

THE STATE OF TEXAS §

COUNTY OF CAMERON §

BE IT REMEMBERED on the 3rd day of June 2005, there was conducted a SPECIAL 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:

PRESENT:

5:30 P.M.

GILBERTO HINOJOSA
COUNTY JUDGE

PEDRO "PETE" BENAVIDES
COMMISSIONER PRECINCT NO. 1

JOHN WOOD
COMMISSIONER PRECINCT NO. 2

DAVID A. GARZA
COMMISSIONER, PRECINCT NO. 3

EDNA TAMAYO
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 Hinojosa at 5:40 P.M. He asked Commissioner Tamayo for the invocation, and he then led the Court and 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 31, 2005, at 11:55 A.M.:

ACTION ITEMS

(1) CONSIDERATION AND AUTHORIZATION TO HOLD A PUBLIC HEARING PURSUANT TO V.T.C.A. HEALTH AND SAFETY CODE, SECTION 364.012 REGARDING THE ADOPTION OF A PROPOSED SOLID WASTE DISPOSAL SITING ORDINANCE. (COMM. COURT)

Judge Hinojosa explained that the public hearing was to get public input regarding the proposed Solid Waste Disposal Siting Ordinance published in newspapers.

Mr. Doug Wright, Commissioners' Court Legal Counsel, noted the need for the court to adopt a revision of a definition in the first sub-paragraph of the Order: "disposal means the discharging, depositing, injecting, dumping, spilling, leaking, or placing of solid waste." He explained that the revision was originally published in the paper and clarified that "waste in or onto any land or water" was needed to complete the definition.

Judge Hinojosa asked if action was needed prior to the public hearing.

Mr. Wright responded that the action needed would allow for public to comment with respect to the specific language.

Judge Hinojosa clarified that the rest of the language of the order was identical to what was published, except for the revision stated by Legal Counsel. He explained that the language of the proposed order narrows down what the county was making reference down to the landfill proposed by Consolidated Waste Industries, and that the revised order does not take away nor does it change the county's position towards the proposed landfill.

Upon motion by Commissioner Tamayo, seconded by Commissioner Benavides and carried unanimously, the Public Hearing pursuant to V.T.C.A. Health and Safety Code, Section 364.012, regarding the adoption of a proposed Solid Waste Disposal Siting Ordinance was opened for public comment.

Judge Hinojosa explained that the county was proposing to have an ordinance that limits locations of solid waste landfills to one location in the county, that being the Brownsville landfill, as described in the last paragraph of the order, unless otherwise adopted by the Court, and to prohibit any disposal of waste within the county except where allowed under the chapter, again, that being only the Brownsville landfill. He added that enforcement provisions were included in the order.

Mr. George Patterson, Los Fresnos resident, presented a listing of communities that have adopted resolutions opposing the landfill and expressed support for adoption of the order.

Ms. Terry Galloway, Laguna Vista Mayor Pro-tem, informed that Consolidated Waste Industries presented their application to TCEQ and that she notified Ms. Terra Drizzle, TCEQ Representative, that Cameron County was in the process of adopting the order, adding that the City of Brownsville was considering the same order within its ETJ. She stated that she asked if there would be any bearing on the application and that Ms. Drizzle indicated that processing the application would take 45 days. Ms. Galloway asked if the order would supercede them if thrown back to Consolidated Waste Industries.

Judge Hinojosa responded that it was the county's position was that the order was sufficient to allow the county to determine whether any new solid waste facility can be built in Cameron County and supersedes any application filed prior to adoption of order if it has not met all requirements necessary to be a completely filed and accepted application. He stated that the county has taken the position that Consolidated Waste Industries is not outside of the scope of the order to be adopted by Cameron County, noting that this might be something that might have to be litigated at some point, but the county was taking that position.

Ms. Galloway stated that Ms. Drizzle was very complimentary of the Commissioners Court because they were doing everything possible to devoid this landfill and was very impressed with the hiring of Attorney Paul Gosselink.

Judge Hinojosa stated that the court hired Mr. Paul Gosselink, Attorney at Law, to assist on the matter. He stated that a meeting was scheduled for Friday to consider the siting ordinance and that the Court was proposing to take action with regards to the order once public input was obtained.

Ms. Galloway expressed appreciation for all efforts on behalf of the county for its residents.

Mrs. Linn Keller, Bayview Alderperson, stated that they passed a resolution and that Bayview was behind every action of the Court such as this. She stated that they will do anything that they can to oppose the landfill because they appreciate the fact that the court was doing everything possible to support them. She noted the need to work together in order to not fail and for TCEQ to recognize the collaboration. Mrs. Keller expressed her support for adoption of the order and thanked the Court for its support.

Mr. Tom Trompture, CCRGV, explained that he was in attendance because they were battling a 670 acre landfill being proposed by Tan Terra Environmental in Willacy County, of which 20% would be dedicated for toxic and industrial waste. He explained that they were being very aggressive in informing the local population what was happening, and indicated that he would love to network and work in opposing landfills. Mr. Trompture noted the need for funds to support the efforts and for the public to complain to their respective elected officials.

Mr. Allen Afthen, Los Fresnos Alderman, thanked the Court for its support and expressed support towards adoption of the order.

Ms. Collette Adams, Los Fresnos resident, expressed opposition towards the landfill, concern for the Bahia Grande Project and support for adoption of the order.

A County resident stated that the language of the siting order was too broad and causes many rural residents to be subject to it. He suggested that it be revised to exempt personal property owners in residential areas.

Judge Hinojosa stated that any non state approved dump that is legally categorized as a landfill or solid waste disposal of some sort was in violation of state law regardless, meaning that no one can create a landfill even on personal property, thus the county was not exempting anything that state law prohibits.

Commissioner Wood explained that the basic purpose of the order was to clarify where the county allows landfills.

A County resident expressed his support for the siting ordinance.

Judge Hinojosa requested that the people present sign in and note whether they support or oppose adoption of the order. He emphasized that the Public Hearing was required by law in order to take into consideration the desires of the public on the issues and that the signatures, including address and phone number, in support or opposition of the order were needed in the event that litigation occurs.

Mr. Agustin Garza, Los Fresnos resident, asked if the order would take effect immediately.

Judge Hinojosa responded in the affirmative. He explained the court's position to be that the application filed by Consolidated Waste Industries has not been fully accepted; therefore, the siting ordinance takes precedence and controls the determination of whether or not the landfill is built, noting that it was to be seen whether or not the position was upheld in court and that this was what they felt was within the requirements of the law.

After there being no further public comment and upon motion by Commissioner Garza, seconded by Commissioner Wood and carried unanimously, the Public Hearing pursuant to V.T.C.A. Health and Safety Code, Section 364.012 regarding the adoption of a proposed Solid Waste Disposal Siting Ordinance was closed.

The Report is as follows:

(2) **CONSIDERATION AND POSSIBLE ADOPTION OF
A SOLID WASTE DISPOSAL SITING ORDINANCE.
(COMM. COURT)**

Commissioner Tamayo moved that the Solid Waste Disposal Siting Ordinance be adopted.

The motion was seconded by Commissioner Wood and carried unanimously.

The Order is as follows:

(3) CONSIDERATION AND POSSIBLE ACTION REGARDING THE IMPLEMENTATION OF V.T.C.A. HEALTH AND SAFETY CODE, CHAPTER 368.012, REGARDING THE LICENSING AND REGULATION OF WASTE HAULERS IN THE UNINCORPORATED AREAS OF THE COUNTY (COMM. COURT)

Judge Hinojosa stated that the county has been working on this issue for some time and discovered a state law that allows regulation of waste haulers in the county, meaning that the county can regulate whether anyone can bring interstate and inter-county waste into the county.

Mr. Remi Garza, County Administrative Assistant, explained that state law gives the county the ability to regulate and license trucks used to transport waste from outside the county, including other counties or state.

Judge Hinojosa explained that the order limits any landfill that may be built to haul waste only from within the county and/or regulates whether waste haulers can travel from outside the county into the county to deposit solid waste. He asked what action was to be taken.

Mr. Doug Wright, Commissioners' Court Legal Counsel, responded that statute allows the county to establish requirements for obtaining and renewing waste power license and impose license issuance and renewal fees. He explained that the court must make determination with regards to the licensing program and the cost involved, thus suggested that staff be directed to gather information and to prepare a final order to be adopted.

Upon motion by Commissioner Garza, seconded by Commissioner Tamayo and carried unanimously, staff was directed to gather information and to prepare a final order regarding possible implementation of V.T.C.A. Health and Safety Code, Chapter 368.012, regarding the licensing and regulation of waste haulers in unincorporated areas of the county.

The Code is as follows:

There being no further business to come before the Court, upon motion by Commissioner Benavides, seconded by Commissioner Tamayo and carried unanimously, the meeting was **ADJOURNED** at 6: 18 P.M.

APPROVED this 23rd day of **August 2005**.

GILBERTO HINOJOSA
COUNTY JUDGE

ATTEST:

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