

**THE STATE OF TEXAS  
COUNTY OF FANNIN**

**IN COMMISSIONERS COURT  
FANNIN COUNTY, TEXAS**

On this 5th day of November, 2012 the Fannin County Commissioners Court met in a Regular Meeting after public notice was posted on the 2nd day of November 2012 at 8:37 a.m. with the following members being present:

<b>Creta L. Carter II</b>	<b>County Judge</b>
<b>Gary Whitlock</b>	<b>Commissioner, Precinct 1</b>
<b>Stan Barker</b>	<b>Commissioner, Precinct 2</b>
<b>Dewayne Strickland</b>	<b>Commissioner, Precinct 3</b>
<b>Joe Strong</b>	<b>Commissioner, Precinct 4</b>

The following business was transacted to-wit:

**CALL TO ORDER**

Judge Carter called the meeting to order at 9:03 a.m.

**INVOCATION**

Joe Dale, Justice of the Peace, Precinct 1

**ITEM 2. ESTABLISH A QUORUM**

Judge Carter declared a quorum has been established

**ITEM 3. PUBLIC FORUM**

Judge Carter stated as a reminder that Election Day is tomorrow, November 6, 2012.

**ITEM 4. APPROVE MINUTES OF PREVIOUS MEETING(S) – COUNTY CLERK**

None

**ITEM 5. DISCUSSION, CONSIDERATION AND ACTION TO APPROVE WAVIER FOR ONE TIME SEVERANCE OF 12.37 ACRES IN THOMAS TOBY SURVEY – SANDERSON**

Judge Carter stated Mr. Sanderson is unavailable, Mr. Jacinto Barco would like to present the item.

Jacinto Barco stated he owns land adjacent to the property referenced and would like to purchase 11 acres.

Commissioner Strong stated 1.3 acres has a dwelling and has had ongoing issues with dumping

and septic problems whereas Mr. Barcos property is clearly well-maintained.

Commissioner Strong moved to approve the one-time waiver.

Motion By: Commissioner Joe Strong  
Second By: Commissioner Stan Barker  
Vote: 5-0 Passed

**ITEM 6. CONSIDERATION AND ACTION TO APPROVE CONTRACT WITH REGIONAL PUBLIC DEFENDER FOR CAPITAL CASES AND AUTHORIZE COUNTY JUDGE TO SIGN SAME ON BEHALF OF FANNIN COUNTY COMMISSIONERS COURT – 336<sup>TH</sup> DISTRICT JUDGE**

Judge Blake stated Mr. Phil Wischamper has presented the contract, it has been reviewed by the civil attorney for Regional Public Defender, the fee schedule is attached; the new capital case will be covered by this contract thanks to quick action by the Court to enter into agreement.

Motion By: Commissioner Dewayne Strickland  
Second By: Commissioner Stan Barker  
Vote: 5-0 Passed

**ITEM 7. CONSIDERATION AND ACTION TO APPROVE PAYMENT OF 3% PAY INCREASE THAT CLERK DID NOT RECEIVE, FOR THE PAY PERIOD OF SEPTEMBER 24–OCTOBER 7, 2012– JUSTICE OF PEACE, PCT. 1**

Dale McQueen, Journalist for the Fannin County Leader stated he believed the State would not dispute retroactive payment if there was a misinterpretation of the policy.

Judge Joe Dale, Precinct 1 requests the Court reconsider retroactive pay for the court clerk; the Texas Constitutional Article referenced does not apply, the Court has the discrepancy whether or not to make the pay retroactive.

Scott Dyer, Auditor stated the pay would be \$21.99 plus benefits for each pay period.

Commissioner Barker stated it is incorrect to state the Texas Constitution does not apply in this case, it is also inerrant to state there was a misinterpretation of the policy, this same policy has been used since the implementation of the salary matrix; the only way to retroactively pay is if there were a mistake made however vague the language may be; in accordance with JC 0147 it states the Court "...must operate prospectively" not retroactively, Article 391.12 makes the same argument.

Judge Carter stated the employee policy says "all newly hired employees" and it is not reasonable to infer this applies to those employees currently on the payroll.

Richard Glaser, Criminal District Attorney/County Attorney stated an increase of 3% was given to *all* employees, the fact that the increase was not applied to one employee is an error; there are temporary, part time and full time employees, they are all employees regardless of who they work

for; the general rule for contracts drafted is construed against the drafter in regard to the issue of vagueness.

Commissioner Whitlock moved to approve the payment.

Motion By: Commissioner Gary Whitlock  
Second By: Commissioner Joe Strong  
Vote: 3-2 Passed (voting nay: Commissioners Barker and Strickland)

**ITEM 8. CONSIDERATION AND ACTION TO AMEND POLICY ON PAY INCREASE ELIGIBILITY, SECTION 4.03 OF THE FANNIN COUNTY POLICY MANUAL – AUDITOR**

Scott Dyer, Auditor stated the proposed amendment is an attempt by the Treasurer and Auditor to clarify any issues that have been considered vague as requested by the Court; feedback is requested and it is recommended the item be addressed after thorough review of the proposed amendment by the Court.

Commissioner Strickland moved to table the Item.

Motion By: Commissioner Dewayne Strickland  
Second By: Commissioner Gary Whitlock  
Vote: 5-0 Item tabled

**ITEM 9. DISCUSSION, CONSIDERATION AND ACTION TO APPROVE MEMORANDUM OF UNDERSTANDING(S) BETWEEN FANNIN COUNTY & WORKFORCE SOLUTIONS OF TEXOMA AND FANNIN COUNTY & TEXAS STATE HEALTH AND HUMAN SERVICES AND AUTHORIZE COUNTY JUDGE TO SIGN ON BEHALF OF FANNIN COUNTY – COUNTY JUDGE**

Judge Carter stated there had been conflicting contracts with the entities; the contract for Workforce Solutions of Texoma now includes language pertaining to a \$1,000 per month in-kind contribution as requested; the two contracts stipulate each entity will care for their section of the building; the contract commences today and runs through March 14, 2015.

Motion By: Commissioner Dewayne Strickland  
Second By: Commissioner Joe Strong  
Vote: 5-0 Passed

**ITEM 10. CONSIDERATION AND ACTION TO APPROVE FANNIN COUNTY'S REPORT OF EMINENT DOMAIN AUTHORITY TO THE COMPTROLLER OF PUBLIC ACCOUNTS AND AUTHORIZE COUNTY JUDGE TO SIGN ON BEHALF OF FANNIN COUNTY – COUNTY JUDGE**

Judge Carter stated the current authority expires September 1, 2013. Commissioner Barker stated the item is a house keeping matter passed by the last legislative session; the County has not used eminent domain in at least the previous 10 years; the County does not have the option to opt out.



Commissioner Barker moved to approve. Commissioner Strickland objected to the language.

Motion By: Commissioner Stan Barker  
Second By: Commissioner Gary Whitlock  
Vote: 4-1 Passed (voting nay: Dewayne Strickland)

**ITEM 11. CONSIDERATION AND ACTION TO APPROVE BURN BAN FOR FANNIN COUNTY – COUNTY JUDGE**

Commissioner Whitlock stated there was a burn incident in Precinct 1. Commissioner Strong stated there was a similar incident in Precinct 4.

Commissioner Strong moved to approve the burn ban for one week to be reviewed in the following week.

Motion By: Commissioner Joe Strong  
Second By: Commissioner Gary Whitlock  
Vote: 5-0 Passed

**ITEM 12. CONSIDERATION AND ACTION TO APPROVE PAYMENT OF BILLS - AUDITOR**

Motion By: Commissioner Dewayne Strickland  
Second By: Commissioner Stan Barker  
Vote: 5-0 Passed

**Judge Carter stated Items 13 and 14 will be passed.**

**ITEM 13. EXECUTIVE SESSION PURSUANT TO SEC. 551.071 OF GOVERNMENT CODE TO DISCUSS LITIGATION MATTER(S)**

**ITEM 14. ACTION WITH REGARD TO LITIGATION MATTER(S) DISCUSSED DURING EXECUTIVE SESSION**


**ITEM 15. ADJOURN**

Motion By: Commissioner Dewayne Strickland  
Second By: Commissioner Gary Whitlock  
Vote: 5-0 Passed

**Adjourned at 9:38 a.m.**

**The above and foregoing represents true and correct minutes of the Fannin County Commissioner's Court meeting in Regular Session the 5th November, 2012.**

(LGC 81.003)  
ATTEST:

  
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Tammy Biggar  
Fannin County Clerk

