

**COMMISSIONERS COURT MINUTES
SEPTEMBER 24, 2012**

BE IT REMEMBERED, that on this 24th day of September, 2012, the **HONORABLE COMMISSIONERS COURT** of Bowie County, Texas met in **REGULAR SESSION** at the Courthouse of said County in New Boston, Texas after due notice had been posted on the 21st day of September, 2012 with the **HONORABLE JUDGE STERLING LACY** present and presiding with the following Commissioners being present.

Jack Stone	Commissioner Pct. #1
Pete Snow	Commissioner Pct. #2
Kelly Blackburn	Commissioner Pct. #3
Pat McCoy	Commissioner Pct. #4

Also in attendance were the following County Officials: Auditor William Tye, County Clerk Denise Thornburg, County Legal Advisor Carol Dalby and the following staff members also present on the dais: Purchasing Agent Chris Goodsell and Administrative Assistant Rachael Cherry.

There was a Public Hearing, which started at 10:02 A.M. regarding the 2012-2013 Proposed Budget. Everyone in attendance was asked to sign a sign-in sheet and after the public was given an opportunity to speak, the hearing was closed at 10:04 A.M.

Judge Lacy reopened the Public Hearing at 10:04 A.M. after Commissioner Pat McCoy stated that he had some questions about the budget. After Commissioner McCoy started asking about an item, Judge Lacy asked "If you have questions about the budget would that be more appropriate or do you have some comments you would like to give about the budget "? at which time, Commissioner McCoy asked "Do you want to handle Commissioners questions during"? Judge Lacy answered, "When we come to the item, if that will work for you"? Commissioner McCoy said "That's fine, not a problem". Judge Lacy closed the Public Hearing at 10:07 A.M.

PRELIMINARIES

In accordance with the Bowie County official policy on meeting Invocations, County Judge Sterling lacy read the following statement.

Any Invocation that may be offered before the official start of the meeting of the Court shall be the voluntary offering of a private citizen, to and for the benefit of the Court. The views or beliefs expressed by the Invocation speaker have not been previously reviewed or approved by the Court and do not necessarily represent the religious beliefs or views of the Court in part or as a whole. No member of the community is required to attend or participate in the Invocation and such decision will have no impact on their right to actively participate in the business of the Court.

INVOCATION

James Prince-Bowie County Sheriff

PLEDGE

Pledge of Allegiance to the United States of America

ANNOUNCEMENTS

None

REGULAR AGENDA ITEMS

Court convened at 10:08 A.M. when the following ORDERS, JUDGMENTS AND DECREES were had and ORDERED spread upon the minutes of the court to-wit.

- Item 1: Public comments were made by Noah Jackson, who also gave a handout to Commissioners regarding the residency of County Auditor, William Tye who currently resides in Arkansas. Public comments were made by James Stivers regarding the tax increase and budget.**
- Item 2: Judge Lacy responded to Mr. Jackson's comment by asking Legal Advisor Carol Dalby if there was a distinction between Elected Officials and employees as far as residence being required? Mrs. Dalby stated that "yes, there are your Honor, Elected Officials have to be residents of the County and State Employees do not. This is an issue that District Judges determined a long time ago".**
- Item 3: Mr. Jack Stoffregen from the Regional Public Defender Office for Capital Cases gave a presentation to the Court regarding a Capital Litigation Program for Bowie County. In 2007 a group of District Judges in Regions 7 and 9 decided that there was a problem with Indigent Capital Representation when the State would seek a death sentence against the indigent defendant. They formulated a plan and sent it to Austin to the Indigent Defense Commission requesting funding to start the program. The program was so successful that counties around the State were asking to participate and they weren't eligible, so the State decided beginning in year three, they would fund an expansion. The total yearly expense to be in program: first year-free; second year-\$35,837; third year-\$47,783; fourth year-\$71,675; fifth year-\$95,566 and sixth year-\$119,458. After the sixth year they will know how many counties are participating, how many people to staff, which offices to keep open and then they will come up with the final figure for the county.**
- Item 4: On this 24th day of September, 2012, a motion was made by Commissioner Kelly Blackburn and duly second by Commissioner Pat McCoy to approve budget amendments for 2011-2012. County Auditor William Tye stated: "There probably should be some more after we close September, but I have given each of the Commissioners a copy of line item adjustments and they have approved those. I went through every department after we closed August and just more or less made line item adjustments so they have approved them and if there are any questions, I will be glad to answer them". Judge Lacy asked: "These are line item adjustments within the departments"? Mr. Tye replied: "They are line item adjustments, yes sir". Commissioner McCoy had a question: "William, I notice that some of these that are here are ones that we have already requested". Mr. Tye responded: "Right, yours didn't get posted so I went ahead and redid them in this". Commissioner McCoy: "So they're here. The**

other thing is, if we wind up with basically five days left in this budget, five work days left in this budget year, let's say this coming Friday I have an emergency and I have to, in one particular item, I'm right at budget and we have to expend that, if our budget year closes September 30th, how do we make that adjustment because you don't actually close the year in October, how do we make the change"? Mr. Tye's response: "It will be in October before I close the books and it may be even later than that because we have accruals that we have to record in all of our bills, so it's usually a little bit later when we close the end of the year. We can review what we've done so far and try to make the amendment based on what information you've got, you know, if that answers your question. Judge Lacy stated that "The state law says that budget amendments have to be made within the budget year". Mr. Tye: "Ok, if that's the case, then this should be it because I won't make any more because I don't know what September numbers will look like". Commissioner McCoy: "So, we could have a line item within a budget, because of that, we could have a line item that could be over. As long as we are in our total budget, people can't say we are over budget". Mr. Tye: "You could have a line item that is over, that is correct, right". Judge Lacy indicated that "When we get the audit, which we are asking that it be completed by March 31st of next year, in compliance with the request by our bond people and if we ask for the budget discrepancies at the end, I could have a line item that I went over and it be listed in that budget discrepancy, but it would be something that happened in the last five days, it wouldn't be anything that major, I wouldn't think". Mr. Tye: "No, like I say, based on the information on what we have, if it looks like we can make that adjustment and not put you over budget somewhere else, we can do that".

Motion was put to a vote and all voted aye and none opposed.

Motion carried.

Item 5: On this 24th day of September, 2012, a motion was made by Commissioner Pat McCoy and duly second by Commissioner Pete Snow to pay accounts payable. Judge Lacy asked Auditor William Tye the following questions: "Mr. Tye, do any of the items that you are presenting to the Court today for approval cause any department to exceed their budget appropriation for the year"? Mr. Tye's response: "To the best of my knowledge, no". Mr. Tye, are each of these requests that you are submitting to the Court today a proper and budgeted item of expenditure for the department to which it is being charged"? Mr. Tye's response: "yes sir". Motion was put to a vote and all voted aye and none opposed.

Motion carried.

Item 6: On this 24th day of September, 2012, a motion was made by Commissioner Pat McCoy and duly second by Commissioner Pete Snow to authorize the Order of the issuance \$34,910,000 "Bowie County, Texas Pass-Through Toll Revenue and Unlimited Tax Bonds, Series 2012"; authorizing the sale thereof, and enacting provisions incident and related to the issuance of said bonds. Mr. Boyd London of First Southwest spoke to the Court and stated that we would actually be issuing \$34,910,000 bonds. The remaining \$90,000 will not be unauthorized so to speak but, we will not issue those out unless it is an emergency. The County will pay the principal and interest on the bonds, interest being twice a year-February 1 and August 1 and principal beginning on August 1, 2013 through the year 2027. If the County was out of pocket, funds to pay, such as engineering and some other expenses and included in this, the County has a Reimbursement Resolution which states that any out of pocket funds for capital expenses for the project, then with the sale of the bonds, the County would reimburse itself

for those capital expenses (just under \$2,000,000). The County had a reduction in the rating from AA to A1, which is still very, very good. Keeping audits current and filed will help rating go up.

Motion was put to a vote and all voted aye and none opposed.

Motion carried.

Item 7: On this 24th day of September, 2012, a motion was made by Judge Lacy and duly second by Commissioner Pat McCoy to approve a property tax rate of \$.3612/\$100 that exceeds the effective tax rate of \$.32164/\$100. Judge Lacy stated that 36.5 cents/\$100 broken down as 8.5476 cents/\$100 for I&S (Interest and Sinking) and 27.5724 cents/\$100 is for M&O (Maintenance and Operation). Commissioner McCoy wanted the public to know that this will raise more property taxes. It raises \$1,558,495 of additional taxes, of that, \$122,937 is tax revenue raised from new property that was not on the roll last year and it raises \$1,424,908 for the Hwy 82 Project, so of that \$1,558,495, we got about \$10,000 new taxes if we discount out the Hwy 82 Project.

Motion was put to a vote and all voted aye and none opposed.

Motion carried.

Court recessed at 11:20 A.M.

Court reconvened at 11:40 A.M.

Item 8: On this 24th day of September, 2012, a motion was made by Commissioner Kelly Blackburn and duly second by Commissioner Pat McCoy to accept the District Judges Order to set Court Reporters salaries. These are from the 5th Judicial Court, 102nd Judicial Court and 202nd Judicial Court.

Motion was put to a vote and all voted aye and none opposed.

Motion carried.

Item 9: On this 24th day of September, 2012, a motion was made by Commissioner Kelly Blackburn and duly second by Commissioner Pat McCoy to accept an Order setting the County Auditor and Auditor's Assistant's salaries.

Motion was put to a vote and all voted aye and none opposed.

Motion carried.

Item 10: On this 24th day of September, 2012, a motion was made by Judge Lacy and duly second by Commissioner Pete Snow to approve the 2012-2013 Bowie County Revenue and Expense Budget. Commissioner Pat McCoy had several questions and concerns about the budget. Judge Lacy commented that before we get into each of the details, that it appeared to him that some of the adjustments could be made within the budget year and wondered if it might speed things up if we saved those kinds of adjustments for the budget year. Commissioner McCoy agreed that it would speed things up and after additional statements were made he asked "Is this not the appropriate time to get a better feel of what our budget is and should be"? Judge Lacy stated "right now we have a motion and a second on the floor to accept this budget". Commissioner McCoy responded that "we are having discussions and I am asking questions", Judge Lacy replied "I think we are getting close to taking a vote". Commissioner McCoy: "I have additional questions before we take a vote". There was discussion about the

Capital Outlay (in Courthouse budget) of \$212,500 which is for two elevators, hallway carpet for upstairs, chiller, smoke detector system and telephone system. After additional discussions, Judge Lacy suggested that they vote on whether to adopt the budget as is and go to work on all the details. He then asked the Commissioners if they wanted to take a vote on the budget and then if it is voted down, then move into going over all the details. Commissioner Pete Snow then asked if we are moving in a direction to reduce the expenses in this budget. Commissioner McCoy explained that he was trying to find out the thinking behind some of the concerns he has and to understand how it would affect the County at large, specifically Pct. 4 which in this budget, his Capital Outlay is not enough to cover three trucks that are coming up for buy back this next month. Judge Lacy stated that during the budget hearing, there was discussion of a lease with option to buy. After further discussion, Judge Lacy again stated that they vote the budget up or down, if they vote it down, then go into all the details. Commissioner Snow asked some additional questions and also asked about the procedure of selling an asset. Auditor William Tye explained the procedure. Discussion continued between the Judge and all Commissioners. Commissioner Snow stated that he "would like to amend the budget with the Capital Outlay in Pct. 4 include enough money to purchase that equipment". Judge Lacy responded with the question of "purchase or acquire"? Commissioner Snow: "whatever is in the best interest to acquire, in the best interest of the County which would mean we would need to put \$450,000 or \$5 something...." Judge Lacy questioned Pct. 3 Commissioner Kelly Blackburn regarding his budget and Commissioner Blackburn indicated that his budget would be coming up short by about \$20,000. Auditor William Tye stated that there were some other items that he needed to mention regarding this budget, one is to take \$50,000 of the Auditor's budget for software in this budget that has been proposed, the health insurance increases that is anticipated he needs to make about a \$50,000 adjustment to that; the County Clerk's Office-failed to put a Chief Deputy salary in that budget, it needs to be put in there, \$42,000 plus benefits for that salary: in the Judge's budget there shows to be an increase and he does not want it so that needs to come out. Those are items that Mr. Tye did not have time to change and he has showed salary increases for all employees and the Judge stated that he did not want the increase and it needs to be taken out. Those items, whether the budget passes or not needs to be taken into consideration as adjustments to it. Commissioner McCoy stated that other items to discuss is General Miscellaneous-Professional Fees and asked Judge Lacy what the \$28,000, taken out of Intergovernmental Cooperation and put into Professional Fees, is being used for? Judge Lacy said that in his Court sometimes we need to hire a professional, whether it be for forgeries for Probate records or things of that nature. Commissioner McCoy then wanted to know what we had done in the past and Judge Lacy stated that we went without it. Additional questions were asked by Commissioner McCoy and comments were made by Commissioner Jack Stone. Judge Lacy stated again that the budget be voted on, up or down, if it is voted down, then all of this that we are doing, come back after recess for lunch. Judge Lacy polled the Commissioners on the vote: Commissioner Jack Stone Pct. 1- "Well I hate to accept it and then if we can do nothing with 3 or 4 if we could go ahead and work on the financial plan or something this year and get them to where they could still get their equipment, I vote yea, but if we can't do that..." Commissioner McCoy spoke and told Commissioner Stone that it was nowhere in the motion and then apologized to the Judge for being out of order. Commissioner Stone- "it's not fair to Pct. 1 and 2 to do this, I'm not fighting them but we've got a Precinct we got to work too". Judge Lacy: "is your vote yes"? Commissioner Stone: "I vote yes on it, if we do that". Judge Lacy: "ok, Commissioner McCoy"? Commissioner McCoy: "Point of order, Judge". Judge Lacy-"yes". Commissioner

McCoy: "you accepted, Jack you just voted on something that is not in what you're voting on". Judge Lacy: "point of order, address me". Commissioner McCoy: "point of order, Commissioner Stone voted on something that is not part of this with a condition on his vote, you cannot do that. You cannot have a conditional vote". Commissioner Stone: "Why can't you do it"? Judge Lacy: "is your vote yes"? Commissioner Stone: "yeah, I'll vote yes on it, if you do what I ask you to do". Commissioner McCoy: "Judge, you are going to accept a conditional vote"? Judge Lacy: "I'm going to accept it as a yes vote". Commissioner Pat McCoy: "I vote no". Judge Lacy: "Judge votes yes". Commissioner Pete Snow: "No". Judge Lacy: "Commissioner Snow, no, Commissioner Blackburn"? Commissioner Kelly Blackburn: "No". Commissioner Stone: "guess I lost didn't I"? Judge Lacy: "welcome to the club. The budget and been presented and proposed, has been voted against three to two and we will now go to work as a committee as a whole to establish a budget".

Judge Lacy asked the Commissioners if they would like to continue with the rest of the items on the agenda or to recess for lunch and then come back and finish. They agreed to continue. Judge Lacy indicated that Agenda Item #10 be put on hold until after lunch.

Item 11: On this 24th day of September, 2012, a motion was made by Commissioner Pete Snow and duly second by Commissioner Pat McCoy to accept the District Judges Order to reappoint County Auditor William Tye to another two year term.

Motion was put to a vote and all voted aye and none opposed.

Motion carried.

Item 12: On this 24th day of September, 2012, a motion was made by Judge Lacy and duly second by Commissioner Pete Snow to continue an Interlocal Agreement, as read by Judge Lacy in open Court, between Bowie County and TexAmericas Center for continuing their participation in a health insurance plan. Commissioner McCoy stated to the Court that the previous interlocal agreements that we have had dealt with the health insurance issues. It was discussed in the previous year that TexAmericas would be getting off the plan and what they did not realize is that they could not get off at the end of the fiscal year, they have to wait until the end of the calendar year. If we approve this particular agreement, it will do away with all of the other interlocal agreements we've got such as cooperative efforts such as any grant assistance, programs, BRAC, etc. There were several concerns and Mr. Wes Jordan, Attorney for TexAmericas, spoke to the Court and indicated that TexAmericas was still interested in maintaining interlocal agreements with the County. Judge Lacy stated: "Let's poll the votes. This is the vote to continue the health insurance until December 31st as is and thereafter agree for TexAmericas Center to be able to get their own health insurance through USABLE, somewhat under the County's umbrella but not administratively". Commissioner Jack Stone: "yes". Commissioner McCoy: "no". Judge Lacy: "yes". Commissioner Pete Snow had questions before voting and he voted "yes". Commissioner Kelly Blackburn: "no".

Motion was put to a vote and three voted aye and two opposed.

Motion carried.

Item 13: On this 24th day of September, 2012, a motion was made by Commissioner Pat McCoy and duly second by Commissioner Kelly Blackburn to approve an extended Interlocal Agreement, as stated, between TexAmericas Center and Bowie County. Judge Lacy polled the Commissioners. Commissioner Jack Stone: "yes". Commissioner Pat McCoy: "yes", Judge Lacy: "no". Commissioner Pete Snow: "yes". Commissioner Kelly Blackburn: "yes".

**Motion was put to a vote and four voted aye and one opposed.
Motion carried.**

Item 14: On this 24th day of September, 2012, a motion was made by Commissioner Jack Stone and duly second by Commissioner Pete Snow to set the dates for the regular meetings of Commissioners Court for 2012-2013.

**Motion was put to a vote and all voted aye and none opposed.
Motion carried**

Item 15: On this 24th day of September, 2012, a motion was made by Commissioner Jack Stone and duly second by Commissioner Pete Snow to give permission to advertise to declare surplus for future sale at auction in the future-1982 International Truck, SN#7HTDF2278CGB12097-Pct. 1 Commissioner Jack Stone.

**Motion was put to a vote and all voted aye and none opposed.
Motion carried.**

Item 16: On this 24th day of September, 2012, a motion was made by Commissioner Pete Snow and duly second by Commissioner Kelly Blackburn to approve an Excessive Force Resolution and other documents relating to Oak Grove Water Supply Project-William Tye. This was a State funded project going forward, all state funded and federally funded projects are going to require certain things that have to be done. 1: the County has to approve a Local Opportunity Plan; 2: Resolution-Excessive Force Resolution and 3: there is a designation form for Equal Opportunity Fair Housing. These three items have to be done before project can be completed and complete the funding for the project. Once this is done, any state and federal grants coming through, we will have already done this and won't have to do this going forward. There is a fourth form which is a Public Service Announcement, which is taken care of through the management firm of the project.

**Motion was put to a vote and all voted aye and none opposed.
Motion carried.**

Item 17: On this the 24th day of September, 2012, there was no action taken regarding the burn ban. It will remain in effect.

Item 18: On this the 24th day of September, 2012, a motion was made by Commissioner Pat McCoy and duly second by Commissioner Kelly Blackburn to approve September 10, 2012 Commissioner's Court Minutes as an Order of the Court.

**Motion was put to a vote and all voted aye and none opposed.
Motion carried.**

Judge Lacy recessed Court at 1:00 P.M.

Court reconvened at 2:07 P.M.

The Court is back on Agenda Item #10 regarding the Budge. After extensive discussions and comments were made the Court will have a Special Session regarding the budget, which will be held on Friday September 28, 2012 at 10:00 A.M.

On this 24th day of September, 2012, a motion was made by Commissioner Pat McCoy and duly second by Commissioner Pete Snow to adjourn (2:57 P.M.)

Motion was put to a vote and all voted aye and none opposed.

Motion carried.