



DIANE DAY
AUSTIN COUNTY CLERK

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COMMISSIONERS COURT MINUTES

December 11, 2024 Austin County Commissioners Court met at 844 W. Main Street, Bellville, TX with the following present:

Tim Lapham, County Judge
Mark Lamp, Commissioner, Precinct 1
Robert "Bobby" Rinn, Commissioner, Precinct 2
Leroy Cerny, Commissioner, Precinct 3
Chip Reed, Commissioner Reed, Precinct 4
Kimberly Benjamin, Deputy Clerk

OPENING
CALL TO ORDER
ROLL CALL AND CERTIFICATION OF QUORUM

1. Building / Construction Workshop

Group met at Bellville EMS location at 9:00 a.m. Due to late arrival of Mike Moher (Christensen Building Group, LLC), Judge Lapham requested to relocate to Courthouse for Executive Session. Per Judge Lapham, will return back to site location after Executive Session.

Called to order at 9:20 a.m. at Courthouse.

Court recessed at 9:22 a.m.

EXECUTIVE SESSION

A closed meeting will be held concerning the following item(s):

1. Economic Development Matter

Court reconvened at 10:12 a.m.

2. Action as appropriate on Executive Session.

No action on Executive Session.

3. Commissioners Court Inquiry.

Court recessed at 10:13 a.m.

Court reconvened at 10:22 a.m. at Bellville EMS location.

Peter Nielsen (Christensen Building Group, LLC), provided update on progress of building.

There are contractors waiting on payment before returning to site. Per Mike Moher (Christensen Building Group, LLC), the surety is currently working on payments to contractors. Currently four contractors waiting on payment: Firetron Inc., United Masonry, Rhodes Drywall and Baker.

Per Commissioner Reed, Christensen Building Group, LLC (CBG) needs to submit all supporting documents in order to receive payments.

Daniel Sanchez (Shellback Construction), requests for Christensen Building Group, LLC to provide updated schedule showing completion dates, every executed COR (Change Order Requests), and all list of costs to date. Per Daniel Sanchez, once received he and Jonathan Hopko (County Engineer) will review to make sure information matches with County.

Per Jonathan Hopko (County Engineer), Christensen Building Group, LLC no longer has authority over project. Markell (surety) is assuming chain of command of paperwork for determining authorized payments. Therefore, County needs all backup paperwork for accountability purposes.

Per Commissioner Reed, County is being charged twice for light fixtures. Starbrite Electric originally had responsibility of installing light fixtures, but with new installer (Baker) County will have to pay for their service. County should not be required to pay.

Commissioner Reed suggests Christensen Building Group, LLC send copies of payment applications to Markell (surety) as well as County.

Per Chief Morrow, Wallis and Industry EMS locations are having issues with electrical breakers and coring key issues. Per Peter Nielsen (Christensen Building Group, LLC), needs coring key to remove previous contractor's core in order to install new ones.

Per Daniel Sanchez (Shellback Construction), he and Jonathan Hopko (County Engineer) will walk location and make a report to try to stay ahead of any deficiencies.

Court recessed at 10:57.

Court reconvened at Courthouse at 11:12 a.m.

Per Daniel Sanchez (Shellback Construction), one of the main issues at Bellville EMS location is with light fixtures. Per Mike Moher (Christensen Building Group, LLC), Starbrite Electric was paid for light fixtures but failed to pay Crawford Electric. CBG had to clear Starbrite's balance in order for Crawford to release merchandise. Amount paid was around \$34,000.

Kenneth Burns (Burns Architecture, LLC), is against County having to pay for Starbrite's neglect on payments.

Discussion on retainage (Audio 43:25).

Per Mike Moher (Christensen Building Group, LLC), CBG has one contract with County, but was broken into 3 SOP's (Standard Operating Procedures).

Judge Lapham inquired if County does not receive bill, does CBG get retainage from Starbrite. There should be a retainage bill from Starbrite to Christensen Building Group (CBG) to allocate for the money.

Per Mike Moher (Christensen Building Group, LLC), \$40,067 remaining to be billed for Bellville. Acuity cost \$80,000. Retainage available is \$10,000 electrical for Bellville EMS. \$11,700 retainage for Industry EMS. \$12,468 retainage for Wallis EMS. Total retainage \$36,000 for electrical in all 3 projects. Before retainage billing is submitted, at end of project (final reconciliation), CBG will review unused monies (allowances, contingency escalations, contractors not used) and do a deductive change order to contract amount.

Per Jonathan Hopko (County Engineer), County has to approve price adjustments prior to items being moved around and changes taking place on projects.

Per Mike Moher (Christensen Building Group, LLC), will remove Crawford Lighting from 2 Pay Apps until reconciliation of electrical costs at end of project.

Per Jonathan Hopko (County Engineer), there needs to be a chain of accountability with Christensen Building Group and Burns Architecture, LLC.

Kenneth Burns (Burns Architecture, LLC), requests to see a scope card containing original bids on what was included/excluded.

Commissioner Lamp inquired on timeline for completion of Bellville EMS. Per Mike Moher (Christensen Building Group), 3-4 weeks remaining for completion (January 15, 2025).

Commissioner Lamp, suggests County assume responsibility for detention pond at Bellville EMS. Per Mike Moher (Christensen Building Group, LLC), there is \$5,000 remaining for detention pond.

Per Daniel Sanchez (Shellback Construction), County has received bills for jobs where backup was not provided. Kenny Burns (Burns Architecture, LLC), was aware there was no backup on what was being billed at beginning of project.

Mike Moher (Christensen Building Group), discussed total amount billed, total costs on projects to date and total earned. Per Mike Moher, CBG is currently not making profit.

Per Commissioner Reed, County wants to have Building completed and not be overcharged in the process.

Per Mike Moher (Christensen Building Group), CBG is not asking County to increase GMP (Guaranteed Maximum Price).

Per Kenneth Burns (Burns Architecture, LLC), Construction Manager (CBG) is at risk for any costs above their GMP (Guaranteed Maximum Price). There are contingencies built into contract for unforeseen matters. Only Court can approve the expenses from contingencies.

Judge Lapham expressed concern that the surety will not pay County due to not having supporting documents. This may cause subjects to file a lien on County due to non-payment. Need proper documentation to provide to bonding company for payments.

Per Mike Moher (Christensen Building Group), there has been no payments issued to subcontractors directly from the surety.

Per Jonathan Hopko (County Engineer), surety payments should be a separate act. Pay App needs a feature that seeks invoice review from architect. Once in agreement, invoice will go to the surety; surety approves and signs off; it's returned to County; County acknowledges all approved steps and approves Auditor to issue payment. County needs to impose an additional duty on payment process to ensure that surety is good.

Per Kenneth Burns (Burns Architecture, LLC), State Law has a prescribed timeline (10 days) to where the surety has to pay subjects once County sends payment. Markell (surety) needs to be addressed and held accountable in this matter.

Judge Lapham suggests having another feature on Pay App that states, "we understand that County is issuing money and we have 10 days to pay." Statement is to be acknowledged by the surety.

Per Mike Moher (Christensen Building Group), will get with the surety to try to resolve issues with Rhodes and other payment matters.

Per Daniel Sanchez (Shellback Construction), County has made payments in the past and there's no accountability of money. Commends Mike Moher on remaining committed to project and willingness to meet with County.

Commissioner Rinn suggests for County to implement process explained by Jonathan Hopko (County Engineer) in regards to submitting pay app invoices.

Per Daniel Sanchez (Shellback Construction), he, Jonathan Anderson (Burns Architecture, LLC) and Billy Doherty (County Auditor) will go through payment of claims. Contract states 1 pay app at a time. County should focus on just 1 approval at a time, starting with September.

Per Mike Moher (Christensen Building Group), concerned with getting money to Markell (surety) to pay Acuity. CBG has a line of credit allowed for the surety to pay outstanding payables already intended for.

Commissioner Rinn inquired if County was billed and already made payments, what happened to money that should have been paid to contractors. Mike Moher (Christensen Building Group), could not provide answer.

Commissioner Reed, inquired on solution to get contractors to return to finish jobs if County has paid, but CBG has not paid contractors. Per Mike Moher, CBG will figure out the way.

Per Mike Moher (Christensen Building Group), there is \$60,000 total for Acuity. \$28,000 to bill on Bellville. Requests to submit September invoice to get Acuity paid.

Motion to Adjourn: Commissioner Reed, 2nd Commissioner Rinn, passed (4-0).

Order #24-375

Court adjourned at 12:28 a.m.

**ALL SUPPORTING DOCUMENTS ON FILE WITH COUNTY CLERK AS PROVIDED BY
COMMISSIONERS COURT**

I, Diane Day, Austin County Clerk, attest to the minutes of the Commissioners Court proceedings for December 11, 2024.

Date: January 29, 2025
Diane Day, Austin County Clerk
Clerk of Commissioners Court
Austin County, Texas

By: Kimberly Benjamin
Kimberly Benjamin, Deputy

FILED

2025 JAN 29 AM 11:03

Diane Day
COUNTY CLERK
AUSTIN COUNTY, TEXAS

