**The State of Texas §**

**§**

**County of Edwards §**

**BE IT REMEMBERED** that on this 9th day of February, 2016, at 9:00 o’clock a.m. there came on and was held in the City of Rocksprings, Edwards County, Texas, at the Edwards County Courthouse therein, a Regular Open Meeting of the Commissioners’ Court of Edwards County, Texas. The Amended Agenda for this Regular Open Meeting of the Commissioners’ Court of Edwards County, Texas was posted on February 5, 2016 at 4:39 o’clock p.m.

Present were:

Honorable William Epperson, Commissioner of Precinct One

Honorable Lee Sweeten, Commissioner of Precinct Two

Honorable Matt Fry, Commissioner of Precinct Three

Honorable Andrew Barnebey, Commissioner of Precinct Four

Honorable Souli Asa Shanklin, County Judge

Honorable Olga Lydia Reyes, County and District Clerk

1. **Determination of quorum; Call to Order.** The Open Meeting was called to order at 9:02 o’clock a.m. by Judge Shanklin. The Pledge of Allegiance was recited. Kenneth Reed was invited by Judge Shanklin to lead the Court in an opening prayer. The roll was then called by Clerk Reyes. All Commissioners were present.

2. **Open Forum.** There were no participants in the open forum.

3. **Staff Reports.** The staff reports were submitted to the Court before the meeting. The Judge asked if there were any questions about the reports. Commissioner Barnebey announced that he had a question for the Sheriff; Judge Shanklin informed the Court that the Sheriff would not be attending as she had a family emergency. Barnebey was asked to call the Sheriff with any questions he might have.

4. **DELIBERATE, CONSIDER and/or TAKE ACTION ON ANY OF THE FOLLOWING:**

a. **Prior Minutes.**

**January 12, 2016.** Commissioner Barnebey made the motion to approve the minutes from the January 12, 2016 meeting; Commissioner Sweeten seconded the motion, stating that the word “proffered” was misspelled and should be corrected. No Commissioner noting any opposition, the motion carried 5/0.

**January 19, 2016.** Commissioner Sweeten made the motion to approve the minutes from the January 19, 2016 meeting; Commissioner Epperson seconded the motion. No Commissioner noting any opposition, the motion carried 5/0.

b. **Burn Ban.** Judge Shanklin announced that the burn ban should be in effect. We’ve had red flag warning days. The State and Fire Department have asked him to reinstate the burn ban. Commissioner Barnebey moved that the burn ban be put in place; the motion was seconded by Commissioner Sweeten. No Commissioner noting any opposition, the motion carried 5/0. Immediately after the vote on this motion, Sweeten asked Robert Pena, head of the Road Department, if there was a burn ban sign in Camp Wood Hills. Pena responded yes. Sweeten stated that it had not been changed. Pena responded that he had changed it. It was concluded that someone had changed it and had it reverted back to appear as if the ban had been on for the past few months. This presents difficulties for the area residents because they are of the belief that the ban is in effect when, in actuality, it is not. There was discussion of cameras being put up in the area to identify possible culprits changing the flip-type sign, but that is not a feasible option as the cameras could be stolen. Pena was asked to look into the sign being locked or otherwise modified so that unauthorized flipping of the sign could be deterred.

c. **Discuss and/or take action to approve and sign Gun Control Letter if completed. – Judge Shanklin.** This document was initially sent out in an incomplete form. It was sent to the department heads, the District Judge, and the District Attorney. Today, we have a completed letter. The tax assessor/collector’s office and the appraisal district are now included as they had initially been left off. The Clerk also previously indicated what she had wanted on the order. Judge Shanklin announced that the final draft was e-mailed to the Commissioners this morning. Commissioner Sweeten stated that this needed to go in quickly; the only change that he knows of since he reviewed the initial draft was the inclusion of the tax office and the appraisal office. Commissioner Epperson stated that he had read an article regarding the Attorney General’s uncertainty with regards to this issue. He was concerned that changes might arise in the future. Shanklin stated that our District Judge had approved the order. Sweeten made the motion to approve and sign the Gun Control Letter subject to any changes coming from the AG’s office. Commissioner Barnebey seconded the motion. Judge Shanklin told his administrative assistant that this document should also be published in the newspaper.

d. **Discuss and/or take action on the county to adopt the online training method for Volunteer Deputy Voter Registrars. – Mark Bean.** Voter Registrar Mark Bean appeared to address the Court. He stated that he had been contacted several weeks ago by a gentleman who wanted to be appointed as a Volunteer Deputy Voter Registrar. No one had ever asked to be appointed to this position. Initially, Bean denied the request because it would be more work for him and he also had done so much work cleaning up the voter registration list. The way the law reads, according to Bean, a Volunteer Deputy Voter Registrar wouldn’t have to find out if the person(s) they are registering are qualified voters. If an application is handed to Bean, he has to put them on the voter rolls. The State is tasked with monitoring this. He is now asking the Court to adopt the online training method for these Volunteer Deputies. They would read the online training material and then come to Bean’s office where he would administer the exam. Shanklin declared that if the State says to do it, then Bean should do it. Sweeten said that he had reviewed some information from the Secretary of State’s office on this issue. Sweeten made the motion to permit the county to adopt the online training method for Volunteer Deputy Voter Registrars. Kathy Walker, from the audience, asked the Court if someone took this training, then would this mean that person would have to be allowed to be a Volunteer Deputy Voter Registrar. She was told that yes, if that person applied and met the qualifications. She then asked if, in a small community like this, the issue of voter intimidation could not been seen down the line. How could this be stopped? Sweeten answered that the State would presumably take care of all of this. John Harris, from the audience, stated that he was the Deputy Voter Registrar in question. He stated that there is no intimidation in what he is doing because all it does is allow people the chance to vote. Commissioner Barnebey seconded the motion. No Commissioner noting any opposition, the motion carried 5/0.

[**Clerk’s Note:** Item e was taken out of order.]

e. **Discuss and/or take action to review and possible restructure of Road and Bridge Department. – Commissioner Sweeten.** Commissioner Sweeten began his address to the Court by stating that the system in place now, which shares a road crew and equipment, is not effective when a person has to wait several months to get the road crew back in their precinct when they are needed. Sweeten is also concerned that the County is not meeting the guidelines of the Texas Transportation Code, Chs. 251 and 252. Sweeten had initially sent this information to the commissioners in January 2013. At that time, Road Supervisor Pena was asked to create a work schedule and calendar so that the Court would know when the precinct rotations were occurring. This item passed 4 to 1 at the January 2013 meeting and, as of the present time, Sweeten stated that the Court has not received that calendar. Then, on July 8, 2014, the Court requested that Pena notarize his reports to the Court; this also passed 5 to 0 and it still hasn’t happened. Sweeten is now proposing that the Court go back to a precinct system, where all of the miles of county road within a given precinct would be divided up and each commissioner would be in charge of the proportional amount of funds allocated to their precinct. Edwards County has 290 total miles of county roads. Pct. 3 has 35.8% of all of the roads (104 miles) in Edwards County. Pct. 2 has 35.7% of the roads (103.75 miles); however some of the streets in Barksdale were left off of this, so Pcts. 2 and 3 are basically even. Pct. 1 has 11.5%, or 33.5 miles. Pct. 4 has 16.9%, or 49 miles. Sweeten now proposes creating three road crews: one for Pcts. 1 and 4; one for Pct. 2 and one for Pct. 3. Each Commissioner would be in charge of their respective precinct. Next, the budgets would have to be divided out. According to the budget and the pay scale, Sweeten would have $103,500 to use for vehicles, maintenance, material, diesel, etc. (These figures are based on a 3-man crew per precinct.) Fry would be allotted $104,086. Epperson and Barnebey, combined, would be allotted $55,000 for Pcts. 1 and 4. If you change to a 2-man crew, Sweeten would be allotted $141,700, Fry would be allotted $142,300, and Barnebey and Epperson, combined, would be allotted $93,600. Sweeten then inquired if we have a current inventory of all the equipment. Pena responded that the County Treasurer has it; Sweeten said the Treasurer stated that she didn’t. Shanklin replied that she should have it as it needs to be maintained for insurance purposes. Sweeten asked Pena if he could provide the Court with an updated inventory.

Sweeten reports getting many constituent calls regarding the state of the Pct. 2 roads; he also reminded the Court that Pct. 2 has 60% of all low water crossings in the County. The precinct system creates a lot of work and responsibility; however, the County needs to do something because what is in place now, at least in his area, is not working. Judge Shanklin stated that new subdivisions keep being created and this puts more traffic on our County roads. Shanklin cautioned that if Sweeten was going to propose and make these changes, then they would need to be in place by the time of the next budget cycle. Commissioner Fry stated that this was asking the Commissioners to take on too much, based on their pay rate. Shanklin agreed that salaries might need to increase and that a foreman would need to be hired for each crew. Fry responded that he agrees that we need a system that is based according to the percentage of roads in each precinct but he is not sure about Sweeten’s proposal. Sweeten stated that the rotation is currently 45-days for Pcts. 2 and 3 and 30-days for Pcts. 1 and 4. Fry suggested that we need a crew dedicated to building roads and 1 or 2 guys working to maintain the roads. Epperson stated it is a bit misleading to say that the rotation is 45 days; in actuality, it is 45 *working* days. His concern about a precinct system is that taxpayers have been hit over and over again. He would like the road crew to come around in their rotations every 3 or 4 months.

Shanklin noted that if the County were to go to a unit system, an election would be needed. According to Shanklin, Schleicher County has a true unit system and McCullouch County is looking to going to one as well; he stated that a unit system is run like a dirt contracting business. Sweeten concurred that this type of county-wide system takes the Commissioners out of it; all they would do is approve the budget and hire and fire the person in charge of it. Shanklin stated that, additionally, in a true unit system, the road department can do private work in counties with a population of less than 7,500. The road department system would then be able to generate income. Sweeten also brought up the true superintendent system as another alternative. Pena then handed Sweeten a copy of a calendar from last year and one from this year. Barnebey suggested that the rotations be made shorter from, for example, nine weeks to six weeks. Epperson stated that right now, the way things are, the road crew only gets around to Pct. 1 about every February and Pct. 1 is paying a quarter of the County’s taxes. Shanklin countered that Pct. 1 doesn’t have the traffic and development of Pcts. 2 and 3. Sweeten stated that Pena’s not a true supervisor although he is asked to assume that position; he does more than what he should be doing. Pena believes that once he gets his second motorgrader trainee up and going, then he can get on a more regular rotation. Nevertheless, Sweeten stated that we have a problem that needs to be fixed. Sweeten wants to know who is going to be responsible for doing the reports that are required by TTC Chs. 251 and 252; technically, the Commissioners are responsible for these reports. Epperson stated that the Commissioners need to sit down and figure out the financial aspect to these reports. Pena stated that he was hired as the Road Supervisor. Shanklin responded that the Court and the County must abide by the laws of the State of Texas and this is why Pena had to be placed back on an hourly pay rate, because he operates machinery. Barnebey proposes that this issue be tabled for now. Fry proposes that Pena prepare a revised schedule with double rotation (cutting the current rotations in half - 3 weeks as opposed to 6 weeks). Barnebey stated that he wanted the same proportion to be maintained on the revised double rotation schedule; after each cycle there would be an extra week for touch-ups and for general emergencies. Barnebey would also like to know how the road department money is being spent per precinct. Barnebey then renewed his motion to table this matter for now. Fry seconded the motion. The motion passed 4/1, with Sweeten voting in opposition.

f. **Discuss and/or take action to present final plat on subdivision on CR 460. – Sam Poorman.** Mr. Poorman appeared to address the Court. It appears that an error has been made on the agenda; this will be the presentation of the preliminary plat of the subdivision on CR 460, and not the final plat. Poorman announced that he had reviewed this plat with Commissioner Fry and County Attorney Moody. Moody had requested some changes and he has made these changes. Shanklin stated that this subdivision would be on the Del Rio road, down by Carta Valley, off of CR 460. Fry stated that he had also asked for a copy of the water well agreement and the restrictions. Commissioner Sweeten asked if there was a centralized water system. Both Shanklin and Sweeten stated that the Water District had a restriction on shared wells. Poorman stated that he was in the process of getting the hydrology study completed and he would then await notification of shared wells being approved. If approval is not forthcoming, then they won’t share wells. Poorman thought this had to do with the number of people that were to share the well, but he acknowledged that this rule could have changed. Shanklin stated that Poorman just needed to get the approval of the Water District. Poorman also stated that they had added the 9-1-1 addresses to these plats. There will also be signs placed along the subdivision roads for the emergency personnel to know where they are going. Commissioner Fry made the motion to approve the preliminary plat on this subdivision on CR 460, pending the completion of the hydrology study. Commissioner Barnebey seconded the motion. No Commissioner noting any opposition, the motion carried 5/0.

g. **Discuss and/or take action to reconsider the recent commissioners’ court decision about the permanent school fund account. – Commissioner Barnebey.** Judge Shanklin addressed the Court. Since the Court took this action, both he and County Attorney Moody have been in contact with the school district’s attorney and the State. The permanent school fund accounts come solely through the Judge’s office. The Judge is the executor of this estate, more or less, since these have been passed down from his predecessors in office. Shanklin stated that Barnebey had emailed everyone a legal opinion this morning and this is what he and Moody asked for from the school’s attorney. The County cannot liquidate this fund; it can only be reduced, and furthermore, it can only be used to reduce school debt. This fund must also be maintained. Commissioner Fry stated that the County’s auditor, Eric Ede, even recommended that the County liquidate the fund, but now it turns out that this can’t be done. Shanklin agreed. Another catch to this money, as conveyed by the school’s attorney, is that it can only be used for students in the County. One discrepancy that has arisen is that 90+% of the students attending the NCISD live out of county. When the attorney was told about the situation with the NCISD, she was stumped. The CD that holds these funds does not come due until June or July. Barnebey interjected and stated that the CD would come due in November. For now, the status quo remains. Moody then addressed the Court. He clarified that while he had not spoken to the school attorney directly, he did share emails with her. There is going to have to be an investigation as to what the school is going to do with this money. He stated that the Commissioners were trustees of this money, which is the highest level of fiduciary responsibility which the law provides. The Court can spend these funds but they have to get the school district to cooperate so that school debt can be reduced. Additionally, enough funds need to be held back from being spent to pay the ad valorem taxes on the school lands. Both Shanklin and Barnebey stated that the County hasn’t gotten any tax statements for school lands for ages. They don’t know of any school lands in Edwards County. According to Moody, there are Edwards County school lands on the far west boundary between Texas and New Mexico. Moody suspects that most of the County’s school lands have been sold. This is the reason why the County doesn’t receive a tax bill. But, getting back to the issue at hand, Moody continued, if the money is spent, the County does have expenses. Commissioner Sweeten inquired if any harm would be occasioned if the County allowed the money to just sit there. Shanklin replied that no harm would occur. Sweeten continued by stating that, at the last court meeting, the Court had approved closing out these funds and transferring the money into the County’s general fund. Now, Sweeten is making the motion to rescind the prior action of the Court that both of the accounts that hold these school funds be liquidated and these monies be placed in the County’s general fund; instead, these monies are to now be held “as is” in the permanent school fund so as to be used at the appropriate time and place. Judge Shanklin seconded the motion. Barnebey indicated that he would like to see some of these funds distributed. Moody stated that the school has to engage in a program of either bond indebtedness reduction or permanent improvements. No Commissioner noting any opposition, the motion carried 5/0.

h. **Discuss and/or take action to discuss and take any necessary action regarding the status of the county park’s new restroom facility. – Commissioner Barnebey** Judge Shanklin stated that this action item ties in to action item [i], below, so, with the permission of Commissioner Barnebey, the Court will consider both items [h] and [i] together. See item [i] below for discussion.

i. **Report by Esser & Company on TxCDBG 7214141 Edwards County Restroom Project Monitoring Desk Review by DA. – Carl Esser.** Commissioner Fry started the discussion by stating that he met with the electrical contractor. A conduit and a breaker are needed. Fry was going to pick up this equipment but he has not been able to do so. Commissioner Barnebey asked if the ramp had been put in; Shanklin responded no. Esser then informed the Court that the Texas Department of Agriculture (hereinafter referred to as “TDA”) scheduled a monitoring desk review. This entailed Esser traveling to Austin on January 19, 2016, taking all of the files associated with this grant, and spending the day at TDA headquarters so that a TDA official could evaluate the County’s compliance with regards to the following aspects: procurement, environmental, financial, and civil rights. He is pleased to report that Edwards County got a clean bill of health on this project. All of the activities that have been accomplished have been done in compliance with community development block grant policies and requirements. There will be a final review upon completion of the project. The installation of the required sign at the site still needs to be completed; it must contain verbiage to the effect that this project was funded by the Office of Housing and Urban Development to benefit rural and small communities. (This Court approved this about 6-7 months ago.) The County Seal would also be on the sign. Esser continued by stating that Mr. Ed Beasley, who tasks the accessibility standards, is going to visit the site; he will conduct his inspection of the building. Wallace Concrete, the building designer, built according to the plans, so he does not foresee problems with achieving compliance with this inspection. Esser then stated that the County has retained 5% of Wallace’s contract; once the inspection is complete and the County is determined to be in compliance, that 5% will be released to Wallace Concrete. The County will then request reimbursement from the grant funds. Commissioner Epperson asked if a bid was put out on the electrical work and if any bids were submitted. Shanklin and Fry stated no; the County received a variance from TDA on this because the first time that bids were solicited, none were received. Therefore, the County did not have to put this matter out for bids.

j. **Consider and act upon Statement of Qualifications/Proposals with possible award for the Administration of the Edwards County FEMA Grant. – Carl Esser.** Judge Shanklin stated that the request for proposals for the award of the administration of the Edwards County FEMA Grant was sent out. Any company interested in applying for this award had until 9:00 o’clock this morning to submit their Statement of Qualifications. The only Statement of Qualifications for the Professional Administration & Management for FEMA 4223 DR – TX that we received back was from Esser & Company Consulting LLC. The envelope containing the statement was opened in front of the Court. Commissioner Sweeten asked what Mr. Esser’s fee would be to administer this grant. Esser responded that he was charging the same as he always had, which is 10%, or $12,000 for the grant amount. Sweeten made the motion to approve the award of the Administration of the Edwards County FEMA Grant to Esser & Company; Shanklin seconded the motion. No Commissioner noting any opposition, the motion carried 5/0.

k. **Consider and Act upon quotes/bids with possible award for the drilling of Test Hole for Barksdale WSC Water Well #3 Project TxCDBG 7214177. – Carl Esser.** Esser stated that a meeting was held in Barksdale, and at that time, a site was located to possibly drill a test hole for this project. The County received a $350,000 grant to provide them with a water well. In the last 6-8 months they have been looking at potential well sites. They found a landowner who would allow them to drill on his property. The County, who is in charge of the grant, solicited bids/quotes for this project through the small purchase procurement method. The County received 3 quotes. The first was from Utopia Sales & Services in Utopia; the second was from Wilson Drilling in Uvalde; and the last was from Wilson Well Service in Leakey. This proposal is to go down to depth of 900 feet. There were 4 items listed: mobilization, set a temporary 8 inch surface casing; drilling the hole 900 feet deep, and conducting a 6-hour pump test and water samples to provide water (chemical and bacteria) analysis. Utopia Sales & Service’s bid was for $32,100; Wilson Drilling’s bid was for $38,350; and Wilson Well Service’s bid was for $69,500. Utopia was the lowest bidder. Sweeten said that he believed that Utopia Sales & Services had drilled the Rocksprings water well and some other wells in the area. Sweeten made the motion to award for the drilling of test hole for Barksdale WSC Water Well #3 Project TxCDBG 7214177 to Utopia Sales and Service; the motion was seconded by Commissioner Fry. No Commissioner noting any opposition, the motion carried 5/0.

l. **Consider and Act upon Resolution authorizing submission of Criminal Justice Grant Application. – Carl Esser.** Esser appeared to address the Court. He requested this item be on the agenda because he knew that someone from the Sheriff’s Department traveled to San Angelo to attend the mandatory grant workshop. The deadline is February 26, 2016. He created a resolution for the Court and this approved resolution must accompany the online submission of the grant application. This application will be for fiscal year 2017, which will begin September 1, 2017. He left the amount blank on the application, but he was told that the Sheriff’s office is considering applying for a vehicle. He got an invoice from Caldwell Chevrolet for $46,340 for a Tahoe-type vehicle with the lights, sirens, and paint. He can use this amount in this resolution. Commissioner Sweeten clarified that this was essentially the same resolution that the Court considered last year, only the amounts would change. Esser replied in the affirmative. Sweeten made the motion to approve the resolution authorizing the submission of a criminal justice grant application to the Governor’s office; Commissioner Epperson seconded the motion. No Commissioner noting any opposition, the motion carried 5/0.

5. **New Business.** Commissioner Fry stated, with regards to CR 550, he has a list that was presented to him by landowners along this road. At some point, the road department just bladed the road up to the next cattle guard, just under half a mile, up until the last 5 or 6 years. There are 7 to 9 subdivisions on this road and he needs to give these people an answer. What Fry has basically told them is that the County won’t take land away from a landowner; they would have to start a process whereby the owner of that land would agree that it would be possible to get this ½ of a mile back. This land has to be given to the County. It’s not the County’s responsibility to approach the landowners.

Fry then went on to state that there were some old maps that show a County road going around; it has not been used. Fry’s been on that ranch and he cannot tell where the old County road was. There is no caliche. Shanklin stated that it is the old Fred L. Speck road. Now it is owned by Cmajdalka. Some individuals now want to connect that road back into Silman Springs. The County Road that is being discussed is CR 430. Barnebey asked if it was, in fact, a County Road; Fry responded that it was, but it ends 3 miles down at a property line and a locked gate. Sweeten stated that this road was not on the County Map that was approved back in 2009-2010. Fry said that he explained this numerous times.

6. **Set time and date for next meeting.** The next regular open meeting of the Commissioner’s Court of Edwards County will be on the second Tuesday of March, 2016 (March 8, 2016) at 9:00 o’clock a.m.

7. **Pay bills.** Commissioner Sweeten made the motion to pay the bills; the motion was seconded by Commissioner Barnebey. No Commissioner noting any opposition, the motion carried 5/0.

8. **Adjourn.** Commissioner Barnebey made the motion to adjourn; the motion was seconded by Commissioner Fry. No Commissioner noting any opposition, the motion carried 5/0. This meeting of the Commissioner Court adjourned at 10:49 a.m.

APPROVED:

SOULI ASA SHANKLIN

Edwards County Judge

Attest:

OLGA LYDIA REYES

Edwards County and District Clerk