

THE STATE OF TEXAS §

COUNTY OF CAMERON §

BE IT REMEMBERED on the 6th day of JANUARY 2004, there was conducted a Regular 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:

9:30 P.M.

PRESENT:

GILBERTO HINOJOSA
COUNTY JUDGE

PEDRO "PETE" BENAVIDES
COMMISSIONER PRECINCT NO. 1

JOHN WOOD
COMMISSIONER PRECINCT NO. 2

DAVID A. GARZA
COMMISSIONER, PRECINCT NO. 3

COMMISSIONER, PRECINCT NO. 4

JOE G. RIVERA
COUNTY CLERK

Mary Robles Deputy Clerk

ABSENT:

EDNA TAMAYO

The meeting was called to order by Judge Pro-Tem Pedro "Pete" Benavides at 9:30 A.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 January 2, 2003, at 3:55 P.M.:

ACTION ITEMS

(1) **IN THE MATTER REGARDING BUDGET AMENDMENTS, LINE ITEM TRANSFERS AND/OR SALARY SCHEDULES (NO ACTION TAKEN)**

Mr. Xavier Villarreal, Budget Officer, informed that there were no Budget Amendments, Line Item Transfers nor Salary Schedules to be considered.

(2) **IN THE MATTER REGARDING APPROVAL OF MINUTES FOR:**

- (A) **NOVEMBER 12, 2003-SPECIAL MEETING**
- (B) **NOVEMBER 18, 2003-REGULAR MEETING**
- (C) **NOVEMBER 21, 2003-SPECIAL MEETING**
- (D) **NOVEMBER 25, 2003-REGULAR MEETING (TABLED)**

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

(3) **CONSIDERATION AND DESIGNATION OF TIME OF DAY AND DAY OF THE WEEK OF THE COMMISSIONERS COURT REGULAR MEETING**

Commissioner Garza moved that the designation of time of day and day of the week of the Commissioners Court Regular Meeting be set to take place at 9:30 A.M. of every Tuesday.

The motion was seconded by Commissioner Tamayo.

Mr. Remi Garza, County Administrative Assistant, explained that placement of this Item was standard practice.

Commissioner Wood suggested that a "Public Comment Registration Form" be used for individuals to address concerns as opposed to having a public comment period prior to the meeting. He added that if a form was not submitted then the Court could proceed. Commissioner Wood explained that the form provides guidelines that stipulate that three (3) minutes be available per individual to address concerns.

NOTE: JUDGE HINOJOSA JOINED THE MEETING AT THIS TIME.

Mr. Garza suggested that the public comment period and utilization of the form be used in combination.

Judge Hinojosa asked what was wrong with allowing public comment period prior to the meeting.

Commissioner Wood stated that this was the first time that anyone addressed concerns during the public comment period; thus, the Court was wasting time since no one addressed concerns prior to today. He explained that usage of the form would allow that a public comment period be held during the Regular Meeting and that upon

no one signing up then the Court may proceed to the next Agenda Item. He suggested that the number of individuals to address the Court be limited to five (5).

Commissioner Tamayo asked if individuals would be allowed to speak during consideration of Agenda Items.

Commissioner Garza noted that doing so was at the discretion of the County Judge.

Mr. Fernando Ruiz, County Ruiz, expressed concern with restriction being placed on groups wanting to speak before the Court.

Judge Hinojosa clarified that the Court has never placed restriction on groups wanting to address concerns.

Commissioner Wood stated that a public comment period would allow individuals to address concerns that were not part of the Agenda, noting that issues requiring additional time might need to be placed on the following Agenda.

Mr. Ruiz requested that the public be advised as to how to place matters on the Agenda for consideration.

Mr. Garza informed that in order for the Court to hold a Regular Meeting at a location other than a governmental building these locations must be designated January in order to comply with the seven (7) day publication notice, and asked if the Court wanted to take action on the matter.

Judge Hinojosa suggested that the matter be brought before the Court within the month.

Upon motion duly made by Commissioner Garza that the designation of time of day and day of the week of the Commissioners Court Regular Meeting be set for 9:30 A.M, every Tuesday, inclusive of utilization of the "Public Comment Registration Form" to allow individuals to address concerns.

The motion was seconded by Commissioner Tamayo and carried unanimously.

The Form is as follows:

(4) **CONSIDERATION AND APPOINTMENT OF COUNTY JUDGE PRO-TEM**

Upon motion by Commissioner Wood, seconded by Commissioner Tamayo and carried unanimously, Commissioner Benavides was appointed County Judge Pro-Tem.

(5) **CONSIDERATION AND ACTION REGARDING THE COMPOSITION OF THE SALARY GRIEVANCE COMMITTEE, PURSUANT TO V.T.C.A. LOCAL GOVERNMENT CODE, SECTION 152.014**

Mr. Remi Garza, County Administrative Assistant, explained that the Salary Grievance Committee may be formed of nine (9) public members randomly selected from the Grand Jury Rolls or from Elected Officials as set forth by Statute. He explained that upon electing that the Salary Grievance Committee be composed from the Grand Jury Rolls then the County Judge would draw names, who would later be called to determine if they were willing to serve.

Commissioner Tamayo questioned the amount of time used to work with the Salary Grievance Committee.

Mr. Garza explained that Members of the Salary Grievance Committee were briefed for a few minutes prior to the meeting and were mailed letters inviting them to attend the budgetary process, noting that the Committee met only once throughout the year.

Commissioner Garza moved that the Salary Grievance Committee be composed of public members randomly selected from the Grand Jury Rolls; pursuant to Vernon Texas Code Annotated (V.T.C.A.) Local Government Code, section 153.014.

The motion was seconded by Commissioner Benavides and carried unanimously.

(6) **IN THE MATTER REGARDING CONSIDERATION AND POSSIBLE ACTION REGARDING AN INCREASE IN COMPENSATION FOR THE COURT REPORTER POSITION IN CAMERON COUNTY COURT AT LAW NO. 2 (TABLED)**

Judge Hinojosa informed that County Court at Law Judge Elia Cornejo was requesting a salary increase the vacant Court Reporter Position in the amount of \$10,000.00, because otherwise the position would not attract Court Reporters, forcing her to contract out. He stated that approval would signify the need to increase other Court Reporters at County Court Level, totaling about \$25,000.00. Judge Hinojosa explained that he suggested to Judge Cornejo that he would support the increase if the County Auditor was willing to reconfigure revenue estimates from

her Court since it was a budget neutral position. He explained that the matter was placed on the Agenda because of Judge Cornejo's insistence although he did not want to place it until a revenue source was available.

Commissioner Tamayo suggested that the position's salary be increase by a different amount.

Commissioner Wood noted that there was disparity between the County and District Court Reporters; however, Court Reporters have opportunity to generate additional revenue by selling the transcripts. He stated that County Court Reporter might not have the opportunity to sell the transcripts as often.

Judge Hinojosa noted that County Court Reporters receive all County benefits.

Commissioner Wood stated that County Court Reporter do not work when Court was not in session.

Judge Hinojosa stated that there was a big difference in pay between District and County Court Reporter, and that the matter could have been easier to deal with during the budgetary process. He stated that perhaps a tape recording could substitute a Court Reporter, and explained that in Federal Court it was common to not use a Court Reporter, adding that when there was a need for a transcript "Statement of Facts" transcription services were retained. Judge Hinojosa requested that the possibility of whether by law Court proceedings be recorded be researched by Legal Counsel.

Upon motion by Commissioner Tamayo, seconded by Commissioner Benavides and carried unanimously, this Item was **TABLED**.

(7) **IN THE MATTER REGARDING DISCUSSION AND AUTHORIZATION REGARDING INDIGENT BURIAL PROGRAM POLICIES AND FEES (TABLED)**

At this time, Mrs. Yvette Salinas, Health Department Administrator, provided an overview of Policies regarding Indigent Burial Program and a historical timeline of the same.

Commissioner Wood asked if the requirements pertaining to cremation were set by the County or by State.

Mrs. Salinas explained her understanding to be that the requirements were set by State; however, she would review the matter.

Commissioner Tamayo asked who selects funeral home.

Mrs. Salinas responded that at times the family contacts the funeral home and other times the Justice of the Peace declaring the death contacts the funeral home.

Commissioner Tamayo questioned the usage disparity among the funeral homes.

Mrs. Salinas stated that some funeral homes opt not to participate in the Indigent Burial Program and that all funeral homes were listed because the County does not exclude any. She proceeded to highlight a report containing compensation given by other Counties.

Commissioner Wood questioned the source of the plots and the compensation for the same.

Mrs. Salinas explained that Cameron County compensates a flat amount to funeral homes regardless of whether a plot was available or not.

Judge Hinojosa suggested that the county examine the possibility of having a county cemetery because of the growth taking place in Cameron County. He stated that large cemeteries would not be affected, and noted the need to have burial grounds for poor people to eliminate the burden on families and funeral homes. Judge Hinojosa stated that compensation to funeral homes was not enough for burial costs, and commented that construction of a cemetery might have a reasonable cost.

Mrs. Salinas stated that the average cost for a plot was about \$325.00, excluding the opening and closing.

Commissioner Garza asked if Judge Hinojosa was suggesting that the proposed county cemetery be open to everyone or only to individuals who could not afford to purchase plots.

Judge Hinojosa suggested that income guidelines be placed for usage of a county cemetery.

Commissioner Wood stated questioned the issue pertaining cremation.

Judge Hinojosa explained that by law a body may not be cremated without consent.

Mrs. Salinas stated that a body could not be cremated without consent from a family member or when it was an unidentified body that may be part of a criminal activity.

Commissioner Garza asked who would claim the body of a county resident who has resided in Cameron County for five (5) months and 27 days and who would be responsible for the burial and disposition.

Mrs. Salinas explained that income guidelines were followed and that upon the body being unclaimed and having been the only income in the household then it would qualify for Indigent Burial, regardless of the six (6) month residence guideline.

Judge Hinojosa suggested that this Item be tabled in order to develop a plan.

Commissioner Tamayo requested that a figure be provided concerning the possible savings to be incurred through construction of a county cemetery.

Judge Hinojosa explained that many problems could be eliminated versus savings being incurred.

Commissioner Garza questioned the status of the issue that derived over the weekend.

At this time, Delta Funeral Home Owner stated that a complaint was sent to the Texas Funeral Service Commission and that he would submit a lengthy letter to the same to clarify that they did nothing wrong in attempting to recover funds for the funeral home.

Commissioner Garza noted that the county should not expect to be subsidized by funeral homes as it appears to be happening.

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

(8) CONSIDERATION AND APPROVAL OF TIME EXTENSION FOR THE INSTALLATION OF THE SEPTIC SYSTEM AS REQUIRED BY THE CONSTRUCTION AGREEMENT FOR LOBITAS ESTATES SUBDIVISION

Mr. Alejandro Sanchez, Engineer in Training, requested approval of a year extension.

Commissioner Benavides moved that the extension for the installation of the Septic System as required by the Construction Agreement for Lobitas Estates Subdivision be approved.

The motion was seconded by Commissioner Wood.

Commissioner Garza questioned the relation of this Item to Item 13-b and if the extension being approved was for Phase I since the Agenda Item did make reference to it.

Mr. Doug Wright, Commissioners Court Legal Counsel, advised that the extension could be approved with the clarification.

Mr. Sanchez clarified that this Item pertains to Lobitas Estate Subdivision, legal description for Phase I, and that Item 13-b pertained to Phase II.

Upon motion duly made by Commissioner Benavides that the extension for the installation of the Septic System as required by the Construction Agreement for Lobitas Estates Subdivision be approved.

The motion was seconded by Commissioner Wood and carried unanimously.

(9) CONSIDERATION AND AUTHORIZATION TO AWARD THE FOLLOWING BIDS FOR:

(A) PATROL CARS (QTY. 19) BID NO. 031101

Judge Hinojosa informed that a majority vote was not obtained last week and that the issue had been mischaracterized by the press. He explained that the press indicated that a motion was made to award the bid to the second lowest bid and that this was incorrect since Tipton was the fourth lowest bid. Judge Hinojosa informed that a letter was submitted by Phillipott Motor Company raising legal issues regarding whether the County could award the bid to anyone other than the lowest bid. He stated that the letter indicates that Phillipott Motor Company believes that legally Tipton qualify for the County to award the bid to them because there was inadequate proof that the contract would meet the following Statute "the best combination contract price and additional economic development opportunities for the local government code created by the contract award, including employment of residents of the local government code and increased tax revenues to the local government". Judge Hinojosa

explained that the letter states that awarding the bid for a purchase would not provide employment opportunities, and that the county may be placed in a position where other companies may not bid in the future upon not awarding to the lowest bidder. He noted the need to decide, and that the cost difference was nearly \$11,000.00 a significant amount.

Commissioner Wood asked if Legal Counsel had a legal opinion from the Office of the Attorney General.

Mr. Doug Wright, Commissioners Court Legal Counsel, disagreed that the Court did not have discretion to award to local vendors as concluded in the letter, and explained that legislation provides the Court the discretion, in areas where the difference is not greater than 3%, to make the decision, which must be made in writing and must be justified.

Judge Hinojosa asked if there must be a finding that there would be an increase of economic development opportunities and how the finding could be determined. He stated that setting a precedent and the legal aspect trouble him because he did not recall the county doing this before.

Commissioner Tamayo noted the need to be consistent.

Commissioner Benavides stated that he was in favor of awarding the bid to the local vendor and that it was his belief that small local companies were unable to compete with large companies.

Mr. Wright stated that the need to determine a finding was made fairly recently.

Commissioner Garza requested information regarding a review of the economic benefit deriving from buying locally pertaining to a bid previously awarded.

Mr. Mike Forbes, Purchasing Agent, stated that no relating information was received.

Mr. Ray Rinehart, Tipton Ford Representative, commented that local bidders opted not to bid as opposed to Tipton Ford because they value doing business with Cameron County.

Mr. Fernando Ruiz, County resident, questioned the need to purchase vehicles, and noted the need to properly maintain vehicles. He expressed concern with the expense incurred annually for purchases of new vehicles.

Judge Hinojosa stated that the need to purchase the vehicles had been determined, and that the court was considering whether to award the bid to a low bid or a local vendor.

Mr. Jeff Tipton, Tipton Ford Owner, stated that they bid with the school district and the County and that awarding the bid to a local vendor would not stop Philpott Motors Company from bidding. He requested that the Court consider that Tipton Ford employs over 110 county residents as opposed Philpott Motors Company.

Judge Hinojosa explained that he wanted to continue encouraging companies to bid for products being purchased by the County. He stated that the County has always awarded vehicle bids to the lowest bidder since he

has been in office; therefore, a different situation has never been encountered. Judge Hinojosa explained that this situation was difficult because Tipton Ford was the fourth lowest bidder and he did not know what consequences could derive in the future in regards to obtaining the lowest price. He stated that the letter provided by Philpott Motors Company sounded like they were attempting to sue the County, yet he was now satisfied with Legal Counsel's opinion on the matter. Judge Hinojosa expressed concern of how the County could be affected in the future when purchasing vehicles, and reiterated that awarding the bid to Tipton Ford could place the County in an awkward position in the future.

Commissioner Garza asked Mr. Wright if the Bid was in order with regards to meeting the 3% preference.

Mr. Wright stated that the Court was able to award to Tipton Ford upon making a finding that the principal place of business was within the county, that the bid was within 3%, and if the County determines, in writing, that bidder offers the best combination of contract price and additional economic benefit opportunities for the local government created by the contract awarded to them, including employment of residents and an increase in tax revenue, in accordance with Statute.

Judge Hinojosa stated that the Court had discretion to make the said findings.

Mr. Wright stated that there was an economic benefit, and reiterated that Legislation provides the Court the discretion to make a determination as to the finding.

Commissioner Tamayo expressed respect for the individuals who called her to argue both side, and encouraged Tipton Ford to perhaps have their part-time staff become full time staff.

Upon motion by Commissioner Wood, seconded by Commissioner Benavides and carried unanimously, Patrol Cars (QTY. 19) Bid No. 031101 was awarded to Tipton Ford, Brownsville, Texas.

Commissioner Garza noted that there were good arguments on the matter.

The tabulation is as follows:

(6) IN THE MATTER REGARDING CONSIDERATION AND POSSIBLE ACTION REGARDING AN INCREASE IN COMPENSATION FOR THE COURT REPORTER POSITION IN CAMERON COUNTY COURT AT LAW NO. 2 (TABLED)

County Court at Law No. 2 Judge Elia Cornejo expressed concern with not having a Court Reporter for her courtroom and the problems encountered while attempting to acquire free lancers. She requested that the Court increase the salary of the County Court Reporter, position adding that there was a \$30,000.00 salary discrepancy between County and District Court Reporters. Judge Cornejo explained that filling the position has been very difficult due to its salary.

Commissioner Garza asked if there was a law prohibiting audio recording for court proceedings.

Judge Cornejo stated her understanding to be that Courts must have a Court Reporter and that all Federal Courts have Court Reporters.

Judge Hinojosa noted that the Federal Bankruptcy Judge and the Federal Magistrates do not have Court Reporters.

Judge Cornejo stated that the Court of Appeals requires transcripts.

Commissioner Garza asked if the recording could be transcribed when requested.

Judge Cornejo stated that she would review the law on the matter.

Judge Hinojosa state that Legal Counsel had been asked to review the law on the matter, and explained that audio recording could be used during pleas and not during a trial.

Judge Cornejo stated that a Court Reporter must be available to hold court and that obtaining a free lancer was becoming increasingly difficult.

Judge Hinojosa noted the need to determine a revenue source because funding could not be taken from Fund Balance.

Judge Cornejo stated that the Court brought in additional revenues of about \$500,000.00, although the revenue was not allocated into their budget; otherwise, they would have a surplus of about a million dollars.

Judge Hinojosa stated that if the County Auditor could certify an additional amount of revenue that was not anticipated in the budget for County Courts at Law then that additional revenue could be booked towards the Court;

Judge Cornejo stated her understanding to be that a funding source was available based on a conversation with the Auditor.

Mr. Doug Wright, Commissioners' Court Legal Counsel, informed that a decision made by the Court of Appeal in 1988 alludes to the process set by the Supreme Court concerning the procedure to make a Court record,

including District Courts, by electronic report. He explained that an audio recording could take place and transcribed upon request.

Mr. Mark Yates, County Auditor, stated that if the Court approves the use of Fund Balance and declares an emergency he would use the additional revenues promised on behalf of Judge Cornejo. He stated that Fund Balance was essentially utilized at the time that shortfalls occurred after revenue projections were increased for the Courts through the County Clerk's Collections Department. Mr. Yates stated that he had no problem increasing revenues based on certain representations, but he could not stipulate to the Court that General Fund certified and projections revenues would be greater than what was certified since there were shortfalls in both federal inmate population and per-diem.

Judge Hinojosa stated that his office would provide the Court a Status Report concerning the jail and added that the Report would indicate that the situation at the jail has significantly improved in terms of the inmate population decreasing and the federal inmate population increasing. He stated that the shortfalls anticipated a month ago were not being seen and that the inmate population has dropped by approximately 175 inmates throughout the last four (4) week thus decreasing the cost. Judge Hinojosa stated that the Texas Jail Standard Commission would walk the jail today and would find the County to be in compliance based on the drop in inmate population. He asked the County Auditor if additional revenue, in the amount of \$20,000.00, could be booked based on continuation of the trend.

Commissioner Wood stated that the amount being requested totaled \$12,500.00 per Court Reporter for a total of three (3) Court Reporters, plus fringe benefits.

Judge Cornejo stated that an individual was willing to accept the position at \$65,000.00 salary.

Mr. Yates commented that the salary increase would total \$14,000.00 per position.

Judge Hinojosa stated that the salary increase for the three (3) positions would require at least \$35,000.00 to be booked.

Commissioner Garza asked if there was a possibility that the audio recording alternative be considered.

Judge Cornejo stated that using audio recordings would be very difficult, and reiterated the difficulty in finding a Court Reporter.

Commissioner Garza stated that according to Legal Counsel, audio recording could be used.

Judge Cornejo stated that finding transcribing services would be difficult upon using audio recordings because they would want full compensation, and added that the free lancers who provided services back in October 2003 had not been paid, thus making it even more difficult to obtain services at a rate of \$300.00 per day. She added that at this time they were trying to track the invoices and purchase orders in order to pay the services.

Mr. Yates clarified that his Office had no unpaid bills.

Judge Cornejo stated that her Court Administrator indicated that the invoices were submitted.

Commissioner Garza asked where the invoices were.

Mr. Xavier Villarreal, Budget Officer, explained that Mr. Carlos Buentello, Court Administrator, has the invoices because he had submitted all invoices as a whole and that the funds in the line item was in sufficient to pay all invoices, adding that there was sufficient funding to pay older invoices. He stated that he instructed Mr. Buentello to submit older invoices for payment, and explained that other invoices for professional services would be paid through a transfer from the lapsed salary of the Court Reporter Position.

Mr. Yates stated that the proposal made by Judge Hinojosa to add additional revenues leaves him at the same position come year end, and requested that the Court recognize that Fund Balance may be used because of the shortfall in revenue that may occur. He stated that he was willing to review revenues that have occurred.

Judge Hinojosa stated that additional revenues have always been booked based upon projections when Department budgets were increased instead of using Fund Balance.

Mr. Yates stated that use of Fund Balance was the same as providing working capital to a Department, and that the Court has determined that there was an emergency on previous occasions thus permitting use Fund Balance.

Commissioner Wood suggested that the emergency situation be off-set by using audio recording.

Mr. Yates stated that the collections revenue projections were increased through the budgetary analysis.

Judge Hinojosa suggested that he and the Budget Officer meet to possibly identify additional revenues that were not part of the Fund Balance. He explained that he understood Judge Cornejo's emergency, yet increasing the salary by \$14,000.00 for the other two (2) Court Reporter Positions that were filled did not become an emergency. Judge Hinojosa stated that the Court was in a difficult position in terms of declaring an emergency, and noted the need to find additional revenue.

Commissioner Garza noted that a fairness issue would arise.

Judge Hinojosa suggested that Judge Cornejo talk to the other County Court at Law Judges to determine if they would agree that her Court Reporter Position's compensation be increased and that their same positions not be increased until funding was identified, then the Court could consider the matter since it would be easier to identify the salary increase for one position.

Judge Cornejo stated that the unfair portion was that County Court at Law Departments could totally fund themselves, yet those funds were moved into General Fund. She stated that the current salary for the vacant Court Reporter Position does not remain within her budget.

Mr. Villarreal noted that the lapsed salary of the position was funding the Court's professional service.

Judge Hinojosa noted that lapsed salaries had been nearly eliminated through the design of the budget and agreed that County and District Court employees should get equal pay, adding that it was safe to say that equalization of the salaries might be done by the next budget. He clarified that there would not be a tax increase next year and that this could mean that salary increases might not be given.

Commissioner Wood explained that there was a push to increase District Court employees' salaries and that no one pushed for the salary increase for County Court staff.

Judge Cornejo stated that the salaries of District Court Reporters were set by the District Court thus the Commissioners Court must pay whatever amount was set.

Mr. Yates clarified that there was a 10% unpaid salary increase limitation was in place.

CONSENT ITEMS

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

DISCUSSION CONCERNING CONSENT AGENDA ITEMS:

ITEM NO. 10: Mr. Mark Yates, County Auditor, reported that Mr. Jenkins from the U.S. Marshals Office in informed him that the results of an audit stipulated that the County's cost for housing of Federal Inmates between April 1, 2002 and March 30, 2003 was in the amount of \$31.24 and that an Order was executed to increase the per-diem to that amount effective November 2003.

Judge Hinojosa asked if the decision could be appealed.

Mr. Yates responded in the affirmative, and stated that the information would be provided to the Washington Bureau of Prison Services and that renegotiations could begin on or before December 18, 2003. He stated that he informed Mr. Jenkins that the County's Fund Balance could not incur the cost for a full year because the County could be incurring \$1.6 million above what would be reimbursed on a prorated basis. Mr. Yates stated that he indicated to Mr. Jenkins that the County has not received reimbursement for actual cost for the period beginning April 2002. He stated that the County could be paid actual cost because the application stipulated going back to November and that 15 months prior to that the County was incurring \$1.24 more per day per inmate, noting that there was no reason for the County to subsidize the Federal Government in their operations.

Judge Hinojosa stated that Commissioner Wood raised the issue of whether the County must legally house federal inmates if the rate determined by County experts to be the fair was not paid, and requested that Legal Counsel review the Contract to determine what it says as to the setting of the rate. He stated that he was not in a position to negotiate with the U.S. Marshals if the County was able to determine what the rate should be paid based upon its audit. Judge Hinojosa commented that Nueces County's federal inmate rate was increase to \$45.00.

Mr. Yates commented that the new detention facility in Willacy County was being reimbursed \$75.00 per day per inmate, inclusive of transportation cost.

Judge Hinojosa noted that legally the U.S. Marshal's Office must pay the County the cost for housing federal inmates, and that the County Auditor determines the cost to be \$38.00 per day. He stated that upon the U.S. Marshal's Office claiming that the County was in breach of Contract then the County must note that the U.S. Marshal's Office was in breach of Contract by not paying the cost to house their federal inmates.

Commissioner Garza stated that the U.S. Marshal's Office was willing to start paying \$31.24 per day per inmate in November 2003 although the audit indicates that the increase commenced in April 2003.

Judge Hinojosa reiterated the need to know what the contract stipulates, as to how the rate was set, and what the County's right are with respect to the setting of the rate.

Commissioner Tamayo asked if documentation was in place to prove the cost incurred by the county by housing federal inmates.

Mr. Yates responded that DMG Maximus was hired to determine the jail rate, and explained that the U.S. Marshal's Office lack of information was a problem because they were using the amount of SCAAP Funds received last year, in the amount of \$600,000.00, to off-set the federal inmate rate cost instead of the \$238,000.00, adding that the County was providing working capital for the federal government.

Judge Hinojosa stated that figuring SCAAP Funds into the cost for reimbursement per federal inmate rate was absurd because SCAAP was a reimbursement to the County for housing inmates that immigration has not been able to keep out of the United States.

Mr. Yates stated that the U.S. Marshal's Office was assuming that SCAAP Funds were spent in the jail.

Judge Hinojosa stated that assuming so was fine, but the County should not give the U.S. Marshal's Office credit for a reduction in cost because he believes that not to be part of the agreement. He stated that Nueces County was being reimbursed \$75.00 because they do not get much SCAAP Funds because they do not have to house individuals that should not have been able to come into the United States. Judge Hinojosa stated that the U.S. Marshal's Office should not be able to figure the SCAAP Funds into the cost for housing federal inmate, unless permitted by law. He reiterated that the County should receive its cost, and explained that the County was only receiving 15% of the cost for incarceration of illegal aliens. Judge Hinojosa stated that the \$600,000.00 should have never been computed into the figure for cost of housing federal inmates, and that if the U.S. Marshal's Office was contractually obligated to pay the cost of housing federal inmates to the County and were refusing to do so then the County has the right to ask that the federal inmates be removed from its jail without paying the \$3 million due to breach of contract. He added that when the U.S. Marshal's Office was willing to pay the actual cost of housing federal inmates to the County then they could be returned to the County jail. Judge Hinojosa questioned if the contract allows the U.S. Marshal's Office to make a determination as to what the cost of the housing federal inmates should be, noting that if this was the case then the County might be in a jam.

Commissioner Garza requested that a report be provided next week.

Mr. Yates presented the following late claims:

Warrant No. 00109105, payable to the Post Master, in the amount of \$37.00; Warrant No. 00109106, payable to the State Comptroller, in the amount of \$834.00; and, Warrant No. 00109107, payable to Castillo House Movers, in the amount of \$1,200.00.

Commissioner Tamayo expressed concern with providing an employee both a pager and cell phone to employees.

Mr. Yates responded that a listing would be provided.

ITEM NO. 14-a: Commissioner Wood noted that this Item should read that the subdivision was in Precinct No. 3.

ITEM NO. 13-a: Mr. Remi Garza, County Administrative Assistant, noted that this item should read Valle Del Cipres No. 2.

ITEM NO. 11: Commissioner Garza noted that the Resolution should read "made" in the third whereas and that Cameron County was the first County to pass the first resolution of the 20 that were needed.

Commissioner Garza moved that the "Consent Items", be approved.

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

AYE: Commissioner Benavides, Wood, Garza and Tamayo

NAY: None

ABSTAIN: Judge Hinojosa as to Warrant No. 00108993, payable to the Laguna Madre Water District, in the amount of \$133.66.

- (10) **APPROVAL OF CLAIMS;**
The Affidavit follows:
- (11) **ADOPTION OF A RESOLUTION SUPPORTING THE TEXAS TROPICAL TRAIL REGION IN THEIR APPLICATION TO BECOME THE NEXT TEXAS TRAIL REGION DESIGNATED BY THE TEXAS HISTORICAL COMMISSION;**
The Resolution follows:
- (12) **AUTHORIZATION TO ACCEPT PARCELS 1, 3 AND 6 FOR FM 800;**
- (13) **AUTHORIZATION FOR FINAL APPROVAL OF:**
- A. **PRECINCT 4- VALLE DEL CIPRES, BEING A 9.164 ACRE TRACT OF LAND, BEING A 3.060 ACRES OF THE ABANDONED RAILROAD RIGHT-OF-WAY ADJACENT ON THE EAST SIDE OF THE F. L. HICKS TRACT AS SHOWN ON SUBDIVISION NO. 1 OF THE HICKS RESERVE, AND 6.104 ACRES AS SHOWN ON SUBDIVISION NO. 1 OF THE HICKS RESERVE, CAMERON COUNTY, TEXAS.**
 - B. **PRECINCT 4- LOBITAS ESTATES, PHASE 2, BEING A SUBDIVISION OF 13.52 ACRES OF LAND COMPRISED OF 4.90 ACRES OUT OF BLOCK 1, 5.72 ACRES OUT OF BLOCK 2, AND 2.90 ACRES OUT OF BLOCK 3, E. E. EVANS SUBDIVISION, CAMERON COUNTY, TEXAS.**
 - C. **PRECINCT 4- KARINA & BIANCA SUBDIVISION, BEING A TRACT CONTAINING 1.53 ACRES OF LAND SITUATED OUT OF BLOCK No. 212, OF THE ADAMS GARDENS SUBDIVISION "C", CAMERON COUNTY, TEXAS.**
- (14) **AUTHORIZATION FOR PRELIMINARY APPROVAL:**
- A. **PRECINCT 2- IRLANDA SUBDIVISION, BEING Z 2.49 ACRE TRACT OF LAND BEING 2.25 ACRES OUT OF BLOCK 72, 0.18 ACRE OUT OF BLOCK 76 AND 0.06 ACRE OUT OF BLOCK 73, SAN CARLOS ESTATES SUBDIVISION, IN SHARE 17, OF THE ESPIRITU SANTO GRANT, CAMERON COUNTY, TEXAS.**
 - B. **PRECINCT 4- RANCHO DE LA ESQUINA SUBDIVISION, BEING A 11.88 ACRES OUT OF THE NORTH TWENTY (20) OF BLOCK No. 348, SAN BENITO IRRIGATION COMPANY'S SUBDIVISION, CAMERON COUNTY, TEXAS.**
 - C. **PRECINCT 4- C & S RODRIGUEZ RANCH SUBDIVISION, BEING A 5.660 ACRE TRACT OF LAND, OUT OF BLOCK No. 297, ADAMS GARDENS SUBDIVISION "D", CAMERON COUNTY, TEXAS.**
 - D. **PRECINCT 4- S.V.M. ESTATES, BEING ALL OF THE NORTH 6.80 ACRES OF BLOCK NO. 1, AND ALL THAT PORTION OF BLOCK No.2, 3.65 ACRES (3.82 ACRES AS OF RECORD) OF THE L. R. BEDDOES SUBDIVISION, LA FERIA GRANT, CAMERON COUNTY, TEXAS.**
- (15) **AUTHORIZATION TO OPEN THE FOLLOWING BIDS/RFP'S/RFQ:**
- A. **OFFICE SUPPLIES-ANNUAL BID #2440 (REVERSE AUCTION 1/7/04); AND**

(16) APPROVAL OF BID SPECIFICATIONS FOR PICK-UP TRUCKS & SUV VARIOUS DEPARTMENTS.

The Specifications follow:

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

- (11) **ADOPTION OF A RESOLUTION SUPPORTING THE TEXAS TROPICAL TRAIL REGION IN THEIR APPLICATION TO BECOME THE NEXT TEXAS TRAIL REGION DESIGNATED BY THE TEXAS HISTORICAL COMMISSION;
The Resolution follows:**

- (16) APPROVAL OF BID SPECIFICATIONS FOR PICK-UP TRUCKS & SUV
VARIOUS DEPARTMENTS.
The Specifications follow:**

EXECUTIVE SESSION

Upon motion by Commissioner Benavides, seconded by Commissioner Garza and carried unanimously, the Court met in Executive Session at 11:35 A.M. to discuss the following matters:

(17) EXECUTIVE SESSION:

- (A) **Confer with commissioners' court legal counsel regarding real property concerning: the possible acquisition of Levi Strauss & co.- San Benito property, pursuant to V.T.C.A. government code, section 551.071(2) & 551.072.**

Upon motion by Commissioner Tamayo, seconded by Commissioner Benavides and carried unanimously, the court reconvened in regular Session at 11:50 A.M. to discuss the following matters:

(18) ACTION RELATIVE TO EXECUTIVE SESSION:

- (A) **Confer with Commissioners' Court Legal Counsel regarding Real Property concerning the possible acquisition of Levi Strauss & Co. - San Benito Property.**

Commissioner Tamayo moved that the County Judge be authorized to sign the contract for acquisition of the Levi Strauss & Co.-San Benito Property, subject to approval by Legal Counsel and approval of the Amendment to the Notice of Intention to Issue Certificates of Obligations.

Mr. Doug Wright, Commissioners' Court Legal Counsel, clarified that the only possible change to the exhibit could be the notice date since the publication must be made 14 days before.

Judge Hinojosa clarified the funding source to be the 2004 Bond Issue.

The motion was seconded by Commissioner Garza and carried unanimously.

The Documents are as follow:

There being no further business to come before the Court, upon motion by Commissioner Garza, seconded by Commissioner Wood and carried unanimously, the meeting was **ADJOURNED** at 11:52 A.M.

APPROVED this 3rd day of **February** 2004.

GILBERTO HINOJOSA
COUNTY JUDGE

ATTEST:

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