

**COMMISSIONERS COURT
REGULAR SESSION**
May 27, 2003

The Hunt County Commissioners Court met this day with all Commissioners present and Judge Joe Bobbitt presiding. Minutes of the previous meeting were approved with change added.

OLD BUSINESS:

8745 On the motion by Judge Bobbitt, second by Phillip Martin, the Court approved selection of Bank One as Hunt County's new depository. Delores Shelton – County Treasurer advised the Court through comparison of various banks the County could save more than \$5,000 a year by going to a different bank. Additionally, Bank One has a transition team to handle this change, replacing any kind of checks or any kind of paperwork required.

NEW BUSINESS:

8746 On the motion by Ralph Green, second by Kenneth Thornton, the Court approved and adopted the new Hipa Policy submitted by the Health Department prepared by the guidelines sent from the state.

8747 On the motion by Martin, second by Jim Latham, the Court approved acceptance of high bids received on resale properties R51165, R71278, R71606 & R71918. These are vacant lots, 3 struck off to the City and 1 struck off to GISD. *See Attachments.*

— 'Discuss and possibly take action on acceptance of Griffin Communications System Lease Contract.' After much discussion, the Court agreed to place this item on

OLD BUSINESS to allow time to find out monthly maintenance fee on 5 year term, renewable every year, if we purchase equipment and also the interest rate to be charged.

— 'Discuss and possibly take action on clarification of agreement with Hunt County MHMR concerning mental health screenings.' After much discussion, the Court agreed if time is of essence then CJC can make the decision whether to use County screening or wait for outside screening telecare which is stated funded to make an evaluation.

Furthermore, the Court agreed.

- (1) All entities-Sheriff's Office, Greenville Police Dept. and Criminal Justice Center to pay at their discretion, MHMR will be reimbursed for each screening for \$68.00 per visit.
- (2) To pay monthly & submit monthly reports.

8748 On the motion by Judge Bobbitt, second by Green, the Court approved & endorsed a Resolution urging the Texas House of Representatives and the Texas Senate to seek a statewide solution to consider passage of State revenue increase that would more evenly spread the burden of costs across the State and better protect local ad valorem taxpayers. *See Attachments.*

8749 On the motion by Green, second by Latham, the Court approved submission of grant application Resolution for Partnering for Youth Projects for 2004 to the office of the Governor, Criminal Division Title V Delinquency Prevention Act Fund in the amount of \$165,000.00. The Court authorized Judge Bobbitt to act as administrator.

8750 On the motion by Judge Bobbitt, second by Latham, the Court approved hiring S.A. Smith as temporary Court Bailiff as permitted per L.G.C. 154.02 due to Anthony Lewis's back surgery and being on medical leave. Agreement was made to have Mr. Smith serve paper, issue citations, etc. in his off time from the courtroom. To be paid \$13.00 per hour, six hours per day for 10 week period; funding to be paid through ~~Court House~~ Justice Court Security Funds. Mr. Smith to submit prepared report on activities to Judge Reeves. The Court agreed to review situation at the end of this 10 week period. To become effective this date.

8751 On the motion by Judge Bobbitt, second by Martin, the Court approved grant match funding for a new 911 recording system for the Hunt County Sheriff's Office.

This 12 channel system to cost:	\$15,245
	<u>\$10,000</u> Grant from COG
	\$ 5,245 Needed funds to be paid from Contingent funds.

8752 On the motion by Green, second by Martin, the Court approved replat of Lots 7 & 10 in Rosewood Ranch Subdivision Vol 400/Page 1784 in Pct. 2. Frank Owens advised the Court this request is made to allow lines to be moved to include trees on these certain lots and will maintain the same acreage.

8753 On the motion by Green, second by Thornton, the Court approved request of FEC Electric to construct electrical power distribution facilities along and across CR 2706, CR 2292 & CR 2312 in Pct 2 with the usual stipulations.

8754 On the motion by Martin, second by Green, the Court approved request of FEC Electric to construct electrical power distribution facilities along and across CR 3111, CR 3521 & CR 3127 in Pct 3 with the usual stipulations.

8755 On the motion by Martin, second by Green, the Court approved request of Etter Lake Cemetery Association to gravel and oil cemetery road and help with maintenance needed, as permitted per Attorney General Opinion JC-0329 dated January 23, 2001, presented to the Court by Commissioner Martin. Escrow funds for road now pending.
See Attachment.

8756 On the motion by Judge Bobbitt, second by Green, the Court approved intent to enter into a tax abatement concept agreement with Woodgrain Millwork Company/Atrium Door Company – presented to the Court by Randy Rice. This standard industrial abatement concept agreement will be for 7 years. The Court noted the actual agreement has not been received at this time, but will be put back on Commissioners Court Agenda when received.

8757 On the motion by Green, second by Thornton, the Court approved bid received for seal coat rock from Martin Marietta. Bid on file in Personnel Office.

8758 On the motion by Martin, second by Green, the Court approved bid received from Ergon Asphalt & Emulsion for seal coating. Bid on file in the Personnel Office.

HEAR & DISCUSS REPORTS:

Judge Bobbitt advised the Court a grinder lift station is to be installed on the city sewer system at the new Sheriff's Dept. due to inmates stopping up sewer lines with shirts, paper, cups, etc.

8759 On the motion by Martin, second by Green, the Court approved accounts payable.

8760 On the motion by Green, second by Thornton, the Court approved line item budget transfers.

PERSONNEL AND PAYROLL:

Commissioner's Office:	Add Barbara Barton as Receptionist 1, P23/G1 at \$18,000 per year, effective date 5-21-03. Reporting at CJC.
Commissioner Pct 4:	Add Hector E. Paiz as part time Pct. Worker at \$9.00 per hour, effective date 5-12-03.
County Clerk:	Add Jessica Leigh Paris as part time Records Clerk at \$5.50 per hour, effective 5-20-03.
District Clerk:	Add Stacey Lee Landrum as District Clerk at \$45,956.04 effective date 6-02-03.
JP Pct 3:	Add Connie Shortes as part time Clerical at \$7.00 per hour, effective date 5-16-03.
Personnel:	Add Anita Burchett as part time Clerical at \$7.00 per hour, effective date 5-16-03.
Sheriff's Dept:	<p>Remove Scott Paille as Detention Officer due to his termination, effective date 5-18-03.</p> <p>Remove Harry Moon Jail Cook due to his resignation, effective date 5-19-03.</p> <p>Change Tommie Johnson part time to full time Jail Cook – 1 G2/P21 at \$20,299.00 per year, effective date 5-19-03.</p> <p>Add Alfreda Linson as Jailer – 1 G4/P46 at \$21,624.00 per year, effective date 5-19-03.</p> <p>Add Richard Plemons as Jailer – 1 G4 at \$21,624.00 per year, effective Date 5-22-03.</p>

8761 Approved on the motion by Thornton, second by Martin.

_____ Court Adjourned at 11:50A.M. There was no Executive Session. Minutes
approved this 6 day of June, 2003.

8301

Attest:



Hunt County Clerk


Hunt County Judge

8745

**RESOLUTION AND
DECLARATION OF OFFICIAL INTENT**

FILED FOR RECORD
at 4 o'clock P M

MAY 29 2003

LINDA BROOKS
County Clerk, Hunt County, Tex.
By L. Brooks

Lessee: Hunt County

Principal Amount Expected To Be Financed: \$30,495.50

WHEREAS, the above Lessee is a political subdivision of the State in which Lessee is located (the "State") and is duly organized and existing pursuant to the constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more lease-purchase agreements ("Equipment Leases") in the principal amount not exceeding the amount stated above ("Principal Amount") for the purpose of acquiring the property generally described below ("Property") and to be described more specifically in the Equipment Leases is appropriate and necessary to the functions and operations of the Lessee.

Brief Description Of Property:

Security System

WHEREAS, Banc One Leasing Corporation ("Lessor") is expected to act as the lessor under the Equipment Leases.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the Property prior to its receipt of proceeds of the Equipment Leases ("Lease Purchase Proceeds") for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, Be It Resolved by the Governing Body of the Lessee:

Section 1. Either one of the County Judge, Joe A. Bobbitt OR the County Auditor, Jimmy P. Hamilton (each an "Authorized Representative") acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver one or more Equipment Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Equipment Lease (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Equipment Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Equipment Leases on behalf of the Lessee.

Section 3. The aggregate original principal amount of the Equipment Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Equipment Leases and the Equipment Leases shall contain such options to purchase by the Lessee as set forth therein.

Section 4. The Lessee's obligations under the Equipment Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Equipment Lease and the Lessee's obligations under the Equipment Leases shall not constitute a general obligations of the Lessee or indebtedness under the Constitution or laws of the State.

Section 5. The Governing Body of Lessee anticipates that the Lessee may pay certain capital expenditures in connection with the Property prior to the receipt of the Lease Purchase Proceeds for the Property. The Governing Body of Lessee hereby declares the Lessee's official intent to use the Lease Purchase Proceeds to reimburse itself for Property expenditures. This section of the Resolution is adopted by the Governing Body of Lessee for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This section of the Resolution does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Property.

Section 6. As to each Equipment Lease, the Lessee reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the fiscal year in which each such Equipment Lease is issued and hereby designates each Equipment Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 7. This Resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this 23rd day of June, 2003.

The undersigned Secretary/Clerk of the above-named Lessee hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Lessee, that the foregoing resolutions were duly adopted by said Governing Body of the Lessee at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

Linda Brooks
Signature of Secretary/Clerk of Lessee

Print Name: Linda Brooks

Official Title: Hunt Co. Clerk

Date: 8-29-03

CERTIFICATE OF INCUMBENCY

Lessee: Hunt CountyLease Schedule No. 1000117512 Dated August 27, 2003

I, the undersigned Secretary/Clerk identified below, do hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee (the "Lessee"), a political subdivision duly organized and existing under the laws of the State where Lessee is located, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

[NOTE: Use same titles as Authorized Representatives stated in Resolutions.]

Joe A. Bobbitt County Judge
Name Title

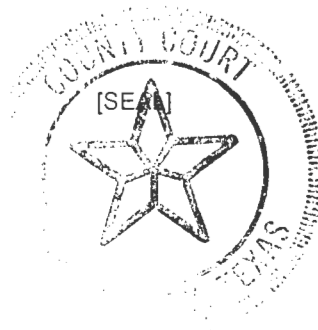
Joe A. Bobbitt
Signature

Jimmy P. Hamilton County Auditor
Name Title

JPH
Signature

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such Lessee as of the date set forth below.

Linda Brooks
Signature of Secretary/Clerk of Lessee

Print Name: Linda BrooksOfficial Title: Hunt Co. ClerkDate: 8-29-03

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8746

Greenville, Hunt County Health Department
2700 Johnson Street
Greenville, Texas 75401
(903) 408-4140

FILED FOR RECORD
at 11:20 a.m.
MAY 27 2003
By County Clerk LINDA BROOKS
Hunt County, Tex.

Notice of Privacy Practices

"THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."

Our Legal Duty: We are required by applicable federal and state law to maintain the privacy of your health information. We are also required to give you this notice about our privacy practices, our legal duties, and your rights concerning your health information. We must follow the privacy practices that are described in this notice while it is in effect. This notice went into effect on April 14, 2003 and will remain in effect.

We reserve the right to change our privacy practices and the terms of this notice at any time provided such changes are permitted by applicable law. We reserve the right to make the changes in our privacy practices and the new terms of our notice effective for all health information that we maintain, including health information we created or received before we made the changes.

Uses and Disclosures of Health Information: We use and disclose health information about you for treatment, payment, and healthcare operations. For example:

Treatment: We may use or disclose your health information to a physician or other healthcare provider who is providing treatment to you.

Payment: We may use and disclose your health information to obtain payment for services we provide to you (i.e. Medicare, Medicaid, or Headstart.)

Healthcare Operations: We may use and disclose your health information in connection with our healthcare operations. Healthcare operations include daily activities, quality assessment and improvement activities, reviewing the competence or qualifications of healthcare professionals, evaluating practitioner, and provider performance.

Your Authorization: In addition to our use of your health information for treatment, payment, or healthcare operations, you may give us written authorization to use your health information or to disclose it. If you give us an authorization, you may revoke it in writing at any time. Your revocation will not affect any use or disclosure permitted by your authorization while it was in effect. Unless you give a written authorization, we cannot use or disclose your health information for any reason except those described in this notice.

To Your Family and Friends: We must disclose your health information to you, as described in the Patient rights section of this notice. We may disclose your health information to a family member, friend or other person to the extent necessary to help with your healthcare, but only if you agree that we may do so.

Persons Involved in Care: We may use or disclose health information to notify or assist in the notification of (included identifying or locating) a family member, your personal representative or another person responsible for your care, of your location, or general condition. If you are present, then prior to use or disclosure of your health information, we will provide you with an opportunity to object to such uses of disclosures. In the event of emergency circumstances, we will disclose health information based on a determination using our professional judgment disclosing only health information that is directly relevant to that person's involvement in your healthcare.

Required by Law: We may use or disclose your health information when it is required by law to do so (i.e. infectious disease reporting, child abuse, missing person, etc.)

Abuse or Neglect: We may disclose your health information to appropriate authorities if we reasonably believe that you are a possible victim of abuse, neglect, or domestic violence or the possible victim of other crimes. We may disclose your health information to the extent necessary to avert a serious threat to your health or safety or the health or safety of others.

National Security: We may disclose to military authorities the health information of Armed Forces personnel under certain circumstances. We may disclose to lawfully authorized federal officials health information required by lawful intelligence, counterintelligence, and other national

security activities authorized by law, and to authorized federal officials where required to provide protection to the President of the United States, other authorized persons or foreign heads of the state or conduct special investigations. We may disclose to correctional institutions or law enforcement officials having lawful custody of protected health information of inmate or patient under certain circumstances.

Future Communications: We may communicate to you via newsletters, mail outs, or other means regarding treatment options, health related information, disease-management programs, wellness programs, or other community based initiatives or activities our facility is participating in.

Organized Health Care Arrangement: This facility and its medical staff members have organized and are presenting you with a joint notice. Information will be shared as necessary to carry out treatment, payment, and healthcare operations. The caregivers within our health system may have access to protect health information to assist in reviewing past treatment as it may affect treatment at the time.

Worker's Compensation: We may release medical information about you for worker's compensation or similar programs established by law. These programs provide benefits for work-related injuries or illness.

Military and Veterans: If you are a member of the armed forces, we may release medical information about you as required by military command authorities. We may also release medical information about foreign military personnel to the appropriate foreign military authority.

Public Health Risks: We may disclose medical information about you for public health activities. These activities generally include the following:

- to prevent or control disease, injury or disability;
- to report child abuse or neglect;
- to report reactions to medications or problems with products
- to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- to notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence. We will only make this disclosure if you agree or when required by law.

Health Oversight Activities: We may disclose medical information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, and inspections. These activities are necessary for the government to monitor the health care system, government programs, and compliance with civil rights laws.

Lawsuits and Disputes: We may release medical information if asked to do so by a law enforcement official:

- In response to a court order, subpoena, warrant, summons or similar process;
- To identify or locate a suspect, fugitive, material witness, or missing person;
- About criminal conduct at the health department;

Medical Examiner: We may release medical information to a medical examiner.

Inmates: If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release medical information about you to the correctional institution or law enforcement official where necessary for the institution to provide you with health care; to protect your health and safety or the health and safety of others; or for the safety and security of the correctional institution.

Your Health Information Rights: Although your health record is the physical property of the healthcare practitioner or facility that compiled it, you have the right to:

- **Right to Inspect and Copy:** You have the right to inspect and copy medical information that may be used to make decisions about your care.
- **Right to Amend:** If you feel that medical information we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by Greenville, Hunt County Health Department. We may deny your request for an amendment and if this occurs, you will be notified of the reason for the denial.
- **Right to An Accounting of Disclosures:** You have the right to request an accounting of disclosures. This request must be done in writing. Your written request must state a time period, which may

not be longer than six years and may not include dates before April 14, 2003, when current federal health privacy laws became effective for Greenville, Hunt County Health Department. If you provide us permission to use or disclose medical information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, we will no longer use or disclose medical information about you for the reasons covered by your written authorization. You understand that we are unable to take back disclosures we have already made with your permission, and that we are required to retain our records of the care that we provided to you.

- **Right to Request Restrictions:** You have the right to request a restriction or limitation on the medical information we use or disclose about you for treatment, payment, or health care operations. You also have the right to request a limit on the medical information we disclose about you to someone who is involved in your care or the payment for your care. For example, you could ask we not use or disclose information about a surgery. We are not required to agree to your request. If we do agree, we will comply with your request unless the information is needed to provide you emergency treatment.
- **Right to Request Confidential Communications:** You have the right to request that we communicate with you about medical matters in a certain way or at a certain location. We will agree to the request to the extent it is reasonable for us to do so. For example, you can ask we only contact you at work or email.
- **Right of an Individual:** You have the right to obtain a paper copy of this notice from us, upon request, even if you have agreed to accept this notice electronically.

We at Greenville, Hunt County Health Department support your right to the privacy of your health information. If you desire further information about our privacy practices or if you have questions, please contact Pam Andrews RN, DON. If you believe your privacy rights have been violated by us, you may file a complaint with us by notifying the person named above. You may also file a complaint with the Secretary of the Department of Health and Human Services. All complaints must be submitted in writing. You will **not** be penalized for filing a complaint and we encourage you to first attempt

resolution of your problem with Pam Andrews RN, DON. To file a complaint with the Secretary of the Department of Health and Human Services, contact:

The U.S. Department of Health and Human Services

Medical Privacy, Complaint Division

200 Independence Avenue, S.W.

Washington, D.C. 20201

HHS.Mail@hhs.gov



HUNT COUNTY

POST OFFICE BOX 1042 • GREENVILLE, TEXAS 75403-1042

TAX ASSESSOR-COLLECTOR

JOYCE J. BARROW

(903) 408-4000

FAX (903) 455-3202

E-MAIL: hctax@koyote.com

Attn: Shawna Padilla
County Judge's Office
Hunt County Court House

May 12, 2003

Re: Agenda Request

Please place the following on your next Commissioners Court agenda for consideration:

Consider acceptance of high bids on the following **RESALE** properties:

ACC#	PROPERTY ADDRESS	PURCHASER	MIN. BID	BID RCVD
R51165	2815 TEXAS	PERRY SALISBURY	\$794.74	\$795.00
R71278	1812 MARSHALL	PERRY SALISBURY	\$750.25	\$750.25
R71606	2822 MORSE	PERRY SALISBURY	\$754.00	\$754.00
R71918	3207 PICKETT	PENNY POWELL	\$608.52	\$608.55

If accepted and approved please return signed and notarized documents to my attention.

Thank you,

Lisa Kinder
Special Collections
Property Management

8747

FILED FOR RECORD
at 10:30 o'clock
MAY 27 2003
By County Clerk LINDA BROOKS
Hunt County, Tex.



JOE A. BOBBITT
HUNT COUNTY JUDGE
(903) 408-4146
(903) 408-4299 Fax

HUNT COUNTY

POST OFFICE BOX 1097 • GREENVILLE, TEXAS 75403-1097

8748

Resolution 270503

FILED FOR RECORD
at 10:20 o'clock
MAY 27 2003
By County Clerk LINDA BROOKS
Hunt County, Tex.

Whereas, the Texas House of Representatives and Texas Senate have worked diligently to overcome a shortfall of \$10 billion during the current biennium cycle of the Texas Legislature; and

Whereas, the budgets passed in late April by each chamber of the Legislature seek to address the shortfall with budget reductions throughout state programs, such as health care and criminal justice; and

Whereas, the finalization of the state budget now moves to a legislative conference committee composed of capable Senators and Representatives; and

Whereas, the successful operation of Texas county government is closely tied to the state budget and the effective implementation of state laws and programs; and

Whereas, the state budget reductions to health care and criminal justice will greatly affect the counties abilities to carry out state and federal mandates in those programs; and

Whereas, the health care reductions will necessitate counties and their public health facilities to treat increased numbers of indigent and uninsured patients at local taxpayers expense; and

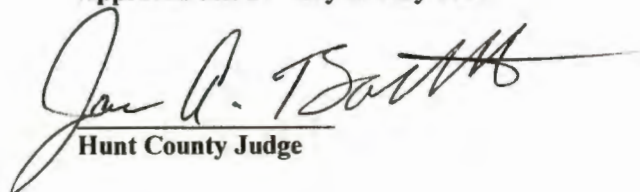
Whereas, county government in Texas wishes to be an effective partner in assisting the state in addressing its budget constraints; and

Whereas, county government in Texas wishes to protect local property taxpayers from escalating ad valorem tax rates; and

Now therefore be it resolved that the Hunt County Commissioners Court does hereby call upon the Texas Legislature to seek a statewide solution to the budget crisis, instead of passing the burden to counties and their ad valorem taxpayers; and

Now therefore be it further resolved that the Hunt County Commissioners Court does here by urge the Texas Legislature to consider passage of state revenue increase that would more evenly spread the burden of costs across the state and better protect local ad valorem taxpayers.

Approved this 27th day of May 2003


Hunt County Judge



JOE A. BOBBITT
HUNT COUNTY JUDGE
(903) 408-4146
(903) 408-4299 Fax

HUNT COUNTY

POST OFFICE BOX 1097 • GREENVILLE, TEXAS 75401-1097

8749 RESOLUTION

FILED FOR RECORD
at 11:26 a.m.
MAY 27 2003
By County Clerk, LINDA BROOKS
Hunt County, Tex.

WHEREAS, the Hunt County Commissioners Court finds it in the best interest of the citizens of Hunt County, that the Partnering for Youth Project be operated for the 2004 year; and

WHEREAS, Hunt County Commissioners Court has authorized the County Judge to apply for, accept, reject alter or terminate the grant.

WHEREAS, Hunt County Commissioners Court has considered the proposed application for State and Federal Assistance for said project, in the amount of \$165,000 to be submitted to the Office of the Governor, Criminal Justice Division; and

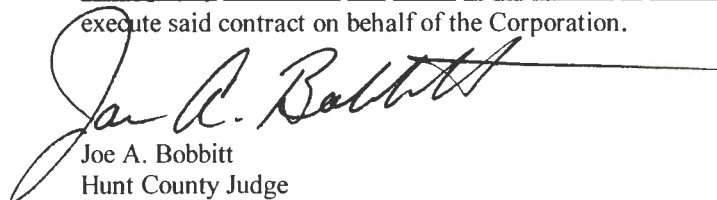
WHEREAS, Hunt County Commissioners Court has agreed to provide the minimum matching percentage for the said project as required by the Criminal Justice Division grant application; and

WHEREAS, Hunt County Commissioners Court has agreed that in the event of loss or misuse of the Criminal Justice Division funds, Hunt County Commissioners Court assures that the funds will be returned to the Criminal Justice Division in full.


NOW THEREFORE BE IT RESOLVED, that Hunt County Commissioners Court approves submission of the grant application for the Partnering for Youth Project to the Office of the Governor, Criminal Justice Division.

Section 1. That Hunt County—Commissioners Court approves submission of the grant application for the Partnering for Youth Project to the Office of the Governor, Criminal Justice Division Title V Delinquency Prevention Act Fund, in the amount of \$165,000.

Section 2. The Hunt County—Commissioners Court authorizes Judge Joe A. Bobbitt, Hunt County Judge, and his/her successors in office to negotiate, on terms and conditions that he/she may deem advisable, a contract or contracts with the Office of the Governor, Criminal Justice Division, for Title V Delinquency Prevention Act Fund, in the amount of \$165,000 for Partnering for Youth Project, and to execute said contract on behalf of the Corporation.


Joe A. Bobbitt
Hunt County Judge

Passed and Approved this 27th day of May, 2003

Attest 
Linda Brooks
Hunt County Clerk

MAY 22 2003 15:02 FR ATTORNEY GENERAL

512 475 4421 TO 919034084298

P.01/05



OFFICE OF THE ATTORNEY GENERAL - STATE OF TEXAS

JOHN CORNYN

FILED FOR RECORD

8755 at 10:20 o'clock 11 M

MAY 27 2003

 LINDA BROOKS
 County Clerk, Hunt County, Tex.
 By J. Owens January 12, 2001

The Honorable Chris D. Prentice
 Hale County Attorney
 Hale County Attorney's Office
 500 Broadway, Suite 80
 Plainview, Texas 79072

Opinion No. JC-0329

Re: Whether a county commissioner may use
 county property to open and close graves in a
 private cemetery (RQ-0275-JC)

Dear Mr. Prentice:

You ask this office whether a county commissioner may use county property to open and close graves in a private cemetery within his precinct at no charge.¹ We conclude that he may not.

As you explain the matter, for more than fifty years a county commissioner in Hale County has used county labor and equipment to open and close graves in a private cemetery. See Request Letter, note 1, at 1. The grave digging process takes a total of one hour to open and close a grave using a county worker and the county backhoe. See *id.* at 3. You inform us that the county receives no compensation for this service. See *id.* According to your knowledge, the county commissioners court has not authorized the use of county labor and equipment for this purpose. See *id.* You have advised the county commissioner to cease grave digging. See *id.* at 1. We agree with your conclusion because a county commissioner is without authority to use public labor or equipment for a private purpose.

In essence, your question raises two issues. The first issue is whether a commissioners court may use public funds or public equipment for a private purpose. The second issue raised by your question is whether a county commissioner, acting apart from the commissioners court, may bind a county.

It is well established that public labor and materials may only be used for a public purpose. See TEX. CONST. art. III, § 52(a); *Ex parte Conger*, 357 S.W.2d 740, 742 (Tex. 1962) (prohibiting

¹See Letter from Honorable Chris D. Prentice, Hale County Attorney, to Chair, Opinion Committee, Office of the Attorney General at 1 (Aug. 24, 2000) (on file with Opinion Committee) [hereinafter Request Letter].

Post-it* Fax Note	7671	Date	5/22/03	# of pages	5
To	Hon. Philip Martin	From	John Fuller		
Co./Dept.	Hunt County Commissioner	Co.	Attorney General		
Phone #	(903) 662-5332	Phone #	(800) 252-5476		
Fax #	408-4298	Fax #	(512) 475-4421		

MAY 22 2003 15:03 FR ATTORNEY GENERAL

512 475 4421 TO 919034084298

P.02/05

The Honorable Chris D. Prentice - Page 2 (JC-0329)

county commissioners from using county equipment to clear brush from a private lot, benefitting the landowner); Tex. Att'y Gen. LO-89-005, at 1 (stating that "[c]ounty funds may only be spent for public purposes"). The Texas Constitution restricts a county's use of public funds, stating that:

(a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county . . . to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever . . .

TEX. CONST. art. III, § 52(a); see Tex. Att'y Gen. Op. No. JC-0080 (1999) at 1 (stating that article III, section 52(a) "restricts the use of public money to the accomplishment of public purposes"). Generally, a public purpose benefits the local population, not merely a select group of persons. See 35 DAVID B. BROOKS, TEXAS PRACTICE: COUNTY AND SPECIAL DISTRICT LAW § 12.7 (1989). A commissioners court, as a body, must determine whether a particular use of county resources serves a public purpose. See TEX. CONST. art. V, § 18.

However, a county may use county resources for a private cemetery in limited circumstances. Section 713.028 of the Texas Health and Safety Code provides:

(a) For purposes of historical preservation or public health, safety, or welfare, a commissioners court may use public funds, county employees, and county equipment to maintain a cemetery that has a grave marker more than 50 years old.

(b) This section does not apply to a perpetual care cemetery or a cemetery maintained by a religious or fraternal organization.

TEX. HEALTH & SAFETY CODE ANN. § 713.028(a), (b) (Vernon 1992). Section 713.028 of the Health and Safety Code is inapplicable here. Section 713.028 of the Health and Safety Code specifically addresses the "maintenance" of a cemetery, not the service of burying persons. See *id.* § 713.028(a). You inform us that the county commissioner uses county resources to open and close graves and does not provide any other maintenance or upkeep to the private cemetery. See Request Letter, *supra* note 1, at 1. We believe that the opening and closing of new graves does not, by itself, constitute the "maintenance" of a cemetery. See IX OXFORD ENGLISH DICTIONARY 225 (2d ed. 1989) (defining maintenance as "[t]he action of keeping in effective condition, in working order, in repair . . . ; the keeping up of"). Even assuming the statute were applicable, based on the information provided, the commissioners court has not authorized the use of county resources under this statute. Nor has it made a finding that the opening and closing of graves in a private cemetery constitutes a public purpose.

In addressing the second issue raised by your question, we note that apart from the commissioners court, an individual commissioner has no authority to bind a county. See Tex. Att'y Gen. Op. No. JM-1155 (1990) at 1. Article V, section 18 of the Texas Constitution provides the commissioners court with jurisdiction over all "county business as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed." A county may only act through its

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commissioners court. *See* TEX. CONST. art. V, § 18 (granting the commissioners court jurisdiction over county business); *see also* *Guynes v. Galveston County*, 861 S.W.2d 861, 863 (Tex. 1993) (noting the authority of the commissioners court). An individual county commissioner, like other county officers, has only the powers expressly conferred by the Texas Constitution or statutes or necessarily implied therefrom. *See* Tex. Att'y Gen. Op. No. JC-0131 (1999) at 2. An individual commissioner may have certain powers as an ex officio road commissioner for his or her precinct. *See* TEX. TRANSP. CODE ANN. § 252.003 (Vernon 1999). "Under the direction of the commissioners court, an ex officio road commissioner is responsible for the vehicles, tools, and machinery belonging to the county and placed in the commissioner's control by the court." *Id.* § 252.006(a). However, the powers granted to a commissioner as an ex officio road commissioner pertain solely to laying out, construction, and building of roads and bridges. *See id.* § 252.006(b). These powers have no relationship to, and do not include the authority to use public equipment to dig or fill graves in a private cemetery. *See id.*

In sum, a commissioners court, as a body, may authorize the use of county labor and equipment solely for a public purpose. An individual commissioner, acting apart from the commissioners court, may not use county labor and equipment to open and close graves in a private cemetery.

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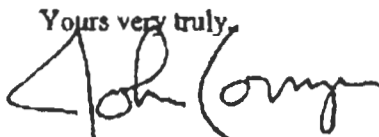
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S U M M A R Y

An individual county commissioner may not use county labor and equipment to open and close graves in a private cemetery. A commissioners court, acting on behalf of the county, may use county labor and equipment solely for a public purpose.

Yours very truly,



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