

REGULAR MEETING - September 5, 2012

BE IT REMEMBERED, that on this the 5th day of September, A.D., 2012, there was begun and held a REGULAR MEETING of the Honorable Commissioners Court of Nueces County, Texas, wherein the following members thereof were present, to-wit:

SAMUEL L. NEAL, JR.	COUNTY JUDGE
MIKE PUSLEY	COMMISSIONER, PRECINCT NO. 1
JOE A. GONZALEZ	COMMISSIONER, PRECINCT NO. 2
OSCAR O. ORTIZ	COMMISSIONER, PRECINCT NO. 3
JOE MCCOMB	COMMISSIONER, PRECINCT NO. 4

and Diana T. Barrera, County Clerk of Nueces County, Texas, wherein the following proceedings were had, to-wit:

1. CALL TO ORDER

- A.** Judge Neal called for the invocation by Reverend Len Hutsell from Assembly of God.
- B.** Judge Neal led the Pledge of Allegiance to the United States of America and Texas Flags.
- C.** Judge Neal called the roll at 9:05 a.m., and certified a quorum of the Court with all members present.
- D. PUBLIC HEARING (Nueces County and Hospital District Budgets)**

The Commissioners Court will conduct a public hearing on the proposed 2012-2013 Nueces County and Nueces County Hospital District Budgets.

The Court recessed at 11:28 a.m. and returned to regular session at 11:37 a.m.

Motion by: Judge Neal, Second by: Commissioner Gonzalez
Motion: The Court opened the Public Hearing at 11:37 a.m.

Vote: 5 - 0 Approved

Motion by: Commissioner Ortiz, Second by: Commissioner Pusley

Motion: The Court closed the Public Hearing at 11:51 a.m.

Vote: 5 - 0 Approved

- E.** Discuss and consider adoption of an Order approving the 2012 tax roll; setting the 2012 tax rates for Nueces County; and levying said tax rate against all taxable property in Nueces County for 2012.

Motion by: Commissioner Pusley, Second by: Commissioner Ortiz

Motion: Adopt an Order approving the 2012 tax roll and setting the tax rate of \$0.355259, effectively a 3.54 percent increase against all taxable property in Nueces County.

Judge Neal voted yes

Commissioner Pusley voted yes

Commissioner Ortiz voted yes

Commissioner Gonzalez voted yes

Commissioner McComb voted yes

Vote: 5 - 0 Approved

- F.** The Commissioners Court received information from Glen Sullivan, Director of Public Works, on the cost per mile for maintaining county roads and total road maintenance expenditures by Commissioner's Precinct, and the role discretionary funds may play in maintaining county roads.

- G.** Discuss and consider amending the proposed budget by eliminating the transfer of \$150,000 to each Commissioner's Precinct and the County Judge, and transferring that \$750,000 to the County Road Fund to be used for maintenance and repair of Roads and Bridges.

Motion by: Commissioner Ortiz, Second by: Commissioner Pusley

Motion: Table

Vote: 5 - 0 Approved

- H.** Discuss and consider adopting an order rescinding prior year budget resolutions and orders.

Motion by: Judge Neal, Second by: Commissioner Ortiz

Motion: Adopt an order rescinding prior year budget resolutions and orders.

Vote: 5 - 0 Approved

- I.** Discuss and consider adoption of Orders and Resolutions related to the proposed 2012-2013 Nueces County Budget.

Motion by: Commissioner Gonzalez, Second by: Commissioner Pusley
Motion: Adopt the following Orders and Resolutions related to the proposed 2012-2013 Nueces County Budget effective October 1, 2012.

1. Resolution regarding County Interfund Loans.
2. Order affecting Budget Authority for Employee Positions -amended.
3. Resolution setting the Travel Mileage & Per Diem Reimbursement Rates.
4. Resolution and Order Establishing Financial Guidelines for Use of Excess Revenue Generated from Operations at the Richard M. Borchard Fairgrounds.
5. Resolution and Order for Setting a Fee for the Issuance of a Permit for Right-Of-Way Crossings.
6. Resolution and Order Establishing Financial Guidelines for minimum General Fund Reserves.
7. Resolution and Order Establishing a Special Revenue Account for Deposit of County Funds received from the Sale of Fixed Assets.
8. Order Creating a Family Protection Fund and assessing a Fee to be Collected at the Time of Filing of Suits for Dissolution of Marriage, pursuant to Section 51.961 of the Texas Government Code.

Vote: 5 - 0 Approved

- J.** Discuss and consider adoption of the 2012-2013 Nueces County Budget.

Motion by: Judge Neal, Second by: Commissioner Pusley

Motion: Adopt the 2012-2013 Nueces County Budget.

Judge Neal voted yes

Commissioner Pusley voted yes

Commissioner Ortiz voted yes

Commissioner McComb voted yes

Commissioner Gonzalez voted no

Vote: 4 - 1 Approved

Against: Commissioner Gonzalez

- K.** Discuss and consider adoption of an Order approving the 2012 tax roll; setting the 2012 tax rate for the Nueces County Hospital District; and levying said tax rate against all taxable property in Nueces County for 2012.

Motion by: Commissioner Pusley, Second by: Commissioner Ortiz
Motion: Adopt an Order of the 2012 tax roll, setting the 2012 tax rate for Nueces County Hospital District, and levying said tax rate against all taxable property in Nueces County for 2012.

Judge Neal voted yes
Commissioner McComb voted yes
Commissioner Gonzalez voted yes
Commissioner Ortiz voted yes
Commissioner Pusley voted yes

Vote: 5 - 0 Approved

- L.** Discuss and consider adoption of the 2012-2013 Nueces County Hospital District Budget.

Motion by: Commissioner Gonzalez, Second by: Commissioner Pusley
Motion: Adopt the 2012-2013 Nueces County Hospital District Budget.

Judge Neal voted yes
Commissioner Pusley voted yes
Commissioner Ortiz voted yes
Commissioner Gonzalez voted yes
Commissioner McComb voted yes

Vote: 5 - 0 Approved

- M.** Approve the following Minutes:

Motion by: Commissioner Gonzalez, Second by: Commissioner Ortiz
Motion: Approve the following Commissioners Court Minutes:

Vote: 5 - 0 Approved

1. August 8, 2012.
2. August 20, 2012.

N. Adopt the following Resolution(s) and/or Order(s):

- 1.** Safety Resolution 2012 - in support of implementing accident prevention plans.

Motion by: Commissioner Gonzalez, Second by: Commissioner McComb
Motion: Adopt a Safety Resolution 2012, in support of implementing accident prevention plans.

Vote: 5 - 0 Approved

- 2.** Hispanic Heritage Month, September 15, 2012 through October 15, 2012.

Motion by: Commissioner Gonzalez, Second by: Commissioner Ortiz
Motion: Proclamation Recognizing September 15, 2012 through October 15, 2012, National Hispanic Heritage Month.

Vote: 5 - 0 Approved

2. PUBLIC COMMENT:

Diana Barrera, County Clerk reported that the County Clerk Robstown office at the Human Services Building has moved into the Johnny Calderon Building and is open for business.

She also recognized two members of her management team, Simon Saenz, Chief Deputy, and Rochelle Limon, Election Manager, for their recent certification as CERA members of the National Association of Election Officials.

- 3. CONSENT AGENDA:** The following Agenda Items are of a routine nature, and the Commissioners Court has received supporting materials for consideration. All of these Agenda Items will be passed with one vote without being discussed separately, unless a member of the Commissioners Court or the public requests that a particular Agenda Item be discussed. If so, that Agenda Item will be pulled from the Consent Agenda and discussed as part of the regular Agenda at the appropriate time. One vote will approve the remaining items on the Consent Agenda.

- A.** Authorize payment of bills - manual check register dated August 28, 2012.

- B.** Authorize payment of bills - regular bill summaries dated August 15, 2012; August 17, 2012; August 22, 2012; August 24, 2012; August 28, 2012; and August 31, 2012.
- C.** Authorize payment of bills - group health insurance claims and fees - TPA check register August 6, 2012 to August 17, 2012.
- D.** Authorize payment of bills - special motions list dated September 5, 2012.
- E.** Approve the monthly revenue reports in accordance with LGC 114.044 dated July 2012.
- F.** Accept the following "Outside Agency" Report for FY 2010-2011:
 - 1. Texas Jazz Festival Society
- G.** Approve the following Outside Agency Contract:
 - 1. Texas Jazz Festival Society - \$5,500
- H.** Accept the following "Diabetes" Reports for FY10/11:
 - 1. Calallen Independent School District
 - 2. Tuloso-Midway Independent School District
- I.** Approve the following "Diabetes" Contracts:
 - 1. Calallen Independent School District - \$3,000
 - 2. Tuloso-Midway Independent School District - \$3,000
 - 3. Lead First (Amended Contract) - \$1,750 additional funds
- J.** Approve annual maintenance agreement with Intergraph for the Jail Management System in the amount of \$104,866.26 for FY2012-13; and authorize prepayment of \$7,759.20 from the Information Technology budget for FY2011-12 for the Oracle portion of the agreement.

Motion by: Judge Neal, Second by: Commissioner McComb
Motion: Table

Vote: 5 - 0 Approved

- K.** Ratify execution of the FY2012-13 SAVNS Maintenance Grant Contract and R-09 Service Agreement Renewal Notice related to the Texas VINE Program.

- L. Approve termination of marquee services contract with Capturion Network, dated December 14, 2011; approve new contract to coincide with the county fiscal year, October 1, 2012 through September 30, 2013.
- M. Authorize/Execute a contract for IFB No. 2909-12 copy paper, computer paper, NCR paper, and envelopes with FasClampitt Paper Store.
- N. Approve the following personal services agreement:
 - 1. Robert Fledderman.
- O. Approve the application procedures for appointment to the following boards:
 - 1. Nueces County Animal Control Advisory Committee.
 - 2. Nueces County Hospital District Board of Managers.
 - 3. Nueces County Special Task Force of Adult Protective Services.

Motion by: Commissioner McComb, Second by: Commissioner Pusley
Motion: Approve Consent Agenda Items 3A through 3I and 3K through 3O.

Vote: 5 - 0 Approved

4. REGULAR AGENDA:

A. AGENDA ITEMS

- 1. Discuss and consider approving new agreements and amendments to existing agreements between the Nueces County Hospital District and CHRISTUS Spohn Health System Corporation; and authorize the County Judge to execute related documents:
 - a. CHRISTUS Spohn Health System Corporation Membership Agreement.
 - b. Fifth Amendment to the Master Agreement.
 - c. September 2012 Amendment to Lease Agreement.
 - d. Second Amendment to the Revised and Restated Indigent Care Agreement.
 - e. Memorandum of Understanding Related to Termination of the Membership Agreement.

Motion by: Commissioner Pusley, **Second by:** Commissioner Gonzalez
Motion: Approve new agreements and amendments to existing agreements between the Nueces County Hospital District and CHRISTUS Spohn Health System Corporation; and authorize the County Judge to execute related documents:

- a. CHRISTUS Spohn Health System Corporation Membership Agreement
- b. Fifth Amendment to the Master Agreement.
- c. September 2012 Amendment to Lease Agreement.
- d. Second Amendment to the Revised and Restated Indigent Care Agreement.
- e. Memorandum of Understanding Related to Termination of the Membership Agreement.

Vote: 5 - 0 Approved

2. Discuss and consider execution of a contract for RFP No. 2912-12 Cafeteria Administration, including Premium Only Plan (POP) & Enrollment/Billing Services.

Motion by: Commissioner McComb, **Second by:** Commissioner Pusley
Motion: Table.

Vote: 5 - 0 Approved

3. Discuss and consider execution of cooperative agreement with the Attorney General of Texas for the state case registry and local customer service contract for child support.

Motion by: Commissioner Gonzalez, **Second by:** Commissioner Pusley
Motion: Authorize execution of cooperative agreement with the Attorney General of Texas for the state case registry and local customer service contract for child support.

Vote: 5 - 0 Approved

4. Discuss and consider execution of a contract hiring Kendal B. Reed and the law firm of Anderson Tobin P.L.L.C., as local counsel in case No. 3:12-BK-34639-7, in Re Coastal Bend Professional Baseball Club, in the United States Bankruptcy Court, Northern District of Texas (Dallas Division), as required by the Court's local rules, and authorize the county judge to sign the contract and related matters.

Motion by: Commissioner Ortiz, **Second by:** Commissioner Gonzalez
Motion: Authorize execution of a contract hiring Kendal B. Reed and the law firm of Anderson Tobin P.L.L.C., as local counsel in case No. 3:12-BK-34639-7, in Re Coastal Bend Professional Baseball Club, in the United States Bankruptcy Court, Northern District of Texas (Dallas Division), as required by the Court's local rules; and authorize the county judge to sign the contract.

Vote: 5 - 0 Approved

B. HEALTH DEPARTMENT

1. Discuss and consider executing a contract between the Corpus Christi-Nueces County Public Health District and the Department of State Health Services (DSHS) to continue clinical services in the amount of \$394,188, for the period of September 1, 2012 to August 31, 2013; authorize the Director of the Corpus Christi-Nueces County Public Health District to sign on behalf of Nueces County.

Motion by: Commissioner Gonzalez, **Second by:** Commissioner Pusley
Motion: Execute a contract between the Corpus Christi-Nueces County Public Health District and the Department of State Health Services (DSHS) to continue clinical services in the amount of \$394,188, for the period of September 1, 2012 to August 31, 2013; and authorize the Director of the Corpus Christi-Nueces County Public Health District to sign on behalf of Nueces County.

Vote: 5 - 0 Approved

C. GRANTS

1. Discuss and consider acceptance of a grant award from the Coastal Bend Community Foundation (CBCF).

Motion by: Commissioner Pusley, **Second by:** Commissioner Gonzalez
Motion: Accept a grant award from the Coastal Bend Community Foundation (CBCF).

Vote: 5 - 0 Approved

2. Discuss and consider rescinding January 18, 2012 resolution and approving the execution of a resolution authorizing the submission of grant application to the Governor's Criminal Justice Division for the Juvenile Drug Court program.

Motion by: Commissioner Gonzalez, Second by: Commissioner Ortiz
Motion: Rescind January 18, 2012 resolution and approve the execution of a resolution authorizing the submission of grant application to the Governor's Criminal Justice Division for the Juvenile Drug Court program.

Vote: 5 - 0 Approved

3. Discuss and consider the execution of a Grant Adjustment notice and terms and conditions with the Texas Department of Public Safety for the FY09 Operation Stonegarden Grant Program.

Motion by: Commissioner Pusley, Second by: Commissioner Gonzalez
Motion: Authorize the execution of a Grant Adjustment notice and terms and conditions with the Texas Department of Public Safety for the FY09 Operation Stonegarden Grant Program.

Vote: 5 - 0 Approved

D. AUDITOR

1. Approve Budget Change Order No. 22 for Fiscal Year 2011-2012.

Motion by: Commissioner Gonzalez, Second by: Commissioner McComb
Motion: Approve Budget Change Order No. 22 for Fiscal Year 2011-2012.

Vote: 5 - 0 Approved

2. Approve personnel actions of a budgeted nature:
 - a. Frozen List No. 025
 - b. Unfreeze List No. 646
 - c. Personnel Changes Reports dated August 17, 2012 and August 24, 2012.

Motion by: Commissioner Ortiz, Second by: Commissioner Gonzalez
Motion: Approve the following personnel actions of a budgeted nature:

- a. Frozen List No. 025
- b. Unfreeze List No. 646
- c. Personnel Changes Reports dated August 17, 2012 and August 24, 2012.

Vote: 5 - 0 Approved

5. **EXECUTIVE SESSION:** The Court entered into closed session at 12:36 p.m. in accordance with the authority of the Government Code, Vernon's Texas Codes, Sections 551.071, 551.072, 551.073, 551.074, 551.0745, 551.076, 551.086, to consult with attorney(s) including matters related to litigation; deliberate regarding real property, prospective gift(s), personnel matters, including termination, county advisory bodies, security devices, and/or economic development negotiations and other matters that may be discussed in an Executive Session. Upon completion of the Executive Session, the Commissioners Court may in an open session take such action as appropriate on items discussed in an Executive Session.

The Court reconvened to open session at 1:36 p.m.

- A. Consult with County Attorney on the status of Civil Action No. 2:12-CV-233, Edwin Gus Schneider v. Jim Kaelin, et al., in the United States District Court of the Southern District of Texas (Corpus Christi Division), and related matters.

No action
- B. Consult with County Attorney on the status of Case No. 13-11-327-CV, Bradford M. Condit v. Sheriff Jim Kaelin, in the 13th Court of Appeals (on appeal from Cause No. 10-2634-B, in the 117th Judicial District Court of Nueces County, Texas, and related matters.

No action
- C. Consult with County Attorney to consider mediation of Civil Action No. 2:11-CV-45, Maria Angela Vasquez v. Nueces County, Texas, in the United States District Court for the Southern District of Texas (Corpus Christi Division), and related matters.

Motion by: Commissioner Pusley, **Second by:** Commissioner Ortiz
Motion: Authorize the County Attorney to decline the consideration for mediation of Civil Action No. 2:11-CV-45, Maria Angela Vasquez v. Nueces County, Texas in the United States District Court for the Southern District of Texas (Corpus Christi Division).

Vote: 5 - 0 Approved

- D.** Consult with County Attorney to consider settlement demand and mediation of Civil Action No. 2:12-CV-24, Josie Salazar, individually; Rose Rich, individually and as Representative of the Estate of Samuel Salazar, and Annette Rodriguez, as next friend for A.S., minor child, v. Nueces County, Texas, et al, in the United States District Court for the Southern District of Texas, (Corpus Christi Division), and related matters.

Motion by: Judge Neal, **Second by:** Commissioner Gonzalez
Motion: Authorize the County Attorney to deny the settlement demand and mediation of Civil Action No. 2:12-CV-24, Josie Salazar, individually; Rose Rich, individually and as Representative of the Estate of Samuel Salazar, and Annette Rodriguez, as next friend for A.S., minor child, v. Nueces County, Texas, et al, in the United States District Court for the Southern District of Texas (Corpus Christi Division).

Vote: 5 - 0 Approved

- E.** Consult with County Attorney to consider settlement demand and mediation of Civil Action No. 2:12-CV-54, Lauralei Callihan v. Nueces County, Texas, and Donald Hatch, individually, in the United States District Court for the Southern District of Texas (Corpus Christi Division), and related matters.

Motion by: Judge Neal, **Second by:** Commissioner Pusley
Motion: Authorize County Attorney to deny the settlement demand and mediation of Civil Action No. 2:12-CV-54, Lauralei Callihan v. Nueces County, Texas, and Donald Hatch, individually, in the United States District Court for the Southern District of Texas (Corpus Christi Division).

Vote: 5 - 0 Approved

- F.** Consult with County Attorney on the status of Cause No. 06-6073-F, Steve Schwerin v. Nueces County Juvenile Board, et al., in the 214th Judicial District Court of Nueces County, Texas.

No action

- G.** Consult with County Attorney on the status of Civil Action No. 2:12-CV-145, Trey Jones v. Nueces County, et al., in the United States District Court for the Southern District of Texas (Corpus Christi Division).

No action

- H.** Consult with County Attorney regarding legal remedies involving its solid waste contract and non-approved solid waste vendor; take appropriate action.

Motion by: Commissioner Gonzalez, Second by: Judge Neal

Motion: Authorize the County Attorney to send written letter regarding legal remedies involving its solid waste contract and non-approved solid waste vendor.

Vote: 5 - 0 Approved

- I.** Consult with County Attorney and consider AT&T's June 7, 2012 claim for monetary damages concerning buried PR cable on County Road 51.

Motion by: Commissioner Pusley, Second by: Commissioner Gonzalez

Motion: Authorize the County Attorney to deny AT&T's June 7, 2012 claim for monetary damages concerning buried PR cable on County Road 51.

Vote: 5 - 0 Approved

- J.** Discuss and consider consultation with County Attorney regarding contemplated claim of Ricardo Lopez and related matters.

Motion by: Commissioner Pusley, Second by: Commissioner Gonzalez

Motion: Authorize the County Attorney to deny the contemplated claim of Ricardo Lopez.

Vote: 5 - 0 Approved

K. Discuss and consider claim of Richard Castillo.

Motion by: Commissioner Pusley, **Second by:** Commissioner Gonzalez

Motion: Deny the claim of Richard Castillo.

Vote: 5 - 0 Approved

The Court was adjourned at 2:13 p.m. in memory of John William Bell, Gilbert Michael, Jan Hickey, Otis Wilder and Philip Rosenstein. Judge Neal asked the Court to stand for a moment of silence.

There being no further business to come before the Court, it is ordered that this meeting do now stand adjourned, this the 5th day of September, 2012.