr. Zuñiga requested that Avocado Patch Road be paved to control the dust issues and expressed his concern with speculation that the nearby caliche road would be paved.

Mr. Bernal clarified that the road was being paved by a private Contractor and not by the County.

Commissioner Valdez stated that according to the Policy the roads within new subdivisions must be paved by the developer when constructed. He added that the individuals affected were those who constructed prior to the adoption of the Policy.

Commissioner Cascos expressed his concern with the number of Public Roads needing to be accepted into the County Road System. He stated that the Public Works Department had documentation of the road improvements made to Leal Road.

Judge Hinojosa stated that when there was a history of work on the roads the County continued maintaining them. He suggested that the County Engineer meet with the residents and consult with the Public Works Department's employees to determine if the road was maintained, adding that the Court would make a decision based on the information obtained.

Mr. Bernal stated that there were approximately 250 miles of caliche roads in need of paving.

Commissioner Benavides noted that maintaining a caliche road was more expensive than paving a road.

Judge Hinojosa explained that there were two (2) different issues: 1) whether the road could be accepted into the County Road System; and 2) whether it could be placed in the priority list for paving.

Commissioner Valdez noted the need to have a system in place that would assist the subdivisions constructed prior to the adoption of the Policy.

Judge Hinojosa stated that if the road was accepted, into the County Road System, maintenance would be provided and the request for paving would be considered with all the other requests.

Upon motion by Commissioner Cascos, seconded by Commissioner Garza and carried unanimously, this Item was **TABLED** for one (1) week.

[REDACTED]

(7) **CONSIDERATION AND ADOPTION OF A PERSONNEL POLICY RELATING TO CREDIT FOR PRIOR YEARS OF SERVICE WITH CAMERON COUNTY FOR REHIREES**

Mr. Manuel Villarreal, Personnel/Safety Risk Director, stated that according to Texas Counties and Districts Retirement System (TCDRS) the employees with lapsed service, that did not withdraw their retirement benefits, could not be identified. He stated that a listing of the individuals who had terminated employment, withdrawn their retirement benefits, and subsequently rehired, was submitted to the County Auditor to be used when employees were allowed to buy back the benefits, at a cost to the County. Mr. Villarreal stated that the proposed Policy could take effect from this day forward, adding that it was in consideration of Mr. Crispin Salazar, Sheriff's Department. He explained that credit would

take effect at the time of hire and that the Department Head or Official must be aware of the leave time that would be required and must be in agreement.

Commissioner Cascos questioned if the Department Heads were to sign off even if the Policy was adopted.

Commissioner Valdez stated that the Department Head or Official was allowed to decide because they had to develop the budget.

Mr. Villarreal stated that rehires could not accrue leave time and that the remaining leave time would go into effect on October 1, upon approval of the Department Head or Official as well.

Commissioner Benavides questioned how Mr. Salazar would benefit.

Mr. Villarreal explained that Mr. Salazar would be allowed to have the years of service recognized if his Department Head authorized it.

Commissioner Benavides questioned the amount of lapsed service allowed if the benefits are not withdrawn.

Mr. Villarreal explained that the employee should have been rehired within the same fiscal year.

Commissioner Garza suggested that the yearly time limit commence as of the date of separation.

Mr. Doug Wright, Commissioners' Court Legal Counsel, stated that leaving the adjustment subject to the Hiring Official could be of concern.

Judge Hinojosa suggested that the Policy require authorization from the Department Head or Elected Official.

Mr. Mark Yates, County Auditor, recommended that the time limit be based on a Calendar Year for ease of calculations of the Retirement Benefits.

Commissioner Garza stated that most separations of service took effect during the change of administration, which occurs on January 1st.

Mr. Villarreal stated that vacation leave time was awarded based on the fiscal year.

Commissioner Valdez moved that the Personnel Policy relating to Credit for Prior Years of Service with Cameron County for Rehires be adopted, that the Policy read "Department Head or Elected Official", and that the Policy apply to Mr. Crispin Salazar, Sheriff's Department.

The motion was seconded by Commissioner Garza and carried unanimously.

The Policy is as follows:

(9) IN THE MATTER OF ALLOWING THE CONNECTION OF UTILITY SERVICES TO THE JOSE PICO FAMILY RESIDING AT 11131 ALABAMA ROAD UNDER TEXAS LOCAL GOVERNMENT CODE 232.029(C)(2) (TABLED)

Upon motion by Commissioner Garza, seconded by Commissioner Valdez and carried unanimously, this Item was **TABLED**.

(10) CONSIDERATION AND POSSIBLE ACTION TO UTILIZE LAPSED SALARIES FROM PUBLIC WORKS FOR EXTRA HELP

Upon motion by Commissioner Cascos, seconded by Commissioner Garza and carried unanimously, the utilization of Lapsed Salaries from the Public Works for Extra Help was authorized.

(11) CONSIDERATION AND POSSIBLE ACTION TO CREATE A NEW EMPLOYEE POSITION (GEOGRAPHICAL INFORMATION SYSTEM MAPPER) IN THE GIS DIVISION OF THE COMPUTER CENTER AND APPROVAL OF ORGANIZATIONAL STRUCTURE

Mr. Remi Garza, Administrative Assistant, stated that once the issuance of addresses for the Cities began, the Geographical Information System (GIS) Mapper would obtain additional personnel, to be funded through the 911 Grant. He stated that the Computer Center had indicated that the employee position was based on the additional duties being undertaken and the extra unanticipated work from the incorporated areas of the County.

Commissioner Garza asked when the extra work was anticipated.

Mr. Rudy Juarez, Computer Center Director, stated that the extra work was anticipated to commence in October or November 2002.

Commissioner Cascos questioned if the grant would subsidize additional compensations.

Mr. Juarez stated that the \$5,000.00 compensation would be added temporarily for the additional workload.

Judge Hinojosa stated that the temporary compensation would be added with the understanding that upon termination of the grant, the increase in compensation would terminate as well.

Commissioner Garza questioned if upon approval of this item, the Computer Center's telephones would be answered at all times, and Mr. Juarez responded in the affirmative.

Upon motion by Commissioner Garza, seconded by Commissioner Benavides and carried unanimously, the creation of a New Employee Position, Geographical Information System (GIS) Mapper, in the GIS Division of the Computer Center was authorized, and the Organizational Structure was approved.

(12) IN THE MATTER REGARDING THE SELECTION OF SOCIAL SERVICE AGENCIES TO BE SITUATED AT CAMERON PARK AND BROWNE ROAD PARK (TABLED)

Upon motion by Commissioner Garza, seconded by Commissioner Valdez and carried unanimously, this Item was **TABLED** for one (1) week.



(13) CONSIDERATION AND POSSIBLE ACTION RELATED TO THE SELECTION AND NEGOTIATIONS OF CONTRACT WITH CONSULTANT TO PREPARE PLANS FOR THE BROWNE ROAD PARK FACILITIES AND LAGUNA HEIGHTS PARK

Mr. Joe Vega, Assistant Parks System Director, stated that the Architectural Firm of Halff and Associates and the Architectural Firm of Gomez, Mendez, and Saenz had submitted Statements of Qualifications. He stated that after reviewing and evaluating the firms, the committee recommended that the Architectural Firm of Halff and Associates be selected.

Judge Hinojosa suggested that the Architectural Firm of Halff and Associates be selected to design the park portion of the project, and that the Architectural Firm of Gomez, Mendez, and Saenz be selected to design the facilities portion of the project.

Commissioner Cascos stated that he preferred the Architectural Firm of Gomez, Mendez, and Saenz in order to have a local firm and suggested that the firms be asked if they would be willing to split the project.

Commissioner Garza moved that Contract negotiations with the Architectural Firm of Gomez, Mendez, and Saenz be approved to prepare Plans for the Browne Road Park Facilities and Laguna Heights Park.

The motion died for lack of second.

Commissioner Cascos moved that the Architectural Firm of Halff and Associates be selected to design the Laguna Heights Park, that the Architectural Firm of Gomez, Mendez, and Saenz be selected to design the Browne Road Park Facilities, if acceptable to both parties. And that if not acceptable to both parties, that the Architectural Firm of Halff and Associates be selected to prepare Plans for the Browne Road Park Facilities and Laguna Heights Park and that Mr. Joe Vega, Parks System Assistant Director, and Mr. Doug Wright, Commissioners' Court Legal Counsel, be authorized to negotiate the Contracts.

The motion was seconded by Commissioner Benavides and carried unanimously.



**(14) CONSIDERATION AND POSSIBLE APPROVAL OF
A SIGN PERMIT APPLICATION FOR DANIEL
BRYANT D/B/A BREAK AWAY CRUISES, ET AL.**

Commissioner Benavides moved that the Sign Permit Application for Daniel Bryant d/b/a Break Away Cruises, et. al., be approved.

The motion was seconded by Commissioner Cascos.

Commissioner Garza clarified that the Board was in favor of the Sign Permit Application for Daniel Bryant d/b/a Break Away Cruises, et al.

Upon motion duly made by Commissioner Benavides, seconded by Commissioner Cascos and carried unanimously, the Sign Permit Application for Daniel Bryant d/b/a Break Away Cruises, et. al., was approved.

The Application is as follows:

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**(15) CONSIDERATION AND AUTHORIZATION TO
AWARD CONTRACT TO RABA KISTNER AND
DRASH ENGINEERING FOR SOIL TESTING AND
ENVIRONMENTAL SERVICES**

Commissioner Benavides moved that the Contract be awarded to Raba Kistner and Drash Engineering for Soil Testing and Environmental Services.

The motion was seconded by Commissioner Valdez.

Commissioner Garza questioned if both Architectural Firms did the same type of work and if the Contract was being awarded to both Firms.

Mr. Juan Bernal, County Engineer/Public Works Director, responded in the affirmative and clarified that bids were not required for Requests for Professional Qualifications (RFQ's).

Mr. Mark Yates, County Auditor, noted the need to exclude the West Rail Relocation Project from this Contract.

Upon motion duly made by Commissioner Benavides, seconded by Commissioner Valdez and carried unanimously, the Contract was awarded to Raba Kistner and Drash Engineering for Soil Testing and Environmental Services, excluding the West Rail Relocation Project.

The Contract is as follows:

(16) IN THE MATTER REGARDING CLAIM OF SHEPARD GROUP FOR FINAL PAYMENT ON INSTALLATION AND REPAIRS TO LOW POWER FM STATION ON SOUTH PADRE ISLAND (TABLED)

At this time, Mr. Ron Woodlock, Shepard Group, played a tape recording of an announcement being played on FM Radio Station 102.3.

Commissioner Benavides requested that the Boca Chica Beach be mentioned in the recording.

Mr. Woodlock stated that the Court had approved the Low Power FM Radio Stations and that the antennas would be placed at Isla Blanca Park. He stated that after negotiations, Bridge Point had decided to charge \$400.00 per month for placement of the radio antenna, and that the Sheraton had permitted the placement of the antenna on their property at no cost to the County.

Commissioner Garza questioned whether the messages would be bilingual.

Mr. Woodlock stated that the messages would be at the discretion of the County and played a tape recording of the primary announcement currently running on the Radio Stations.

Commissioner Benavides questioned if the announcement should name Cameron County rather than South Padre Island.

Mr. Woodlock stated that the announcement emphasized South Padre Island because the Radio Station was licensed to South Padre Island, and explained that the other Radio Stations would require that the physical location be mentioned since they were physically licensed to serve said locations.

At this time there was a brief discussion regarding the distance of the radio frequency and the possibility that Bridge Point could interfere with the radio transmission to the north end of the Island.

Commissioner Cascos questioned the total amount of the invoice being considered.

Mr. Woodlock stated that the final invoice was for the amount of \$4,444.95. He explained that the \$2,800.00 were above the budgeted amount, and that the amount included three (3) repairs made. Mr. Woodlock recommended that the County obtain a Warranty or a Maintenance Agreement.

Commissioner Garza questioned the type of Warranty obtained with the Radio Stations.

Mr. Woodlock stated that the equipment had a thirty (30) day Warranty.

Commissioner Cascos asked if the insurance would cover the damages.

Mr. Mark Yates, County Auditor, stated that he could not speak in regards to the insurance because he was not aware of the damages, adding that no invoices had been submitted to his Office.

Mr. Javier Mendez, Parks System Director, stated that funds were not available within the Parks System and that it was believed that the repairs would be covered under the Original Contract since the Radio Station had not been turned over to the County at that time.

Mr. Yates questioned when the Radio Station had been accepted by the County.

Mr. Mendez stated that the Radio Station had not been accepted.

Mr. Yates noted the need for Commissioners' Court Legal Counsel to indicate when the ownership of the Radio Stations had passed.

Mr. Doug Wright, Commissioners' Court Legal Counsel, stated that he would need to review the matter.

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

CONSENT ITEMS

ALL ITEMS UNDER THE CONSENT AGENDA ITEMS WERE HEARD COLLECTIVELY UNLESS OPPOSITION WAS PRESENTED, IN WHICH CASE THE CONTESTED ITEM WAS CONSIDERED, DISCUSSED, AND APPROPRIATE ACTION TAKEN SEPARATELY.

DISCUSSION CONCERNING CONSENT AGENDA ITEMS:

- ITEM NO. 25: Mr. Mark Yates, County Auditor, questioned whether this Item could be approved because the Budget had not been identified. Commissioner Cascos stated that the funds were available within his Budget. There was discussion regarding the TV station currently being out of service.
- ITEM NO. 27: Commissioner Garza noted that the difference in time was significant. He recommended that the nine (9) day bid be approved if there was a problem with the air condition in the Judicial Building. He noted the difference in cost to be the amount of \$900.00 and the difference in time consisted of fifty (50) days versus nine (9) days, adding that a service call could equal the total difference in cost. Mr. Roger Ortiz, Maintenance Supervisor, stated that he was confident that the unit could be kept running for the next fifty (50) days.
- ITEM NO. 29: Commissioner Garza questioned the significance of Item No. 29. Judge Hinojosa explained that the Cameron County Finance Corporation was involved in the acceptance of the Bonds during the bond issues and that the appointed person would serve a two (2) year term.
- ITEM NO. 17: Mr. Mark Yates, County Auditor, presented the following additional claims; Warrant No. 00076482, as to GE Credit Equipment, in the amount of \$17,500.00; Warrant No. 00076483, as to State Comptroller, in the amount of \$86.40; Warrant No. 00076484, as to Cingular Wireless, in the amount of \$798.98; and Warrant No. 00076845, as to Midas Investment Inc., in the amount of \$563.00.

Commissioner Cascos moved that the following "Consent and Travel Items" be approved, except for Item No. 24, and inclusive of the changes to Item No. 27 as suggested by Commissioner Garza.

The motion was seconded by Commissioner Garza and carried as follows:

AYE: Commissioners Benavides, Cascos, Garza, and Valdez

NAY: None

ABSTAIN: Judge Hinojosa as to Warrant No. 00076415, as to Southwest Key Program La Esperanza, in the amount of \$1,800.00.

(17) **APPROVAL OF CLAIMS;**
The Affidavit follows:

(18) **APPOINTMENT OF MR. CHARLES LAWRENCE SANDEL AS A RESERVE DEPUTY CONSTABLE, PRECINCT NO. 3, IN COMPLIANCE WITH THE STATE OF TEXAS LOCAL GOVERNMENT CODE SECTION 86.011 AND 86.012;**
The Resolution follows:

(19) **ADOPTION OF A RESOLUTION RECOGNIZING MR. FRANK RAMIREZ FOR HIS OUTSTANDING CONTRIBUTION TO THE SAFETY, HEALTH AND WELFARE OF ANIMALS IN CAMERON COUNTY;**
The Resolution follows:

(20) **AWARDING OF THE FOLLOWING BID:**
A. BACKHOES (QTY - 2) PUBLIC WORKS DEPARTMENT.

(21) **ADOPTION OF A RESOLUTION AUTHORIZING CAMERON COUNTY TO APPLY FOR AN INDIGENT DEFENSE GRANT FROM THE TEXAS TASK FORCE ON INDIGENT DEFENSE;**
The Resolution follows:

(22) **AGREEMENT BETWEEN CAMERON COUNTY AND THE UNITED STATES PROBATION FOR THE COLLECTION OF DNA SAMPLES;**
The Agreement follows:

(23) **UTILIZATION OF THE STATE OF TEXAS COOPERATIVE PURCHASING NETWORK REGION IV INTER-LOCAL PURCHASING AGREEMENT FOR PURCHASING OF ONE LH 3000 SERVER;**

(24) **IN THE MATTER OF ACCEPTANCE OF THE CAMERON COUNTY ANNUAL FINANCIAL REPORT FOR FISCAL YEAR 2001;(NO ACTION TAKEN)**

(25) **AUTHORIZATION TO ENTER INTO NEGOTIATIONS WITH KMBH-TV CHANNEL 60 FOR BROADCASTING OF COMMISSIONERS' COURT MEETING -REQUEST FOR PROPOSALS (RFP) NO. 1830-020401 SUBJECT TO FINAL CONTRACT APPROVAL BY COMMISSIONERS' COURT;**

(26) **OPENING OF THE FOLLOWING BIDS/PROPOSAL:**
A. DEVELOPMENT OF PROPERTY IN ANDY BOWIE PARK AT BEACH ACCESS #3 - RFP#020402 AND APPROVAL OF RECOMMENDED EVALUATION COMMITTEE;

(27) **AWARDING OF THE FOLLOWING BID:**
A. A/C ROOF TOP UNIT - 17 TON - JUDICIAL BUILDING: GEORGE CUNNINGHAM, Harlingen, Texas, \$12,852.00.

- (28) **AWARDING OF THE FOLLOWING BID:**
 A. **PEST CONTROL SERVICES - ANNUAL BID NO. 1600.**
BUG OFF PEST, McAllen, Texas, \$34,850.00.
- (29) **APPOINTMENT OF MS. MARGARITA GONZALEZ TO THE CAMERON COUNTY FINANCE CORPORATION;**
The Resolution follows:
- (30) **FINAL APPROVAL:**
 A. **PRECINCT NO. 4 - Vista Del Sol No. 3 - The North 15.12 Acres out of Block No. 159, Adams Garden Subdivision "C".**
 B. **PRECINCT NO. 4 - Amending Plat of Weaver Road Subdivision - A Replat, being 65.270 Acres, Comprised of All of Block No. 81, and the South 3.450 Acres out of Block No. 82, F. Z. Bishop Subdivision.**
- (31) **FINAL APPROVAL:**
 A. **PRECINCT NO. 4 - Rancho Grande South Section VIII - Being 35.337 Acres out of the Western and Northern portion of a 591.85 Acre Tract, said 594.85 Acres consisting of part of 392.50 Acres per actual Survey, same property described as a 389.2 Acre Tract in Deed Granting a 30 feet Water Transmission Canal Easement, from E.D. Palmer to W.B. Mobley, dated February 9, 1955, out of a 780 Acre Tract described in Partition Deed between W.B. Hinkley and R.B Hinkly, dated December 18, 1929, and all of Tracts Nos. 2 and 3 of a Plat of a portion of San Pedro de Carricitos Grant Showing No. 11 Tract of Land out of Subdivision E, F, G, H of Shares Nos. 7 and 8 dated March 6, 1944.**

TRAVEL ITEMS

- (32) **AUTHORIZATION TO TRAVEL/OR APPROVAL OF TRAVEL EXPENSE FOR THE FOLLOWING (PLEASE NOTE: TRAVEL REQUESTS ARE SUBJECT TO ALL APPLICABLE COUNTY POLICIES):**
- (a) Ten (10) Health Department Employees to attend the "Workshop Designed for those who Administer and Interpret the TB Skin Test", in Harlingen, Texas, May 22, 2002.
 - (b) International Bridge System Director to be a Panelist for the GAO Meeting on Privacy Aspects of Biometric Technology" in Washington, D.C., on May 15-17, 2002;
 - (c) Seven (7) District Clerk employees to attend the "U.S. Department of State Training for Passport Agents", in South Padre Island, Texas, June 5, 2002;
 - (d) Six (6) District Clerk Employees to attend the "U.S. Department of State Training for Passport Agents" in South Padre Island, Texas, June 4, 2002;
 - (e) Assistant District Attorney to attend the "Investigation and Prosecution of Drug Offenses Seminar", in Corpus Christi, Texas, on June 11-14, 2002;
 - (f) Two (2) County Extension Agents to attend the "Workshop on Addressing the Needs of the Changing Urban Environment", in Weslaco, Texas, on May 31, 2002; and
 - (g) Geographical Information System (GIS) Coordinator and GIS Cartographer, to attend the "National Emergency Numbering Association Conference", in Indianapolis, Indiana, on June 14, 2002.

NOTE: JUDGE HINOJOSA LEFT THE MEETING AT THIS TIME.

- (17) **APPROVAL OF CLAIMS.**
The Affidavit is as follows:

- (19) **ADOPTION OF A RESOLUTION RECOGNIZING MR. FRANK RAMIREZ FOR HIS OUTSTANDING CONTRIBUTION TO THE SAFETY, HEALTH AND WELFARE OF ANIMALS IN CAMERON COUNTY.**
The Resolution is as follows:

- (21) **ADOPTION OF A RESOLUTION AUTHORIZING CAMERON COUNTY TO APPLY FOR AN INDIGENT DEFENSE GRANT FROM THE TEXAS TASK FORCE ON INDIGENT DEFENSE.**
The Resolution is as follows:

- (22) **AGREEMENT BETWEEN CAMERON COUNTY AND THE UNITED STATES
PROBATION FOR THE COLLECTION OF DNA SAMPLES.**
The Agreement is as follows:

**(24) CONSIDERATION AND ACCEPTANCE OF THE
CAMERON COUNTY ANNUAL FINANCIAL
REPORT FOR FISCAL YEAR 2001**

Judge Pro-tem Cascos stated that the County had experienced three (3) embezzlements in the past fiscal year. He questioned if internal controls were tested during the audit in order to determine what had been done to prevent future embezzlements.

Mr. Carlos Barrera, Long Chilton, L.L.P, responded that the internal controls were tested and that no reportable conditions or findings were identified.

Judge Pro-tem Cascos suggested that surprise audits be conducted at rural and satellite fee offices.

Mr. Barrera stated that said function was a responsibility of the County Auditor, and that the fee scope would be substantially higher unless the work scope was cut down. He stated that their job, with the current budget, was to make sure the compliance was done correctly and to assure that the financial reports were issued.

Judge Pro-tem Cascos requested clarification as to whether the deposits had cleared late or late in the month of October.

Mr. Barrera clarified that the deposits were clearing late in the month of October.

Judge Pro-tem Cascos questioned whether the indication concerning the Bond Covenant in the Toll Bridge System Reserve should be recouped from \$508,056.00 to \$918,649.00 within sixty (60) months.

Mr. Mark Yates, County Auditor, stated that the Toll Bridge System Reserve had not recouped. He stated that there were two (2) bond issues being reported and that the one being referred pertained to the Free Trade Bridge at Los Indios. Mr. Yates stated that \$580,000.00 were put in from Bond proceeds with the understanding that when a surplus was generated the \$5,600.00 or \$6,200.00 would be funded per month. He stated that the presentation was originally five (5) years but that it was delayed one (1) year due to the peso devaluation.

Commissioner Garza questioned the recommendation to not lease or rent a building not in compliance with the Americans with Disabilities Act (ADA) at the time of approving the Contract.

Mr. Yates stated that in two (2) months he would present recommendations that prevent the programs from refusing to comply with the ADA or to have some form of assurance presented at the time of occupancy of a building that had a monetary penalty.

Upon motion by Commissioner Garza, seconded by Commissioner Valdez, and carried unanimously the Cameron County Annual Financial Report for Fiscal Year 2001 was approved and accepted.

The Report is as follows:

EXECUTIVE SESSION

(33) EXECUTIVE SESSION

Upon motion by Commissioner Benavides, seconded by Commissioner Valdez and carried unanimously, the Court met in Executive Session at 7:35 P.M. to discuss the following matters:

- a) Evaluation of Veterans Service Officer; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.074;
- b) Deliberation Regarding Real Property Concerning the Concession Agreement of Nitin Investment, Inc., d/b/a Ocean Gate Inn at South Padre Island and the Possible Rescinding of the Concession Agreement; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.072;
- c) Confer with Commissioners' Court Legal Counsel on Legal Issues Regarding Certain Tax Abatement Agreements Approved by Cameron County, on Matters in Which the Duty of the Attorney to the Governmental Body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas Clearly Conflicts with the Open Meetings Act, Pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.071(2);
- d) Consideration and Authorization to Provide Legal Representation for Individual Defendants in Antonio Bejaran, Jr. versus. John Cruz, et. al., Cause No. B-01-075; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.071(2);
- e) Deliberation Regarding Real Property Concerning the Possible Termination of Lease of Concessionaire Oasis II, at Isla Blanca Park; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.072;
- f) Confer with Commissioners' Court Legal Counsel Concerning Possible Claim by Green Acres Travel Trailer Park; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.071(1)(A)&(B);
- g) Deliberation Regarding Real Property: Concerning the Possible Lease of Office Space at 700 Levee Street with Pesa, Inc.; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.072.
- h) Confer with Commissioners' Court Legal Counsel Concerning Cameron County versus. First National Bank of Edinburg, Cause No. 2001-08-3600-G in the 404th District Court, for Discussion and Authority to hire Counsel; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.071(2);
- i) Deliberation Regarding Real Property Concerning: the Possible Lease of Office Space for the Unidos Podemos Program and/or Other County Departments; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.072; and
- j) Deliberation Regarding Real Property Concerning Possible Lease of a Portion of Park System Property at Browne Road Park; pursuant to Vernon Texas Code Annotated (V.T.C.A.), Government Code Section 551.071.

Upon motion by Commissioner Benavides, seconded by Commissioner Valdez and carried unanimously, the Court reconvened in Regular Session at 8:20 P.M.

(34) **ACTION RELATIVE TO EXECUTIVE SESSION:**

- (a) **In the matter of evaluation of Veterans Service Officer.
(NO ACTION TAKEN)**

This Item was not discussed.

- (b) **Deliberation Regarding Real Property concerning the Concession Agreement of Nitin Investment, Inc., d/b/a Ocean Gate Inn at South Padre Island and the possible rescinding of the Concession Agreement.**

Commissioner Benavides moved that Mr. Joseph Ardito, Property Manager, was authorized to send a letter to Nitin Investment, Inc., d/b/a Ocean Gate Inn at South Padre Island requesting to get an update regarding the Concession Agreement.

The motion was seconded by Commissioner Valdez and carried unanimously.

- (c) **Confer with Commissioners' Court Legal Counsel on Legal issues Regarding Certain Tax Abatement Agreements Approved by Cameron County, on Matters in Which the Duty of the Attorney to the Governmental Body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas Clearly Conflicts with the Open Meetings Act.**

Mr. Ernesto Abelardo Danache, Mexican Attorney at Law, stated that the Walnut Grove Company, had constructed a 125,000 square feet facility on 10 acres located on Military Highway adjacent to the Free Trade Bridge at Los Indios. He stated that the company was planning to expand the Los Indios facility from 125,000 square feet to 225,000 square feet when funds were available. Mr. Danache stated that the understanding was that the Tax Abatement Agreement was being reviewed and could possibly be revoked, based on the fact that the company did not have employees. He explained that the company did not have employees and was not operating because FIMSA Construction Company had not installed the sprinkle system as per the specification stated in the Construction Agreement. He stated that the Walnut Grove L.L.C., had ongoing litigation against FIMSA Construction Company and that since he was not licensed in this Country he was unaware of the Status of the case, adding that the well being and health of the employees would not be put at risk in a facility that did not have a sprinkler system. Mr. Danache stated that the original Tax Abatement Agreement indicated that the employees from the Harlingen facility, located within Foreign Trade Zone, would be transferred to the facility at Los Indios, noting that both facilities had the same status and were located within the County. He stated that Mr. Randy Seitz, Harlingen Chamber of Commerce Member, indicated that Walnut Grove L.L.C., would be entitled to the Tax Abatement even if it did not have employees because it had the same type of interest as MSI, which operated the Harlingen facility. Mr. Danache stated that some issues were not properly addressed and that operations would not commence until the facility was safe, and added that the Company wanted to continue getting the

benefits of the Tax Abatement, adding that they had plans to expand in the U.S. and in Mexico as well. He stated that Walnut Grove L.L.C., was willing to comply.

Judge Pro-tem Cascos noted that the issue was that Walnut Grove L.L.C., was not in compliance with the Ten (10) Year Tax Abatement Agreement, and that the County was locked into a corner, adding that no one was to blame. He stated that through litigation, Walnut Grove L.L.C., might have a cause of action against whomever was being sued in order to recoup the lost benefits of the Tax Abatement had they been in compliance with the Agreement.

Mr. Danache read Item No. 2 Section C of the Tax Abatement Agreement and explained that the Company had indicated, in the application, that twenty-five (25) Harlingen employees would be transferred to this facility. He added that the Tax Abatement was granted because of the investment, in the amount of \$112,000.00, and the sales tax.

Mr. Frank Bejarano, Project Development and Management Director, clarified that the operations of the Walnut Grove L.L.C., were located at the Harlingen Airport Enterprise Zone was separate from the Los Indios Enterprise Zone, adding that the Enterprise Zone that was at party to the Tax Abatement Agreement was that of Los Indios Enterprise Zone.

Judge Pro-tem Cascos questioned if Tax Abatements could be obtained at the Harlingen Airport Enterprise Zone and whether the Agreement included that the jobs would be shifted.

Mr. Bejarano responded that Tax Abatements were not given at the Harlingen Airport Enterprise Zone, noting that they were two (2) separate Enterprise Zones.

Mr. Danache stated that the shifting of jobs was included in the application.

Mr. Bejarano noted that the shifting of jobs had never occurred.

Mr. Danache explained that the shifting of jobs never occurred because the building was not safe. He stated that expansion plans in Matamoros were being contemplated at this time, and that the Los Indios facility would be used for distribution of other products that are transported into Mexico. He reiterated that the Agreement was granted based on the substantial investment and questioned whether the codes permitted that the building be operated without the sprinkler system in place.

Judge Pro-tem Cascos suggested that Mr. Bejarano and Mr. Doug Wright, Commissioners' Court Legal Counsel, review the Tax Abatement Agreement one (1) more time since commitments were made from both parties. He stated that the Court was informed that there were no legal grounds to offer the Abatement.

Mr. Danache asked whether the Abatement would be suspended.

Judge Pro-tem Cascos explained that there were numerous Tax Abatement Agreements being discussed and that the issue was how to recapture the ad valorem tax.

Mr. Danache stated that he would encourage the Court to review the statement made by Mr. Seitz.

Judge Pro-tem Cascos stated that there were a lot of factors involved when reviewing a Tax Abatement Agreement and that Mr. Seitz did not have the authority to make such statement, adding that the Agreement would be reviewed.

Mr. Danache stated that the company felt there was a waiver and requested that the Court consider that the potential was present.

Commissioner Benavides moved that the Status Report by Mr. Frank Bejarano, Program Development and Management Project, regarding certain Tax Abatement Agreements approved by Cameron County, on matters in which the duty of the Attorney to the Governmental Body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas Clearly Conflicts with the Open Meetings Act, be acknowledged.

The motion was seconded by Commissioner Valdez and carried unanimously.

(d) Consideration and Authorization to Provide Legal Representation for Individual Defendants in Antonio Bejaran, Jr., versus John Cruz, et. al., Cause No. B-01-075.

Commissioner Benavides moved that Mr. Doug Wright, Commissioners' Court Legal Counsel, be authorized to represent the Individual Defendants in Antonio Bejaran, Jr. versus John Cruz, et. al, Cause No. B-01-075.

The motion was seconded by Commissioner Valdez and carried unanimously.

(e) Deliberation Regarding Real Property Concerning the Possible Termination of Lease of Concessionaire Oasis II, at Isla Blanca Park.

Commissioner Benavides moved the cancellation of the Lease of Concessionaire Oasis II, at Isla Blanca Park be rescinded, with the understanding that if the Concessionaire becomes delinquent one (1) more time then we will sever the Lease at that time.

The motion was seconded by Commissioner Valdez and carried unanimously.

(f) Confer with Commissioners' Court Legal Counsel Concerning Possible Claim by Green Acres Travel Trailer Park.

Commissioner Valdez moved that the Status Report by Mr. Doug Wright, Commissioners' Court Legal Counsel, concerning the Claim by Green Acres Travel Trailer Park be acknowledged.

The motion was seconded by Commissioner Benavides and carried unanimously.

(g) Deliberation Regarding Real property, Concerning the Possible Lease of Office Space at 700 Levee Street with Pesa, Inc.

Upon motion by Commissioner Benavides, seconded by Commissioner Valdez and carried unanimously, Mr. Joseph Ardito, Property Manager, and Mr. Joe G. Rivera, County Clerk, were authorized to negotiate the Lease, in the amount of \$2,500.00 per month, of Office Space at 700 Levee Street with Pesa, Inc.

**(h) [REDACTED]
Confer with Commissioners' Court Legal Counsel Concerning Cameron County versus First National Bank of Edinburg, Cause No. 2001-08-3600-G in the 404th District Court, for Discussion and Authority to Hire Counsel**

Upon motion by Commissioner Valdez, seconded by Commissioner Benavides and carried unanimously, the Law Firm of Willet and Guerra was hired to represent the County in the case styled Cameron County versus First National Bank of Edinburg, Cause No. 2001-08-3600-G in the 404th District Court, for Discussion and Authority to Hire Counsel was acknowledged.

**(i) [REDACTED]
In the matter of deliberation regarding Real Property concerning the possible Lease of Office Space for the Unidos Podemos Program and/or other County Departments. (NO ACTION TAKEN)**

This Item was not discussed.

**(j) [REDACTED]
Deliberation Regarding Real Property concerning possible Lease of a Portion of Park System Property at Browne Road Park.**

Upon motion by Commissioner Benavides, seconded by Commissioner Valdez and carried unanimously, the Status Report by Mr. Joseph Ardito, Property Manager, and Mr. Javier Mendez, Parks System Director, regarding the Lease of a Portion of Park System Property at Browne Road Park was acknowledged.

There being no further business to come before the Court, upon motion by Commissioner Valdez, seconded by Commissioner Benavides and carried unanimously, the meeting was **ADJOURNED** at 8:38 P.M.

APPROVED this 2nd day of **July 2002**.

GILBERTO HINOJOSA
COUNTY JUDGE

ATTEST:

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