

**MINUTES OF COMMISSIONERS COURT, MOORE COUNTY, TEXAS  
SPECIAL SESSION, MONDAY MAY 24, 2021**

**STATE OF TEXAS }  
COUNTY OF MOORE }**

**BE IT REMEMBERED THAT ON THIS 24TH DAY OF MAY, 2021** there came to be held a Special Session of Commissioners Court of Moore County, Texas in the Commissioner's Courtroom of the Courthouse in Dumas, Texas. The following persons were present to wit: Rowdy Rhoades, County Judge; Daniel Garcia, Commissioner Precinct 1; Miles Mixon, Commissioner Precinct 2; Dee Vaughan, Commissioner Precinct 3; Lynn Cartrite, Commissioner Precinct 4; and Brenda McKanna County Clerk.

-----  
Court having been opened according to law the following proceedings were had to wit:

-----  
During routine announcements and reports Brandon Cox, Airport Manager reported that the pre-bid meeting for the re-surfacing of the runway will be Wednesday. Commissioner Cartrite stated that TxDot has started working on the low water crossing on FM119 & Road D.

-----  
Motion was made by Commissioner Vaughan to approve the minutes of the Special Meeting of April 26, 2021 and the minutes of the Regular Meeting of May 10, 2021. Motion was seconded by Commissioner Mixon. Motion carried.

-----  
Motion was made by Commissioner Cartrite that the bills as presented by James Allen, County Auditor, be approved for payment and the County Treasurer is hereby directed to issue warrant-checks thereof. Motion was seconded by Commissioner Garcia. Motion carried

-----  
Motion was made by Commissioner Mixon to approve the bid submitted on March 25, 2021 from West Texas Heating & Air in the amount of \$445,068.00. Motion was seconded by Commissioner Vaughan. Motion carried. Copy of bid attached and made a part hereof by references.

-----  
Motion was made by Commissioner Garcia to approve the employment of Htoo Htoo with a salary of \$22.22 per hour with a .50 increase every six months for one year and a clothing allowance of \$100.00 per month effective May 18, 2021. Motion was seconded by Commissioner Cartrite. Motion carried.

-----  
Judge Rhoades declared the meeting open for a public hearing at 9:26 A.M. in regards to vacating/abandoning East Road F. Judge Rhoades declared the public meeting closed at 9:27 A.M. There was No Public Comment.

-----  
Motion was made by Commissioner Cartrite to vacate/abandon East Road F effective May 28, 2021 and is vested to Dewey Bain aka Dewey Omel Bain. Motion was seconded by Commissioner Vaughan. Motion carried. Copy of Order attached and made a part hereof by references.

-----  
Kara Milligan, County Treasurer submitted changes in regards to the Personnel Policy Manual. She stated she used TAC's verbiage and added some additional policies to the manual and changed the Sick Leave Pool Committee as recommended by TAC. She is waiting on the Sheriff's Dept. to add their policy and will visit with the County Attorney in regards to the Drug Testing Policy. She will draft a final policy with changes for approval at a later time. Motion was made by Commissioner Garcia to take "No Action" on the Moore County Personnel Policy Manual. Motion was seconded by Commissioner Cartrite. Motion carried.

-----  
There was some discussion in regards to the Retiree Insurance Policy. Judge Rhoades stated when the policy was adopted the court was not aware that it was illegal to pay for the retirees' insurance. Since that time the court has been made aware of an AG Opinion JC-0297 in regards to whether a county is authorized to pay one half of the health premiums of county retirees. Judge Rhoades stated since the county had been made aware of the AG Opinion, he feels like the court can't continue to pay the insurance premiums for retirees

Motion was made by Commissioner Mixon based on the County Attorney's Opinion in regards to the AG Opinion JC-0297 on the Retirees Insurance Policy with it being illegal to pay for the insurance that the county cease paying for the insurance immediately and refrain from paying the premiums in the future and provide notification to the ones who will be affected. Motion "Died" for lack of second.

Commissioner Garcia stated he would like to see if there is a way to allow the retirees to have a grace period instead of stopping the payments immediately. He stated he would like to wait and visit the County Attorney to see if they could allow a grace period. Judge Rhoades stated the County Attorney's reasoning is that it is un-constitutional to pay for the retirees' insurance. Commissioner Vaughan stated he knows there are private sector companies that pay for the insurance until they reach the age of 65 or for a lifetime. Commissioner Mixon stated he believes the reasoning is using taxpayers' funds and if the other members of the court want to find a work around that would be on them. He stated he is not trying to interpret the AG Opinion he is basing his opinion on what the County Attorney's opinion is of the law. Commissioner Vaughan stated he thinks the reasoning behind the AG Opinion is that there was not a plan setup for these particular retirees. Commissioner Vaughan stated he feels like Scott is right in his opinion but he doesn't feel like it is clear in the AG Opinion presented. Commissioner Vaughan stated he would like to have more information from Scott before they make a decision. He would like to honor the agreement the court made with the retirees if they can legally do it. Scott is on a zoom meeting and will be available at 2:30 P.M.

-----  
Motion was made by Commissioner Vaughan to recess until 2:30 P.M. Motion was seconded by Commissioner Garcia. Motion carried.

-----  
Judge Rhoades reconvened the court in open session at 2:30 P.M. Scott Higginbotham, County Attorney stated according to the AG Opinion with the primary source being Art. 3:53 of the Texas Constitution that the county can't compensate an employee after an employee is no longer providing a service to the county. The foundation of the whole argument is the Texas Constitution states you can't pay for services already rendered. Commissioner Vaughan stated he doesn't think the constitution applies to what they are wanting to do. Scott stated the difference is

the Commissioners Court derives its sole authority as to what is allowed by statute. He stated we have county employees' who are no longer employed by the county who are receiving benefits under an un-constitutional agreement. Scott stated a county can't authorize any extra compensation to an agent or a servant after the service has been rendered under any agreement or contract (policy manual) made without the authority of law. He stated the law is Art. 3:53 of the Texas Constitution. Commissioner Mixon asked Scott if the reasoning is due to it being tax payer funded vs private sector. Scott stated in his strict interpretation of the AG Opinion is the county has no authority to pay any type of bonuses or any kind of compensation to a county employee, agent or a sub-contractor after their services have been terminated unless it is specifically derived by statute. Commissioner Mixon stated even if it is the policy and the policy is un-constitutional then it is considered illegal to pay the retirees' insurance. Scott stated again that the authority of law is derived from Art 3:53 of Texas Constitution. He stated the county is prohibited by law to assume any one's liability and he stated the county is prohibited by law to pay for the retirees' insurance. Commissioner Garcia ask Scott if there was any way to allow them a grace period instead of just dropping them. Scott stated the solution is in the AG Opinion and it is COBRA which allows extension of health insurance benefit. Commissioner Vaughan asked Scott to look at the Federal Statute to see if there was a way to honor the agreement the court made with the retirees.

Motion was made by Commissioner Garcia to table any action on the Retiree Insurance Policy and allow Scott Higginbotham, County Attorney to do further research on the constitution. Motion was seconded by Commissioner Vaughan. Motion carried. Commissioner Cartrite "Abstained".

-----


Dallas Green, Road & Bridge Supervisor gave a report on the department. Dallas stated he has ordered the speed bumps and should be installed by the end of the week. Dallas will advertise for the Sunray position and will keep the Dumas position on hold for right now. He stated they are working on Road D and will be blading roads as needed. Dallas will get the sign changed on East Road F after Friday and place a sign for 911 purposes with the wording of "Not a County Maintained Road." Commissioner Garcia asked about hot mix for West Road E due to the railroad repairs. Dallas stated they will get some hot mix but may have to go to Borger to get it.

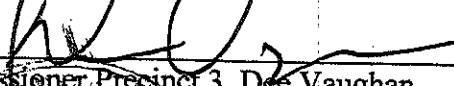
-----

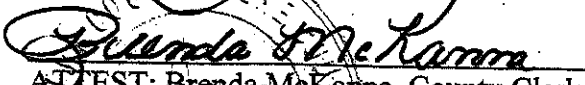
It appears there is no other business to come before the court. Motion was made by Commissioner Vaughan to adjourn. Motion was seconded by Commissioner Cartrite. Motion carried.

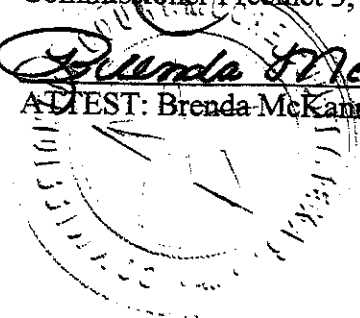
-----


THE ABOVE AND FOREGOING MINUTES HAVING BEEN READ AND APPROVED, IT IS HEREBY ORDERED THAT THEY BE AND ARE HEREBY APPROVED AS PRESENTED.


  
Commissioner Precinct 1, J Daniel Garcia

  
Commissioner Precinct 3, Dee Vaughan

  
ATTEST: Brenda McKanna, County Clerk



  
Commissioner Precinct 2, Miles Mixon

  
Commissioner Precinct 4, Lynn Cartrite

  
County Judge, Rowdy Rhoades