

**FILED**

**APR 25 2011**

**COUNTY CLERK  
ELLIS COUNTY, TEXAS  
ELLIS COUNTY COMMISSIONERS' COURT  
OFFICIAL MINUTES // MARCH 28, 2011**

A REGULAR MEETING OF THE ELLIS COUNTY COMMISSIONERS' COURT WAS HELD ON MONDAY, MARCH 28, 2011 AT 7:00 P.M., IN THE HISTORIC ELLIS COUNTY COURTHOUSE, COMMISSIONERS' COURTROOM, 101 WEST MAIN STREET (2<sup>ND</sup> FLOOR), WAXAHACHIE, TEXAS AT WHICH TIME THE FOLLOWING WAS DISCUSSED AND CONSIDERED TO WIT:

**PRESENT WERE:**

**COUNTY JUDGE:**

JUDGE CAROL BUSH

**COMMISSIONERS:**

DENNIS ROBINSON, COMMISSIONER, PCT. 1

BILL DODSON, COMMISSIONER, PCT. 2

HEATH SIMS, COMMISSIONER, PCT. 3

RON BROWN, COMMISSIONER, PCT. 4

**COUNTY CLERK:**

CINDY POLLEY, COUNTY CLERK

**COUNTY & DISTRICT ATTORNEY'S OFFICE:**

ANN MONTGOMERY-MORAN, ASSISTANT COUNTY ATTORNEY

LEE AUVENSHINE, ASSISTANT COUNTY ATTORNEY

**OPENING COURT:**

THE COUNTY JUDGE CALLS MEETING TO ORDER, DECLARES QUORUM AND DECLARES NOTICES LEGALLY POSTED PURSUANT TO THE OPEN MEETINGS ACT

MOTION TO OPEN COURT BY COMMISSIONER DODSON, SECOND BY COMMISSIONER ROBINSON; MOTION CARRIES UNANIMOUSLY

4.1 **PRESENTATION BY MICHAEL MORRISON** OF GUINN & MORRISON AND DISCUSSION OF THE 2010 CENSUS DATA AS IT APPLIES TO ELLIS COUNTY AND THE REDISTRICTING BENCHMARK PLAN.

- KATHY ERIKSEN, PROJECTS COORDINATOR

**CONSENT AGENDA:**

**MINUTE ORDER NO 151.11      APPROVING CONSENT AGENDA**

**ADMINISTRATIVE:**

- A1 APPROVAL OF REGULAR BILLS, PAYROLL, AND OFFICERS' REPORTS;
- A2 APPROVAL TO LEASE ELLIS COUNTY'S HANDICAP VOTING EQUIPMENT TO MOUNTAIN PEAK SPECIAL UTILITY DISTRICT FOR AN APRIL 30, 2011 ELECTION;
- A3 APPROVAL TO ENTER INTO A CONTRACT WITH THE DEPARTMENT OF THE ARMY CORP OF ENGINEERS TO PROVIDE LAW ENFORCEMENT SERVICES TO THE LAKE BARDWELL PROJECT;
- A4 APPROVAL OF THE FOLLOWING ELLIS COUNTY EMERGENCY DISTRICT BONDS:

- ESD #2 POSITION BOND, \$100,000 (TREASURER); POSITION BONDS, \$10,000 EACH FOR THE PRESIDENT, VICE PRESIDENT, VICE TREASURER, AND COMMISSIONER
- ESD #7 FRED BLEDSUE, PUBLIC OFFICIAL BOND \$10,000
- ESD #8 POSITION BONDS, \$10,000 EACH FOR THE PRESIDENT, VICE PRESIDENT, TREASURER, SECRETARY/ASST. TREASURER, AND ONE BOARD MEMBER
- ESD #9 POSITION BOND, \$30,000 (TREASURER); POSITION BONDS, \$10,000 EACH FOR THE PRESIDENT, VICE PRESIDENT, SECRETARY/ASST. TREASURER, AND ONE BOARD MEMBER
- A5 APPROVAL OF THE FEBRUARY, 2011 TRAVEL REPORTS OF THE TEXAS AGRILIFE EXTENSION OFFICE
- MARK ARNOLD, AGRICULTURE  
-PAGE BISHOP, 4-H  
-RITA HODGES, FAMILY & CONSUMER SCIENCES
- A6 TO APPROVE HIRING OF SEASONAL WORKERS FROM MARCH 29, 2011 THROUGH DECEMBER 31, 2011 FOR ROAD AND BRIDGE, PCT. 2 (BILL DODSON)

**FINANCIAL:**

APPROVING THE FOLLOWING BUDGET AMENDMENTS:

- F1 FROM 001-0230-50805, CONFERENCE TO 001-0230-50801, SUPPLIES. –RICHARD DENNISTON, PURCHASING
- F2 FROM 001-0430-50803, FURNITURE AND FIXTURES; 001-0430-50978, CRI EQUIPMENT; 001-0430-50805, CONFERENCES TO 001-0020-50702, REPAIR. – JOHN PATTERSON, EMERGENCY MANAGEMENT
- F3 FROM 012-0755-50807, GENERAL MISC. TO 012-0755-50802, PURCHASE OF EQUIPMENT. – RON BROWN, RB4
- F4 APPROVE REFUND OF OVERPAYMENT TO THE FOLLOWING ACCOUNTS FOR PAYMENT IN ERROR:
- |                                  |        |            |
|----------------------------------|--------|------------|
| BANK OF AMERICA                  | 141481 | \$4,315.38 |
| CORELOGIC TAX SERVICE            | 220823 | \$2,618.58 |
| METLIFE HOME LOANS               | 169229 | \$3,692.72 |
| C/O TOTAL MORTGAGE SOLUTIONS, LP |        |            |

MOTION BY COMMISSIONER SIMS, SECOND BY COMMISSIONER DODSON TO APPROVE CONSENT AGENDA; MOTION CARRIES UNANIMOUSLY

**DEPARTMENT OF COUNTY DEVELOPMENT**

CONSIDERATION AND ACTION REGARDING THE FOLLOWING PRESENTED BY DELTON AKE, DIRECTOR DEPARTMENT OF DEVELOPMENT:

**MINUTE ORDER NO 152.11** GRANTING A ONE-TIME VARIANCE FROM THE COUNTY OF ELLIS RULES, REGULATIONS AND SPECIFICATIONS FOR SUBDIVISIONS AND MANUFACTURED HOMES AS IT RELATES TO THE 25' BUILDING SIDE SET-BACK LINE ON THE SIDE OF LOT 8, BLOCK A, BROADHAVENS ADDITION, PHASE ONE, F.M. 813. - RICHARD GONZALES, PCT. 2

MOTION BY COMMISSIONER DODSON, SECOND BY COMMISSIONER ROBINSON; MOTION CARRIES UNANIMOUSLY



*IN CONSIDERATION OF THE VARIANCE REQUEST PRESENTED BEFORE THE COURT, I MOVE THAT THE COURT GRANT THE VARIANCE WHICH HAS BEEN REQUESTED IN REGARD TO THE COUNTY'S FIRE HYDRANT REQUIREMENT DUE TO THE FOLLOWING REASONS:*

*FIRST, PURSUANT TO CHAPTER 232 OF THE LOCAL GOVERNMENT CODE, THE PROPERTY IN QUESTION WOULD GENERALLY FALL WITHIN THE FAMILY EXEMPTION TO ELLIS COUNTY'S PLATTING REQUIREMENTS;*

*SECOND, THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE LAND INVOLVED SUCH THAT THE STRICT APPLICATION OF THE PROVISIONS OF THIS ORDER WOULD DEPRIVE THE APPLICANT OF THE REASONABLE USE OF HIS LAND; AND*

*THIRD, THE RELIEF IS NECESSARY FOR THE PRESERVATION AND ENJOYMENT OF A SUBSTANTIAL PROPERTY RIGHT OF THE APPLICANT; AND*

*FOURTH, THE GRANTING OF THE RELIEF WILL NOT BE DETRIMENTAL TO THE PUBLIC FINANCES, HEALTH, SAFETY OR WELFARE, OR INJURIOUS TO OTHER PROPERTY IN THE AREA; AND*

*FIFTH, THE GRANTING OF THE RELIEF WILL NOT HAVE THE EFFECT OF PREVENTING THE ORDERLY SUBDIVISION OF OTHER LAND IN THE AREA IN ACCORDANCE WITH THE PROVISIONS OF THE ORDER. SUCH FINDINGS OF THE COUNTY COMMISSIONERS' COURT TOGETHER WITH THE SPECIFIC FACTS, UPON WHICH SUCH FINDINGS ARE BASED, SHALL BE INCORPORATED INTO THE OFFICIAL MINUTES OF THE COUNTY COMMISSIONERS' COURT MEETING AT WHICH SUCH RELIEF IS GRANTED. RELIEF MAY BE GRANTED ONLY WHEN IN HARMONY WITH THE GENERAL PURPOSES AND INTENT OF THE ORDER, AND DOES NOT ALTER THE NATURE, CHARACTER AND QUALITY OF THE SUBDIVISION SO THAT THE PUBLIC HEALTH, SAFETY, AND WELFARE ARE SECURED. PECUNIARY HARDSHIP TO THE DEVELOPER SHALL NOT BE THE BASIS FOR ANY RELIEF FROM THESE REGULATIONS.*

MOTION BY COMMISSIONER DODSON, SECOND BY COMMISSIONER SIMS; MOTION CARRIES UNANIMOUSLY

**MINUTE ORDER NO 159.11** APPROVING SIMPLIFIED PLAT – PRACHYL FARM  
WEST, PHASE 1, 1 LOT. - GREGORY STEPHEN PRACHYL, PCT. 2

MOTION BY COMMISSIONER DODSON, SECOND BY COMMISSIONER SIMS; MOTION CARRIES UNANIMOUSLY

**RECESS TO CONVENE TO EXECUTIVE SESSION (8:39 PM)**

MOTION BY COMMISSIONER SIMS, SECOND BY COMMISSIONER DODSON; MOTION CARRIES UNANIMOUSLY

**EXECUTIVE SESSION**

“THE COMMISSIONERS COURT OF ELLIS COUNTY RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED IN THIS AGENDA, IN THE ORDER DEEMED APPROPRIATE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE 551, OR TO SEEK THE ADVICE OF ITS ATTORNEY AND/OR OTHER ATTORNEYS REPRESENTING ELLIS COUNTY ON ANY MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE COMMISSIONERS COURT UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH TEXAS GOVERNMENT CODE CHAPTER 551 OR AS OTHERWISE MAY BE PERMITTED UNDER 551.”

5.1 PURSUANT TO SECTION 551.072 OF THE GOVERNMENT CODE, CONSULTATION WITH COUNSEL REGARDING THE POSSIBLE SALE OR LEASE OF REAL PROPERTY “IF

DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE GOVERNMENTAL BODY IN NEGOTIATIONS WITH A THIRD PERSON.”

- 5.2 PURSUANT TO SECTION 551.074 OF THE GOVERNMENT CODE, CONSULTATION TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE OR DISMISSAL OF THE PURCHASING AGENT.

**ADJOURNMENT OF EXECUTIVE SESSION AND RECONVENE TO REGULAR SESSION**

**(9:27 PM)**

MOTION BY COMMISSIONER BROWN, SECOND BY COMMISSIONER ROBINSON; MOTION CARRIES UNANIMOUSLY

**ADMINISTRATIVE:**

**MINUTE ORDER NO 160.11** AUTHORIZING THE COUNTY JUDGE TO EXECUTE A CONTRACT OF SALE PERTAINING TO THE CONVEYANCE OF ALL PROPERTY LOCATED AT 109 W. FRANKLIN, 111 W. FRANKLIN, 113 W. FRANKLIN, 115 W. FRANKLIN, 200 S. COLLEGE ST., 114 S. ROGERS ST. AND AN UNNUMBERED LOT ON S. ROGERS ST. IMMEDIATELY ADJACENT TO 115 W. FRANKLIN IN WAXAHACHIE, TEXAS, TO CHILDREN’S PALACE INVESTMENTS, INC., DOING BUSINESS AS AZEB  
(CAROL BUSH, COUNTY JUDGE)

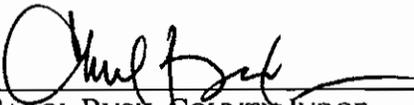
MOTION BY COMMISSIONER BROWN, SECOND BY COMMISSIONER ROBINSON; MOTION CARRIES UNANIMOUSLY

**ADJOURNMENT**

MOTION TO ADJOURN BY COMMISSIONER ROBINSON, SECOND BY COMMISSIONER BROWN; MOTION CARRIES UNANIMOUSLY

THE OFFICIAL MINUTES OF THE ELLIS COUNTY COMMISSIONERS’ COURT REGULAR MEETING OF MARCH 28, 2011 ARE HEREBY APPROVED.

PRESIDING OFFICER:

  
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CAROL BUSH, COUNTY JUDGE

  
\_\_\_\_\_  
DENNIS ROBINSON, COMMISSIONER PCT 1

  
\_\_\_\_\_  
BILL DODSON, COMMISSIONER, PCT 2

  
HEATH SIMS, COMMISSIONER, PCT 3

  
RON BROWN, COMMISSIONER, PCT 4

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE THIS APRIL 25, 2011

  
CINDY POLLEY, COUNTY CLERK