

THE STATE OF TEXAS :

VOL 0233 PAGE 219

COUNTY OF HIDALGO :

BE IT REMEMBERED that on the 11TH day of MARCH, 1996, after due notice having been given, there was begun and holden, a REGULAR MEETING of the Commissioners' Court and the Drainage District, in the Commissioners' Courtroom of the Administration Building in the City of Edinburg, Hidalgo County, Texas with the following members of said Court present and participating:

Hon. Richard H. Garcia
Interim County Judge

Hon. Samuel Sanchez
County Commissioner, Precinct #1

Hon. Lalo Arcaute
County Commissioner, Precinct #2

Hon. Juan Rosel
County Commissioner, Precinct #3

Hon. Guadalupe "Lupe" Garces
County Commissioner, Precinct #4

WHEREUPON, the following proceedings

were had, to-wit:

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The Honorable Richard H. Garcia, Interim County Judge, called this meeting to order, whereupon the following items were had to wit:
(COMM. SANCHEZ AND COMM. ROSEL ARE ABSENT FROM THIS MEETING)

CONSENT AGENDA
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ITEM 1. APPROVAL OF BILLS - COUNTY AUDITOR
GENERAL FUND - #118431 - #118629 - \$1,012,445.52
SPECIAL REVENUE FUND - #118284 - #118510 - \$ 988,538.44
DEBT SERVICE FUND - # 1006 - # 1007 - \$ 154.00
TRUST AND AGENCY FUND - # 5343 - # 5344 - \$ 297,859.76
ENTERPRISE FUND - # 2586 - # 2593 - \$ 9,435.95

(SEE EXHIBIT A)

ITEM 2. APPROVAL OF MINUTES - OCTOBER 3, 1996
(NO EXHIBIT)

ITEM 3. APPROVAL OF COURT REPORTER'S FEES:
A. MARK A. KVAPIL - \$89.30
(SEE EXHIBIT B)

ITEM 4. PLANNING DEPARTMENT:
A. SUBDIVISIONS:
1. QUAIL HOLLOW SUBDIVISION - PCT. 1
(SEE EXHIBIT C)

ITEM 5. PERMITS:
A. NORTH ALAMO WATER SUPPLY - PCT. 1
B. SOUTHWESTERN BELL TELEPHONE CO. - PCT. 1
(SEE EXHIBIT D)

ITEM 6. INTERNAL LINE ITEM TRANSFERS:
A. DISTRICT CLERK - \$ 2,000.00
B. COURT OF APPEALS - \$ 262.50
C. PCT. 4 - ADMINISTRATION - \$ 1,550.00
D. PCT. 4 - PAVED/UNPAVED - \$80,250.00
E. PCT. 3 - PAVED/UNPAVED - \$ 300.00
F. PLANNING DEPARTMENT - \$ 1,800.00
G. COUNTY COURT AT LAW #3 - \$ 1,000.00
H. DISTRICT ATTORNEY - \$ 4,000.00
I. COUNTY CLERK - \$17,000.00
J. BUILDINGS AND GROUNDS - \$ 764.50
K. JUSTICE OF THE PEACE - ADAN CABALLERO - \$ 380.00
L. HEALTH DEPARTMENT - ADMINISTRATION - \$ 5,000.00
M. HEALTH DEPARTMENT - SANITATION - \$ 300.00
(SEE EXHIBIT E)

Judge Garcia opened by stating that there were no corrections on the Consent Agenda. A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to approve the Consent Agenda as presented.

MOTION CARRIED
(SEE EXHIBITS A-E)

REGULAR AGENDA
=====

ITEM 1. CLOSED SESSION:
COMMISSIONERS COURT MAY GO INTO CLOSED SESSION PURSUANT TO CHAPTER 551, TEXAS GOVERNMENT CODE, SECTIONS 551.071, 551.072 & 551.074 TO DISCUSS THE FOLLOWING MATTERS:

- A. ADCOX ET AL VS. HIDALGO COUNTY
- B. REAL ESTATE ACQUISITION
- C. CITY OF McALLEN - T-393-88-C
- D. MEDICAL DIRECTOR'S CONTRACT

At this time, the Commission retired into closed session.

ITEM 2. OPEN SESSION:
A. ADCOX ET AL VS. HIDALGO COUNTY
B. REAL ESTATE ACQUISITION
C. CITY OF McALLEN - T-393-88-C
D. MEDICAL DIRECTOR'S CONTRACT

2A, B&C

Judge Garcia stated that these items will be for no action at this time.

NO ACTION
(NO EXHIBIT)

2D

Commissioner Garces opened by stating that being that there were only two members of the Commission present, he recommended in the form of a motion that they go with a three month contract with the same terms and conditions as the previous contract. The effective date will be February 22, 1996. Judge Garcia agreed with Commissioner Garces as far as the recommendation goes. There were some changes to the contract requested by the Medical Director and Judge Garcia felt that the entire Commission needed to be present in these deliberations. The motion was then seconded by Commissioner Arcaute.

MOTION CARRIED
(SEE EXHIBIT F)

ITEM 3. CLOSED SESSION:
COMMISSIONER'S COURT MAY RECONVENE INTO CLOSED SESSION FOR THE DISCUSSION REGARDING AGENDA ITEMS LISTED

NO ACTION

ITEM 4. OPEN SESSION:
COMMISSIONER'S COURT MAY RECONVENE INTO CLOSED SESSION FOR THE DISCUSSION REGARDING AGENDA ITEMS LISTED

NO ACTION

ITEM 5. APPOINTMENT OF DIRECTORS FOR HIDALGO COUNTY HEALTH SERVICES CORPORATION

Steve Crain reminded the Commission of the purpose of the Health Services Corporation. He stated that this was a financing vehicle set up to finance health care facilities. The last time this corporation came

before the Court was in 1989 and they were issuing bonds for the expansion of Mission Hospital. None of the monies are kept by the Corporation. The monies simply flow through them. This issue has come up again as Mission Hospital wishes to expand. Mr. Crain stated that since there was no need for this corporation since 1989, the Court never reappointed the directors. There are a total of five. Their terms expired in 1992 & 1993. Mr. Crain went on to state that even though successors have not been appointed, the by-laws provide that they serve until the successors are appointed. Mr. Crain stated that he had recently met with 4 out of the 5 directors and advised them the their offices were up for reappointment. Out of those five, one has encountered severe health problems and can no longer serve and another stated that because of their commitments now, they can no longer serve either. The other three are willing to serve. All five offices need to be reappointed, but three can be reappointed and two will have to be appointed. After further comments, Commissioner Garces recommended that they accept the three listed, Alicia E. Requenez, Ramona L. Barron & Jose Noe Gonzalez, Sr. He also recommended Antonio Castillo and Richard A. Garza. This was in the form of a motion which was seconded by Commissioner Arcaute.

MOTION CARRIED
(SEE EXHIBIT G)

Steve Crain stated for the record that these appointments were for six year terms as provided for in the by-laws.

ITEM 6. APPOINTMENT TO CIVIL SERVICE SERVICE COMMISSION

Judge Garcia stated that he was not sure if he wanted to take any action at this time. Right now, there is only one vacancy. There were brief comments amongst the Commission. Commissioner Arcaute asked if this could be tabled until the next meeting and Judge Garcia took that in the form of a motion. He was seconded by Commissioner Garces.

MOTION CARRIED (TABLED)
(NO EXHIBIT)

ITEM 7. URBAN COUNTY:

- A. HOME/HOMEOWNER OCCUPIED HOUSING REHAB. APPLICATION
- B. CITY OF ELSA - HOME HOUSING REHABILITATION PROGRAM - CONSTRUCTION CONTRACT AWARD
- C. CITY OF WESLACO - HOME HOUSING REHABILITATION PROGRAM - CHANGE ORDER CASE #WE 80-95-20 (ELIA DE LOS SANTOS)
- D. CITY OF HIDALGO - MUTUAL AGREEMENT WITH THE COUNTY OF HIDALGO REGARDING HIDALGO HEALTH CLINIC
- E. CITY OF HIDALGO - PERSONAL SERVICES CONTRACT AGREEMENT
- F. CITY OF LA VILLA - PLANNING & CAPACITY BUILDING CONTRACT - PROJECT #5095-45-2000-4500-5000
- G. CITY OF SAN JUAN - SAN JUAN YOUTH PROGRAM SUBRECIPIENT AGREEMENT - YR. 8 (5095-75-0504-7500-5000)
- H. CITY OF SAN JUAN - BUDGET AMENDMENT YEAR 1995
- I. CITY OF LA JOYA - PFI - WATER/SEWER IMPROVEMENTS DIAMOND UTILITIES, INC. YEAR 1993
- J. CITY OF LA JOYA - PFI - WATER/SEWER IMPROVEMENTS AV WELDING & LEASING, INC. YEAR 1994
- K. PCT. #1 - YEAR 8 HAULING CONTRACT AWARDED MARCH 20, 1996 RETROACTIVE OF CONTRACT TO JANUARY 1, 1996

- L. HOME - AUTHORIZATION AND RESOLUTION FOR URBAN COUNTY DIRECTOR TO SIGN TRANSFER OF LIEN OR CONSENT TO REFINANCE
- M. PCT. 3 - YEAR 8 CONTRACT AWARD STREET IMPROVEMENTS PROJECT
- N. APPROVAL OF AGREEMENT FOR THE SITE MANAGEMENT OF THE PROGRESO FAMILY COMMUNITY CENTER

7A

Anthony Covacevich opened by stating that this was just one applicant that qualified that being Ramon Campos of Mercedes. Everything is in order and he recommended approval. A motion was then made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT H)

7B

Mr. Covacevich stated that this contract was with Quality Investments being the low bid with alternate bid #1 in the amount of \$64,868. This will be for five units. There were a total of three bidders. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT H)

7C

Mr. Covacevich stated that this was a change order to add \$120 to the existing contract to replace rotten studs that were discovered after commencement. A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to approve the change order.

MOTION CARRIED
(SEE EXHIBIT H)

7D

Mr. Covacevich stated that this was an agreement that was worked on by the their Attorneys and it is necessary to proceed with legal action against the contractor. The contract states that the City of Hidalgo and the County hold harmless against each other and they will jointly go against the contractor that abandoned the project. Steve Austin had a concern regarding paragraph 3 referencing the County General Fund. If sufficient funds weren't available, the County would absorb the cost. Mr. Covacevich stated that this would be treated by the Auditor as a contingent liability on the audit statement. When the books are audited, it will appear in the books as such. Mr. Covacevich stated that at this time, the only contingent liability there was, was a \$30,000 vendor's lien, which is still in question. He also stated that there is over \$100,000 to cover those contingent liabilities. Commissioner Arcaute also had a question but it was clarified by Mr. Covacevich. After further brief comments, a motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to approve the contract jointly with the City of Hidalgo.

MOTION CARRIED
(SEE EXHIBIT H)

7E

Mr. Covacevich stated that this is an existing management contract with Aleco Construction. This is an amendment in the amount of \$2,172 for minor demolition and also for disposition of debris that was left over by the previous contractor. Upon recommendation by Mr. Covacevich, a motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT H)

7F

Mr. Covacevich stated that this was an engineering contract with Raba Kistner Consultants. \$15,000 will come out of year 8 and \$10,000 will come out of year 7. This project will involve development of a drainage plan for the City of La Villa, topography surveying and drainage design for the lower lying areas of La Villa. Along with this work, there will be recommendations for improvements needed. A motion was then made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT H)

7G

Mr. Covacevich stated that this agreement was for \$8,000 out of year 8. It will be between the City of San Juan and the San Juan Youth Program. A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to approve.

MOTION CARRIED
(SEE EXHIBIT H)

7H

Mr. Covacevich stated that this amendment was for \$24,000 to be moved from year 8, City of San Juan over to Hidalgo County Pct. 2. This will be used for activities in Pct. 2. A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to approve. Commissioner Arcaute clarified this by stating that this amount was being moved into the pct. 2 urban county program to make up for the amount that was taken from the General Fund for the Amulance Service.

MOTION CARRIED
(SEE EXHIBIT H)

7I

Mr. Covacevich stated that this was change order #1 in the amount of \$2,200. This will raise the contract to \$11,340. The additional monies are needed for additional work on a manhole and sewer line modifications on 6th street and he recommended approval. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT H)

7J

Mr. Covacevich stated that this was also a change order

and this one was in the amount of \$5,220. This will increase the contract to \$26,103. This will be for changes to the water lines and sewer line expansion on West Garza Avenue. There are a variety of changes from sewer lines to water hydrants. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT H)

7K

Anthony Covacevich stated that these are hauling contracts that were awarded based on wirtten quotations. These contract were awarded on February 20, 1996. He stated that Commissioner Sanchez wanted these contracts to be retroactive back to January 1, 1996 since these were the haulers they were using to haul caliche for the projects listed for Pct. 1 as per the interlocal agreement that was established. A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to approve the hauling contracts.

MOTION CARRIED
(SEE EXHIBIT H)

7L

Mr. Covacevich stated that several years prior, a resolution for the home program was passed for the Urban County Director to sign all documents required for the home program. These are mostly real estate liens, deeds and second mortgages on homes. They have since had a request to transfer a lien. He is also requesting a resolution to consent to refinance. He went on to state that Mr. and Mrs. Andres Salas want to refinance their home. The initial finance was done through the County and there is a five year lien. He had spoken with the lawyers and it was found that the initial resolution does not provide for refinancing or transfer of liens so that the families can continue with the five year obligation and they won't have to come back to Commissioner's Court everytime they have to refinance a home. As of now, there is only one family asking for this, but he expects that there will be others. This resolution has to be adopted so the Mr. Covacevich can be authorized to sign on these transfers. A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to adopt the resolution.

MOTION CARRIED
(SEE EXHIBIT H)

7M

Mr. Covacevich stated that this was a low bid situation. The low bid was submitted by Mission Paving in the amount of \$58,560. This will be for the improvements of streets as per the exhibit. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve the low bid.

MOTION CARRIED
(SEE EXHIBIT H)

7N

Mr. Covacevich stated that currently the community center is being managed by a staff member of the Una Vida Mejor, which is part of the Extension Service. A manager needs to be selected for the facility.

Buckner Family Services has agreed to take over the management duties. This agreement has been reviewed by attorneys and approved. The agreement states that Hidalgo County will continue the ownership and operation of the center in regards to operating costs. The only change is Buckner Family Services will assign and pay someone to run the center. After further brief comments, a motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT H)

ITEM 8. SHERIFF'S DEPARTMENT:

- A. APPROVAL OF ITEMS LESS THAN \$100 REMOVED FROM FIXED ASSETS LIST
- B. APPROVAL TO HAVE LOST OR DAMAGED ITEMS REMOVED FROM FIXED ASSETS LIST

8A

Lieutenant Fidel Jasso stated that these items are under the \$100 value and they would like to remove them from the asset list. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT I)

8B

Mr. Jasso stated that most of these items are at the Sheriff's Office but there are a few lost items since some of these items go back as far as 1953. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT I)

ITEM 9. RIGHT OF WAY DEPARTMENT:

- A. AUTHORIZATION TO REMOVE ITEMS FROM INVENTORY

Vona Walker stated that this was a file cabinet that was purchased in 1970 and they have changed offices twice since then and she is now unable to locate this cabinet. A motion was made by Commissioner Garces and was seconded by Judge Garcia for a vote.

MOTION CARRIED
(SEE EXHIBIT J)

ITEM 10. VETERANS SERVICE OFFICE:

- A. AUTHORIZAITON TO PAY BILL FROM MARCH 1995 TO MARCH 1996

Rodolfo Villarreal stated that back in June of 1989, a contract was entered into with Copy Data for \$100 per month. In 1990, another contract was entered into for \$125 per month on a newer copier and this is the current contract. He found out the Copy Data is not on the list for the State Bid. Back in March of '95, the Auditor stopped making payments on it. The copier is still being used. He stated that they have spoken with A state bidder that will fill the needs of the office and there is no problem getting out of this contract. The money is in the budget. A

motion was then made by Commissioner Garces and was seconded by Commissioner Arcaute to authorize the bill to be paid from March of '95 to March of '96 in the amount of \$1,382.42.

MOTION CARRIED
(SEE EXHIBIT K)

- ITEM 11. TAX ASSESSOR/COLLECTOR:
- A. APPROVAL OF JANITORIAL SERVICES CONTRACT WITH CRISELDA HERNANDEZ
 - B. APPROVAL TO REMOVE FROM INVENTORY A CELLULAR MOTOROLA TELEPHONE #550PT
 - C. APPROVAL OF INTELOCAL AGREEMENT WITH SOUTH TEXAS COMMUNITY COLLEGE

11A

Judge Garcia stated that this item would be for no action. Ciro Trevino addressed the Court concerning this issue. He stated that he had been told by the Judge's Office that this contract would not be valid. He wanted to know why these contracts will not be valid. These contracts have been done for several years. He went on to state that he did not feel that his department should be handling this matter because he does not feel that they are employees and not his employees either. Mr. Crain addressed the Court and stated that this issue had come up the previous year and he thought that this had been cleared up with all departments but they must have missed the Tax Office. The issue was that they were not gonna contract with Independent Contractors. The problem had been resolved the previous year by making these individuals full time employees. This is not considered a professional service under the statute so they cannot contract with them and there is also IRS criteria that needs to be met. Mr. Trevino stated that this contract was approved in the month of December past and this is where this issue should have been brought up. These people have not been paid since then. He went on to state that he is willing to transfer the monies to any department that takes over them so that they can be paid. Commissioner Arcaute asked if it was true that the contract was approved back in December, why did it take so long to find out that these people have not been paid. Mr. Trevino stated that they have been submitting for payment all along but he had just found out in late February that the Auditor was behind them not getting paid. They asked Steve Austin what needs to happen to pay these people. He suggested to the Court that they make a position available so that they can appropriate some monies so that they can be paid. They also need to provide some timesheets for the hours worked. Again Mr. Trevino reiterated that these people need to be placed somewhere else other than his tax office. The Commission felt that first and foremost, they need to be paid. Also again Mr. Trevino stated that he would be more than glad to transfer these monies to buildings and grounds or where ever to pay them. Judge Garcia stated that this issue is not on the agenda and it will need to be so that this can take place. Mr. Crain stated that he would like to look at these contracts so that he may review them. They owe Criselda Hernandez and the other person from the other substation. Commissioner Arcaute asked how much was owed but Mr. Trevino did not have that figure. He then stated that nothing can be approved until there is a figure. Judge Garcia then moved on to the next item.

NO ACTION
(SEE EXHIBIT L)

11B

Mr. Trevino stated that he had lost this telephone and he does not know where it is at this time. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT L)

11C

Mr. Trevino stated that this is an agreement for the County to collect taxes for South Texas Community College. There will be a \$70,000 annual fee for this service. He stated that this contract is the same as the other contracts with the other entities. The only thing that is different is the fee. A motion was made by Commissioner Garces to approve the interlocal agreement between the South Texas Community College and the Hidalgo County Tax Assessor/Collector for a fee of \$70,000 per year. The motion was seconded by Commissioner Arcaute.

MOTION CARRIED
(SEE EXHIBIT L)

ITEM 12. JUVENILE PROBATION DEPARTMENT:

- A. APPROVAL OF PROFESSIONAL SERVICE AGREEMENT WITH CONSULTING TESTING LABORATORIES, GARCIA & ASSOCIATES AND V.A. ARCHITECTURE
- B. BUDGET AMENDMENT

12A

Buddy Silva addressed the Court and stated that this is in relation to the contracts that will be needed to conduct the work that is required for the RFP for the camp program. This was brought to Court the previous meeting and he was instructed that contracts needed to be submitted for approval and this is what he is doing at this time. The contracts just give more detail as to what will be done by the individuals. The fees that will be charged are \$3,500 by the Civil Engineer and the Environmental Assessment will be \$2,000 and the architectural design is at no charge by Ray Vargas. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve the agreements with the Consulting Testing Laboratories, Garcia & Associates and V.A. Architecture.

MOTION CARRIED
(SEE EXHIBIT M)

12B

Mr. Silva stated that this budget amendment is associated with the costs mentioned in the item above. The total for that is \$5,500. He is short \$880 to cover the entire cost. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT M)

ITEM 13. HEALTH DEPARTMENT:

- A. APPROVAL TO RECLASSIFY VACANT EXECUTIVE SECRETARY POSITION #11 TO MEDICAL ASSISTANT (TITLE V PROGRAM)
- B. SET SALARY

(03/11/96)

- C. APPROVAL OF HIV AND STD PREVENTION GRANT NO. 7460007176-97, ATTACHMENT NO. 1
- D. SET SALARIES

13A

Dick Dickinson spoke on behalf of the Health Department. He stated that this was just to change a vacant position to another position, that of a Medical Assistant. The position will be paid by the from grant monies. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to reclassify the vacant Executive Secretary position #11 to be Medical Assistant of the Title V Program.

MOTION CARRIED
(SEE EXHIBIT N)

13B

A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to set the salary at \$16,114.

MOTION CARRIED
(SEE EXHIBIT N)

13C&D

Mr. Dickinson stated that these grants are fully funded by the Federal Government. Upon approval, this will be inclusive of the budget for these grants. He would like to set the salaries of two positions. One is a carryover of the HIV Coordinator and the other is a new position as provided by the grant and that is an HIV Nurse's Aide and the salary is \$9,750. A motion was then made by Commissioner Garces and was seconded by Commissioner Arcaute to approve the HIV and STD prevention grant #7460007176-97 and to include the two positions as the salaries of \$25,000 for the Coordinator and \$9,750 for the HIV Nurse's Aide.

MOTION CARRIED
(SEE EXHIBIT N)

Mr. Dickinson requested that the addendum item having to do with the Health Department also be addressed at this time.

- ADD. 1. A. APPROVAL TO CREATE POSITIONS FOR NURSE PRACTITIONER - TITLE V AND/OR HEALTH DEPARTMENT
- B. SET SALARIES

ADD. 1A&B

Mr. Dickinson stated that this was just to create one position of a Nurse Practitioner. According to the addendum, the request is plural but they are only requesting one at this time, unless the Court wishes to create two. They want to set the salary at \$44,000. The money would come from either title V or they would come back to Court and ask for an amendment. After further brief comments, a motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to create the position for Nurse Practitioner from Title V and set the salary at \$32,153.89 and additional fringes will total \$39,201.10. Steve Austin stated that the last time he looked at the figures for title V, there was a deficit. Mr. Dickinson stated that he had been in touch with Mr. Cabrera and there was \$60,000 to the plus in that fund because of an adjustment by the State Health Department. David Elizondo stated

that he had been notified by Ms. Serna that the billing that was submitted would have put them into a surplus but it was incorrect. They will have to send out an amendment, therefore, at this time, he does not know the status of the program. As of now, he would consider it as a deficit. Mr. Dickinson stated that when a practitioner is hired, they will look at how to go about funding this position, whether they have to dissolve some vacant positions or what have you. The motion was then put to a vote and all voted in favor.

MOTION CARRIED
(SEE EXHIBIT N)

ITEM 14. PLANNING DEPARTMENT:

A. SUBDIVISIONS:

- 1. "V" SUBDIVISION - PCT. 1
- 2. EXCALIBUR SUBDIVISION - PCT. 3
- 3. EVERGREEN DEVELOPMENT COMPANY SUBDIVISION - PCT. 4

B. PRELIMINARY APPROVAL:

- 1. BLUE JAY SUBDIVISION - PCT. 4

C. VARIANCE REQUEST:

- 1. ROBERTO GONZALES RAMIREZ - PCT. 2
- 2. EULUGIO RUBALCABA - PCT. 4
- 3. JUAN R. FLORES - PCT. 4

D. DISCUSSION AND POSSIBLE ACTION WITH REGARD TO TAKING LEGAL ACTION AGAINST GILBERTO RODRIGUEZ - PCT. 4

14A1

Emilio Garcia, Chief Planner, addressed the Court and stated that all requirements have been met and he recommended approval. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT O)

14A2

Mr. Garcia that this 7 lot subdivision has been approved by the City of McAllen. All requirements of the County have also been met. Upon recommendation of Mr. Garcia, a motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT O)

14A3

A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve Evergreen Development Company Subdivision as presented.

MOTION CARRIED
(SEE EXHIBIT O)

14B1

Mr. Garcia stated that this was a preliminary plat approval of this subdivision subject to street signs, traffic control devices, testing of the street and the final letter from North Alamo Water. A motion was made by Commissioner Garces and was seconded by Commissioner

Arcaute to give preliminary plat approval to Blue Jay Subdivision.

MOTION CARRIED
(SEE EXHIBIT O)

14C1

Mr. Garcia stated that this variance request was to allow them to build a structure on the last tract of the five acre tract. They have all been dedicated to their children. This is the last of the them. This is for the purpose of building their homestead. There is water, electricity going to this area. A motion was then made by Commissioner Arcaute and was seconded by Commissioner Garces to grant the variance.

MOTION CARRIED
(SEE EXHIBIT O)

14C2

NO ACTION

14C3

Mr. Garcia stated that this variance was related to one that was granted the previous year that allowed them to build a structure on the back of their existing home. They are asking to be allowed to build a second home. For the record, the City of Edinburg has issued a certificate of compliance having no objections to the second home. Commissioner Garces stated that it is just beyond the city limits. He has spoken with two City Commissioners and they informed him that there was ample space. He then made a motion and was seconded by Commissioner Arcaute to approve the variance.

MOTION CARRIED
(SEE EXHIBIT O)

14D

Judge Garcia stated that this item would be for no action because it needed to be discussed in a closed session and they cannot at this time because it is not posted for that.

NO ACTION

ITEM 15. PURCHASING DEPARTMENT:

A. AWARD BID:

- 1. APPRAISER SERVICES - RIGHT OF WAY

B. REQUEST TO ADVERTISE:

- 1. RENTAL SPACE - CITY OF MISSION - WIC
- 2. CRUSHED CALICHE - PCT. 1, 2 & 4
- 3. UNIFORMS - SHERIFF'S DEPARTMENT
- 4. PAVING BORDER ROAD - PCT. 2
- 5. HAULING SERVICES - PCT. 4

15A1

Mary Maldonado, Purchasing Agent, stated that there was only one bid from Professional Appraisal Services for \$475 per parcel based on 40 parcels. She recommended the sole bidder. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT P)

15B1

A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to authorize the advertisement.

MOTION CARRIED
(SEE EXHIBIT P)

15B2

A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT P)

15B3

NO ACTION

15B4

A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to approve the request to authorize the advertisement for bids to pave Border Road.

MOTION CARRIED
(SEE EXHIBIT P)

15B5

A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT P)

Bid openings will be April 3, 1996 and award April 8, 1996.

ITEM 16. COUNTY JUDGE:

(DICK DICKINSON)

A. REQUEST TO ADVERTISE:

1. DRUG AND ALCOHOL SERVICE

(LISA SAUCEDA)

B. DISCUSSION OF I-69 PROJECT AND AMEND BUDGET

16A1

Mr. Dickinson addressed the Court concerning the advertisement for bids for drug and alcohol screening for the CDL drivers employed with the County. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute. Dick Dickinson stated that it is statutory that they screen people prior to employment and if already employed then that they be screened randomly. They must test 10%. This is for people who drive vehicles in excess of 26,000 pounds. The motion was put to a vote and all in voted in favor.

MOTION CARRIED
(SEE EXHIBIT Q)

16B1

Lisa Saucedo stated that the total amount of the amendment would be \$41,662.24. This will include the County portion for some consultants that have been hired to push this project forward. This will also include an engineering study by Halff & Associates. This will be a feasibility study to look at 281 and upgrading it to interstate standards. This money will come from the General Fund and go into obj. 67 which is Economic Development Aide to other Governments. A motion was then made by Commissioner Garces and was seconded by Commissioner Arcaute to approve the amendment in the amount of \$41,662.24 from the General Fund and place it into Aid to other Government.

MOTION CARRIED
(SEE EXHIBIT Q)

- ITEM 17. COUNTY AUDITOR:
 - A. AUTHORIZATION TO ACTIVATE CELLULAR PHONE
 - B. APPROVAL TO IMPLEMENT REQUISITION FORMS ON ALL PURCHASES UNDER \$100
 - C. APPROVAL TO PAY ACCUMULATED COMP. TIME AND BUDGET AMENDMENT

17A

Steve Austin stated that he was wanting this phone because of the various demands on him. This will be to keep in contact with the Office when he is out. Commissioner Arcaute was not to enthusiastic about this request. Steve Austin stated that this was a necessity for him because of the review by the Comptroller. The Commission did not agree. Commissioner Arcaute stated that he is not in favor of going against the policy that has been established. Commissioner Garces was also against this request. Judge Garcia stated that there be no action on this item.

NO ACTION
(SEE EXHIBIT R)

THIS NEXT ITEM IS IN VERBATIM FORMAT.

JUDGE GARCIA Steve. Do you have...

COMM. ARCAUTE I asked all my questions the last time I think this item was on the agenda. How do we propose to....

STEVE AUSTIN Judge I...

COMM. ARCAUTE How do we propose to...

JUDGE GARCIA Come on up Steve Crain.

COMM. ARCAUTE ...how do we propose to do the...or solve the problem of spending \$5 to \$6 for a 30 cent item.

STEVE CRAIN I don't know if this will be any clarification or not but since our last meeting, I've looked at some Attorney General opinions and in the statute, it is true that the word requisition is used but the Attorney General, I believe I provided a letter to Mrs. Etnire with a copy of an Attorney General's opinion that the word requisi-

tion as used in the statute has been interpreted by an Attorney General and many Courts have considered this in the State, as being one and the same thing as a purchase order. So it's not a separate document. It is the same thing as a purchase order. So if you read it that way, the way the AG has read it, what the statute says is on purchases of \$100 or more, you must have a purchase order signed by the Department Head and I believe...Mrs. Etnire, is that not what we have already in place.

COMM. ARCAUTE Steve says that...

LOURA ETNIRE We do have a-----

STEVE CRAIN Right. But this statute that what we're referring to basically according to the Attorney General and I'm looking at the Attorney General's opinion as being some authority in this State, that the word requisition as used in that statute means a purchase order.

COMM. GARCES You don't think that the Comptroller's Office is just skipped that AG's opinion when they did this review?

COMM. ARCAUTE He's been known to skip----

STEVE CRAIN I can't say the reasoning but if anyone who would like a copy of that purchase order, that Attorney General's opinion, I will give the County Judge's Office a copy.

COMM. GARCES I made a note because this is something that I was looking at. Maybe after we get into the blanket PO that we were talking about, if we get to that point, then maybe I can see going to a....or not need one because of the inventory of the County.

STEVE CRAIN My only point here is just to provide that information regarding the Attorney General's opinion.

JUDGE GARCIA I read that opinion. As a Judge and a Lawyer, I think that's what it reads too. One and the same.

COMM. ARCAUTE The intent was that....

COMM. GARCES P.O.s and requisitions are the same thing...

JUDGE GARCIA Yeah.

STEVE AUSTIN I think it's important to recognize that in some counties, there is a dual requisition purchase order and it's the same thing. In our County though, we have a requisition as one item, one document and a purchase order is different document. So the Attorney General's opinion that Mr. Crain refers is probably to a dual requisition purchase order document. Not having that Attorney General's opinion which he refers to at this time, I would think that that opinion addresses a particular purchase or particular county at a particular time and I don't

know what year that may have been.

STEVE CRAIN

I think...Mrs. Etnire. Would you provide Mr. Austin a copy and I can give you some history based on that Attorney General's opinion. The statute was written back in the thirties maybe late twenties and if you also would look at Brooks on County Government Law and the cases that he cites in that. Apparently, the word purchase order is a relatively new word coming about maybe in the forties maybe the fifties and this wording requisition for whatever reason, has continued on eventhough that the AG and various Courts in this State have concluded that really it referring to purchase order. Steve I'll be happy to discuss it with you and show you the opinions I've got from the AG's Office and the opinion did not discuss dual requisitions or dual entry system or whatever dual was. It just basically looked at the history of the statute and determined that that word meant purchase orders not requisitions.

STEVE AUSTIN

In 1987, there were may statutes, purchasing statutes that were repealed by the legislature and specifically Effective September 1, 1987, there was a statute by the legislature in the local government code section 113.901, which specifically addresses the requisition and the need for there to be a requisition and basically not providing that that be discretionary on the part of the Commissioner's Court. That statute very clearly Judge and Commissioners, reads that except as provided by subsection C, A County Auditor may not audit or approve an account for the purchase of supplies and materials for the use of the County or of a County Officer unless a requisition signed by the officer ordering the supplies or materials or approved by the County Judge is attached to the account. The requisition requirement is in addition to any other requirement or law.

JUDGE GARCIA

Is that what you read Steve?

STEVE CRAIN

I read that same statute, read the same AG's opinion and the recotification of that statute in 1987....

JUDGE GARCIA

Okay.

COMM. ARCAUTE

There's nothing wrong with that if we could do it within one day. Everything would be just fine. But when you have to wait three weeks...I go back to...of course we have a different situation. This is what I keep referring to and I don't know that there are any. These AG opinions are becoming so popular now. Are there any AG opinions that deal with the operation of Road and Bridge...operations....

STEVE AUSTIN

Sure.

COMM. ARCAUTE

...as compared to just the other departments which can buy their supplies in January and be ready to operate

the whole year because they know exactly what they need. But what about Road & Bridge? Are we gonna wait two weeks or three weeks before that requisition clears your office before we go and buy a spark plug for a vehicle that is down on the road?

- JUDGE GARCIA Alright. So I assume the pleasure of the Commission is to take no action on Item B.
- COMM. GARCES No Action.
- COMM. ARCAUTE Well. The only thing that is gonna happen here, is that the County Auditor is not going to process any bills.
- LOURA ETNIRE (INAUDIBLE)
- STEVE AUSTIN Judge. Is that the recommendation of Legal Counsel that Commissioner's Court not take any action on this particular item?
- STEVE CRAIN The recommendation of Legal Counsel is for the Commissioner's Court to follow the law and the law as interpreted by the Attorney General's Office interpreting that and I'll be happy to meet with you and show you this, that the word requisition means a purchase order is used in the statute.
- STEVE AUSTIN I understand that.
- STEVE CRAIN My recommendation is to follow the law and right now the AG is saying or that opinion that a purchase order is a requisition for purposes of that statute.
- STEVE AUSTIN So whether it be a requisition or a purchase order, one of those documents is required for any purchase of supplies and materials. Is that correct?
- STEVE CRAIN Before you can audit the account. That's correct.
- STEVE AUSTIN ..and until there is a document signed requisitioning by a department head, that bill cannot be audited and that bill cannot be paid.
- STEVE CRAIN That's what 113.901 states.
- STEVE AUSTIN I think it's important for the Commissioner's Court to know that.
- COMM. ARCAUTE This is on supplies and material.
- STEVE AUSTIN Supplies and material, that's correct.
- STEVE CRAIN It does not apply to services.
- COMM. ARCAUTE Not to services.
- STEVE CRAIN Correct.

STEVE AUSTIN That is not inconsistent with my position Judge and Commissioners.

COMM. GARCES Okay

STEVE AUSTIN ...or that position of the State Comptroller.

COMM. ARCAUTE What is your position?

STEVE AUSTIN That a requisition must be signed for all purchases regardless of the amount.

COMM. ARCAUTE Effective when. I think we had a March 15 effective date.

STEVE AUSTIN That's correct.

COMM. ARCAUTE Between now and Friday, we can go to town and buy everything we need without a....

JUDGE GARCIA Alright.

COMM. ARCAUTE So it's really not an action item for this Commissioner's Court.

STEVE AUSTIN Judge and Commissioners. Commissioner's Court has taken action in previous meetings to increase actually to exempt the use of requisitions on purchases of \$50 and again increasing that to \$100 in 1995.

COMM. ARCAUTE That's a local policy change but now what we hear is that was not in compliance with the law then.

STEVE AUSTIN Commissioner's Court has notified the Purchasing Agent.. has given basically a directive to the Purchasing Agent and to all County Department Heads that a requisition or a purchase order will not be required on any purchase less than \$100 and I believe Commissioner's Court should give proper direction to the Purchasing Agent and to the County Department Heads of the proper legal course to take in making purchases.

COMM. ARCAUTE Absolutely and that's your job right as County Auditor. That's why you are separate from the Commissioner's Court to be able to make sure that we do that.

STEVE AUSTIN I have stated my position....

COMM. ARCAUTE Well you do now in March of '96.

STEVE AUSTINit's the responsibility of the Commissioner's Court to make the policy and to give direction to the County Departments.

COMM. ARCAUTE When did you read the State Comptrollers Report? Hello. You keep referring to the State Comptrollers Report. When did you read that report.

STEVE AUSTIN Some time ago Commissioner.

COMM. ARCAUTE Two months ago. The statute was there since 1987.

STEVE AUSTIN That's correct and Commissioner's Court has been advised of that need to have a requisition.

COMM. ARCAUTE Advice is not the action Steve and I think you know what I'm referring to. You as County Auditor are now saying that you are now going to do your job and just refuse payment if that's what's gonna get your message across and I just want for the record to show that and I hope that these minutes are verbatim on this particular subject. I think it's important.

STEVE AUSTIN Commissioner. I believe that the Commissioner's Court needs to give proper direction to the Purchasing Agent and to the Department Heads and not misguide them and allow and expect for the County Auditor to come back and sweep behind Commissioner's Court. The Legal Counsel has made the recommendation that this law be followed by this Commissioner Court. The State Comptrollers Office has made that recommendation and now the County Auditor has made that recommendation and I believe Commissioner's Court should follow suit.

COMM. ARCAUTE Would you do that for every statute that governs this Commissioner's Court and every action of every department in this County?

STEVE AUSTIN Commissioner. This is not a discretionary item.

COMM. ARCAUTE I realize that and neither are the other ones. Where were you then? Judge I don't see that Commissioner's Court has to take any particular action on this item 17B. If that's the law, then we just do whatever the law says but I don't think Commissioner's Court has to put into their minutes a motion or take action and pass the motion to say that now we're going to do it the way the law say we should do it. I think it should be a no action item and if the County Auditor refuses to make payments, let that be the message. I say it's a no action item.

JUDGE GARCIA Alright. That will be a no action. We'll move on to item 17C.

NO ACTION

17C

Steve Austin stated that this was concerning 17 individuals in the office that have accumulated some comp. time hours and some have excessive hours. He would like to pay these people. The total overtime pay would be approximately \$11,504. Commissioner Arcaute brought up the fact that noone gets paid overtime unless prior approval is given or you are retiring. Commissioner Arcaute stated that they would be in violation of policy if they paid this. Steve Crain stated that one of two

things needs to happen. They need to pay them or give them time off. Steve Austin stated that there were some departments that could afford to give time off but he felt that he could not do that with his department. Commissioner Arcaute felt that they should just take a week off being that the bills are not getting paid on time as it is now, so one week is not out of the question. It would be cheaper to shut the doors being that the interest is only 1%. Judge Garcia then stated that there would be no action on this item and he moved to item 18.

NO ACTION
(SEE EXHIBIT R)

ITEM 18. AUTHORIZATION TO OBTAIN LOANS FROM FIRST NATIONAL BANK AND AUTHORIZE COUNTY JUDGE TO EXECUTE NOTES FOR PCT. 1 AND PCT. 3 AND APPROPRIATE LOAN PROCEEDS FOR PCT. 1 AND PCT. 3

Vona Walker stated that back on February 27, a bid was awarded to Anderson Equipment for one used loader in the amount of \$47,955. Commissioner Sanchez is requesting that this amount be financed with First National Bank to be repaid in two payments of \$23,977.50. The first one will be due in March 1, 1997 and the second on March 1, 1998. Then on March 5, 1996, four pick-ups were awarded to Roberts Chevrolet in the amount of \$69,576 and one four wheel drive pick-up to Bert Ogden Motors in the amount of \$19,600 making the total amount of the note \$89,176. The payback for this will be in 3 installments. One of \$29,725.34 due March 1, 1997, one of \$29,725.33 due March 1, 1998 and the last one of \$29,725.33 due March 1, 1999. A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to authorize the obtaining of loans from First National Bank and authorize the County Judge to execute notes for those loans and appropriate the loan proceeds for Pcts. 1 & 3.

MOTION CARRIED
(SEE EXHIBIT S)

A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to adjourn.

MOTION CARRIED

The Honorable Richard H. Garcia, Interim County Judge, called this Drainage District Board Meeting to order, whereupon the following items were had to wit:

DRAINAGE DISTRICT
=====

- ITEM 1. PERMITS:
 - A. CITY OF WESLACO
 - B. CITY OF PHARR
 - C. CITY OF EDINBURG

1A

Vona Walker stated that there were two permits for the City of Weslaco. Both of these are for the purpose of draining into irrigation ditches and they both have been approved by the irrigation district. A motion was made by Commissioner Garces and was seconded by

Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT T)

1B

Ms. Walker also was requesting two permits. One will be for Embassy Terrace Phase 2 and another subdivision on I Rd. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT T)

1C

A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT T)

ITEM 2. AUTHORIZATION TO ADVERTISE FOR CANAL BORINGS - LINDA VISTA PROJECT

Ms. Walker stated that this was the last of the work as far as the Drainage District in concerned. They will bore under the United Drainage District Canal where water accumulates. A motion was then made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(NO EXHIBIT)

ITEM 3. INTERNAL LINE ITEM TRANSFER

Ms. Walker stated that this transfer is for \$195 to go into line item 39 which is Minor Equipment. A motion was made by Commissioner Garces and was seconded by Commissioner Arcaute to approve.

MOTION CARRIED
(SEE EXHIBIT U)

A motion was made by Commissioner Arcaute and was seconded by Commissioner Garces to adjourn.

MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS DRAINAGE DISTRICT BOARD, THIS MEETING HEREBY STANDS ADJOURNED.

THERE BEING NO FURTHER BUSINESS TO COME

BEFORE SAID COURT, the meetings of the Commissioners' Court and the Drainage District were hereby adjourned.

Richard H. Garcia
Interim County Judge

Samuel Sanchez *Absent*
County Commissioner, Precinct #1

Lalo Arcaute
County Commissioner, Precinct #2

Juan Rosel *Absent*
County Commissioner, Precinct #3

Guadalupe "Lupe" Garces
County Commissioner, Precinct #4

Dated this 11TH day of MARCH, 1996.

ATTEST:

JOSE ELOY PULIDO, County Clerk
Hidalgo County, Texas

By: *Aaron Betancourt*
AARON BETANCOURT, Deputy

