

NAVARRO COUNTY COMMISSIONER'S COURT

A Joint Special meeting of the Navarro County Commissioner's Court and City of Corsicana was held on Tuesday, the 2nd day of February, 2016 at 3:00 p.m., in the Conference room of the Government Center at 200 North 12th Street in Corsicana, Texas. Presiding Judge HM Davenport, Jr. Commissioners present Jason Grant, Dick Martin, David Warren, and James Olsen.

1. 3:02 P.M. Motion to convene by Judge Davenport sec by Comm. Olsen
Carried unanimously
2. Motion to go into Executive Session pursuant to the Texas Government Code Section 551.071 (2) to confer regarding matters which are privileged pursuant to the Attorney Client Privilege by Comm. Olsen sec by Judge Davenport
Carried unanimously

Motion to come out of Executive Session by Comm. Olsen sec by Comm. Warren
Carried unanimously

3. Motion of action taken on Executive Session pursuant to the Texas Government Code Section 551.071(2) to confer regarding matters which are privileged pursuant to the Attorney Client privilege and motion to approve Resolution as read by Comm. Grant sec by Comm. Martin TO WIT PG 2411-2413
Carried unanimously
Judge Davenport moves that the Commissioner's Court find that there is no longer a public purpose which justifies the granting of public money to pay on the loan for the Gander Mountain building and authorize suit to be filed to seek a court declaration regarding that and related issues sec by Comm. Martin
Carried unanimously
4. Motion to adjourn by Comm. Martin sec by Comm. Warren
Carried unanimously

I Sherry Dowd, Navarro County Clerk, attest that the foregoing is a true and accurate accounting of the Commissioners Court's authorized proceeding for February 2nd, 2016.

Signed 2nd day of February 2016.


Sherry Dowd County Clerk



RESOLUTION NO. 2016-01

A RESOLUTION OF COMMISSIONER'S COURT, OF NAVARRO COUNTY TEXAS, MAKING THE DETERMINATION THAT THE UNDERLYING PUBLIC PURPOSE NO LONGER EXISTS FOR THE COUNTY TO GRANT CERTAIN SALES TAX INCENTIVES TO THE CORSICANA INDUSTRIAL FOUNDATION; AND AUTHORIZING THAT ACTION BE TAKEN TO SEEK A DECLARATION OF THE COUNTY'S RIGHTS, DUTIES AND OBLIGATIONS UNDER THE RETAIL CENTER DEVELOPMENT AGREEMENT DATED FEBRUARY 3, 2004, THE INTERLOCAL AGREEMENT DATED MAY 4, 2004, AND THE TEXAS CONSTITUTION.

WHEREAS, the City and Navarro County ("County") entered into a Retail Center Development Agreement, pursuant to Chapter 381 of the Texas Local Government Code, with the Corsicana Industrial Foundation ("CIF") on or about February 3, 2004, to develop a retail center on the 132 acre business park site located at the intersection of IH 45 and US 287 to implement certain components of an economic development program; and

WHEREAS, Chapter 381 of the Local Government Code authorizes cities to create programs for making grants of public money to promote State and local economic development, stimulate business and commercial activity in the City and to otherwise continually stimulate economic development within the City and County; and

WHEREAS, the Retail Center Development Agreement generally provided that the City and County would grant to CIF certain sales tax revenues generated by Gander Mountain Company, Home Depot and the remaining businesses located on the 132 acre tract; and

WHEREAS, the purpose of the grant of sales tax was to facilitate the development of the retail center and assist in the implementation of the economic development objectives of the City and County; and

WHEREAS, the economic development objectives included the development of the retail center, the creation of jobs, the establishment of a retail business within the City and County of a type not previously found in Corsicana, the generation of ad valorem tax revenues on the real property, inventory and equipment and the generation of sales tax revenues from the retail center and other businesses; and

WHEREAS, on or about May 4, 2004, the City, County, CIF and Gander Mountain entered into an Interlocal Agreement that supplemented the Retail Center Development Agreement; and

WHEREAS, the Interlocal Agreement was likewise based on Chapter 381 of the Local Government Code and contained grants of City and County sales tax expressly made “subject to existing law;” and

WHEREAS, the Gander Mountain facility was constructed and CIF and Gander Mountain entered into a twenty year lease in April of 2004 providing Gander Mountain with the right to purchase the premises for \$1.00 when the loan is fully paid, or upon the expiration of the twenty year lease; and

WHEREAS, the objections of the City and County notwithstanding, Gander Mountain closed its Corsicana facility on October 22, 2015, and the facility now sits empty with no evidence of ever reopening, thus creating an economic burden on the City; and County and,

WHEREAS, the Texas Constitution expressly restricts government entities, like the City and County, from spending public funds, or granting public aid for anything except for public purposes, Gander Mountain’s closure of the Corsicana store more than eight years before the expiration of Gander Mountain’s lease extinguished the legitimate public purposes from which the City derived a benefit in return for its contribution of public funds.

THEREFORE, THE COUNTY HAS DETERMINED, AND BY THIS RESOLUTION HEREBY RATIFIES AND CONFIRMS ITS DETERMINATION, that Gander Mountain’s closure of the retail center facility extinguished any constitutionally permissible public purposes for which the County can dedicate its funds; and

HEREBY AUTHORIZES AND DIRECTS the County Judge of the County of Navarro, Texas (“County Judge”), to secure appropriate judicial relief against CIF and Gander Mountain.


NOW, THEREFORE, BE IT RESOLVED by the Commissioner’s Court of Navarro County, Texas, that the County Judge is authorized to act on behalf of the County in seeking any and all relief in both law and equity against the Corsicana Industrial Foundation, Inc. and Gander Mountain Company.

PASSED and APPROVED by majority vote of the Commissioner's Court of Navarro County, Texas, this 2nd day of February, 2016.


H.M. Davenport
Navarro County Judge




Jason Grant
Commissioner, Pct. 1


Dick Martin
Commissioner, Pct. 2


David "Butch" Warren
Commissioner, Pct. 3


James Olsen
Commissioner, Pct. 4

ATTEST



SHERRY DOWD
NAVARRO COUNTY, CLERK