



July 31, 2001
8:30 A.M.

COMMISSIONERS COURT
of Polk County, Texas

County Courthouse, 3rd floor
Livingston, Texas

2001-072

Notice is hereby given that a quorum of the Polk County Commissioners Court will be meeting on the date stated above, at which time the following subjects will be discussed

- 1 DISCUSSION AND ANY/ALL NECESSARY ACTION RELATING TO THE ADOPTION OF THE TEXAS DEPARTMENT OF HEALTH INDIGENT HEALTHCARE ELIGIBILITY STANDARDS, DOCUMENTATION AND VERIFICATION PROCEDURES ACCORDING TO THE ACT WITH THE ADDITION OF THE OPTIONAL SERVICES TO BE DETERMINED WITHIN THIS ACTION, AS ALLOWED UNDER V T C A HEALTH & SAFETY CODE, SECTION 61 0285, FOR THE STATE OF TEXAS FISCAL YEAR, SEPTEMBER 1, 2001 - AUGUST 31, 2002
- 2 CONSIDERATION OF NOTICE AND HEARING ON SOLID WASTE ORDINANCE
- 3 CONSIDERATION OF TAKINGS IMPACT ASSESSMENT FOR SOLID WASTE ORDINANCE
- 4 CONSIDER DISCUSSION AND ANY/ALL NECESSARY ACTION RELATING TO THE APPROVAL OF RESCHEDULING THE AUGUST 14, 2001 COMMISSIONERS COURT MEETING, DUE TO POST LEGISLATIVE CONFERENCE

Posted July 25, 2001

Commissioners Court of Polk County, Texas

By *John P. Thompson*

John P. Thompson, County Judge

I, the undersigned County Clerk, do hereby certify that the above Notice of Meeting of the Polk County Commissioners Court is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice in the Polk County Courthouse at a place readily accessible to the general public at all times on Wednesday, July 25, 2001 and that said Notice remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

BARBARA MIDDLETON, COUNTY CLERK

By *Barbara Middleton*, Deputy

FILED
JUL 25 AM 9 28
BARBARA MIDDLETON
CLERK OF COUNTY



July 31, 2001
8 30 a m

COMMISSIONERS COURT

of Polk County, Texas
County Courthouse, 3rd floor
Livingston, Texas

ADDENDUM to Posting # 2001-072

The following will serve to amend the Agenda of the Commissioners Court Meeting scheduled for July 31, 2001 at 8 30 A M

FILED AND RECORDED
31 JUL 27 4 14
BARBARA MIDDLETON
COUNTY CLERK PC K CO

AMEND TO ADD,

- 5 DISCUSSION AND CONSIDERATION OF ANY/ALL NECESSARY ACTION RELATING TO THE TEXAS HISTORICAL COMMISSION GRANT APPLICATION
- 6 CONSIDER APPROVAL TO ADVERTISE FOR BIDS OF WORKER'S COMPENSATION AND UNEMPLOYMENT INSURANCES
- 7 DISCUSSION AND CONSIDERATION OF ANY/ALL NECESSARY ACTION RELATING TO THE DETAILS OF THE COUNTY'S ABSOLUTE TAX SALE ON AUGUST 4, 2001
- 8 APPROVE AUTHORIZATION OF THE USE OF CREDIT CARD TRANSACTIONS RELATING TO THE COUNTY'S ABSOLUTE TAX SALE ON AUGUST 4, 2001
- 9 CONSIDER APPROVAL OF PERSONNEL ACTION FORMS

Dated Friday, July 27, 2001

Commissioners Court of Polk County, Texas

By John P. Thompson
John P. Thompson, County Judge

I the undersigned County Clerk do hereby certify that the above Addendum to the Notice of Meeting of the Polk County Commissioners Court is a true and correct copy of said Addendum and that I posted a true and correct copy of said Addendum at the door of the Polk County Courthouse at a place readily accessible to the general public at all times on Friday July 27 2001 and that said Addendum remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting

BARBARA MIDDLETON, COUNTY CLERK

By Barbara Middleton, Deputy

STATE OF TEXAS)

DATE JULY 31, 2001

COUNTY OF POLK)

"SPECIAL" MEETING
County Clerk - Absent**** CORRECTED ****
COMMISSIONERS COURT
POSTING NOTICE #2001-072

BE IT REMEMBERED ON THIS THE 31st DAY OF JULY, 2001
THE HONORABLE COMMISSIONERS COURT MET IN "SPECIAL"
CALLED MEETING WITH THE FOLLOWING OFFICERS AND MEMBERS
PRESENT, TO WIT

JUDGE JOHN P THOMPSON, PRESIDING
BOB WILLIS - COUNTY COMMISSIONER PCT#1, BOBBY SMITH - COUNTY
COMMISSIONER PCT #2, JAMES J "Buddy" PURVIS - COUNTY COMMISSIONER
PCT #3, R R. "Dick" HUBERT - COUNTY COMMISSIONER PCT #4, AND
BILL LAW - COUNTY AUDITOR, THE FOLLOWING AGENDA ITEMS, ORDERS,
& DECREES WERE DULY MADE, CONSIDERED & PASSED

WELCOME AND CALL TO ORDER BY JUDGE JOHN THOMPSON at 8:30 A.M.

PUBLIC COMMENTS MR WITTE OF TWIN HARBORS ONALASKA COMMENTED ON
THE PRACTICE OF SOME PERSONS BUYING TAX FORECLOSURE
PROPERTIES TO CUT THE TIMBER AND LEAVE IT

**** JIM ALLISON - LEGAL COUNCIL OF AUSTIN TEXAS,**
ADVISED THE COURT ON INDIGENT HEALTHCARE
AND SOLID WASTE ORDINANCE ISSUES

- 1 MOTIONED BY BOBBY SMITH, SECONDED BY BOB WILLIS, TO ADOPT
THE TEXAS DEPARTMENT OF HEALTH INDIGENT HEALTHCARE
ELIGIBILITY STANDARDS, DOCUMENTATION AND VERIFICATION
PROCEDURES ACCORDING TO THE ACT WITH THE ADDITION OF THE
OPTIONAL SERVICES STATED HEREIN, AS ALLOWED UNDER V T C.A. HEALTH
& SAFETY CODE, SECTION 61 0285, FOR THE STATE OF TEXAS FISCAL YEAR,
SEPTEMBER 1, 2001 THROUGH AUGUST 31, 2002
OPTIONAL SERVICES APPROVED ARE,
1) ADVANCED PRACTICE NURSE
2) CERTIFIED REGISTERED NURSE ANESTHITIST
3) COLOSTOMY MEDICAL SUPPLIES/EQUIPMENT
4) DIABETIC SUPPLIES/EQUIPMENT
5) HOME OXYGEN EQUIPMENT
6) PHYSICAN ASSISTANT
ALL VOTING YES
- 2 MOTIONED BY BOBBY SMITH, SECONDED BY R.R. "Dick" HUBERT, TO
APPROVE THE TAKINGS IMPACT ASSESSMENT RELATING TO THE
PROPOSED SOLID WASTE ORDINANCE.
ALL VOTING YES (SEE ATTACHED)

RECESS AT 9:35 A.M. - 15 MINUTE BREAK.

COURT RECONVENED AT 9:54 A.M.

- 3 MOTIONED BY BOB WILLIS, SECONDED BY BOBBY SMITH, TO APPROVE ISSUANCE OF PUBLIC NOTICE AND SCHEDULING OF PUBLIC HEARING ON PROPOSED SOLID WASTE ORDINANCE
ALL VOTING YES (SEE ATTACHED)
- 4 MOTIONED BY JAMES J "BUDDY" PURVIS, SECONDED BY BOB WILLIS, APPROVAL TO RESET THE NEXT REGULAR COURT SESSION (SCHEDULED FOR AUGUST 14, 2001) TO AUGUST 10, 2001 AT 10 00 A.M. DUE TO THE CONFLICTING DATE OF THE POST LEGISLATIVE CONFERENCE
ALL VOTING YES
- ** BOB BROOKS WITH BROOKS / CORONADO ASSOCIATES, ADVISED THE COURT ON THE TEXAS HISTORICAL COMMISSION GRANT FUNDING FOR COUNTY COURTHOUSES
- 5 MOTIONED BY BOBBY SMITH, SECONDED BY JAMES J "Buddy" PURVIS, TO REVAMP MASTER PLAN CONCERNING RESTORATION & REPAIRS TO COURTHOUSE AND SUBMIT APPLICATION TO THE TEXAS HISTORICAL COMMISSION FOR FUTURE GRANT, AMENDING THE MOTION TO INCLUDE HIRING OF BROOKS CORONADO ASSOCIATES FOR PROJECT MANAGEMENT
ALL VOTING YES
- 6 MOTIONED BY BOBBY SMITH, SECONDED BY BOB WILLIS, APPROVAL TO ADVERTISE FOR BIDS OF WORKERS COMPENSATION AND UNEMPLOYMENT INSURANCES COVERAGES WHICH WERE EXCLUDED FROM PREVIOUS COURT ACTION TO BID ALL COUNTY INSURANCES
ALL VOTING YES
- 7 **DISCUSSION ON FUTURE ACTION RELATING TO THE DETAILS OF COUNTY'S ABSOLUTE TAX SALE ON AUGUST 4, 2001
** NO ACTION WAS TAKEN ON BEHALF OF THE COURT
- 8 MOTIONED BY BOBBY SMITH, SECONDED BY JAMES J "Buddy" PURVIS, APPROVE AUTHORIZATION OF THE USE OF CREDIT CARD (M/C & VISA) TRANSACTIONS RELATING TO THE COUNTY'S ABSOLUTE TAX SALE ON AUGUST 4, 2001
ALL VOTING YES
- 9 MOTIONED BY R R "Dick" HUBERT, SECONDED BY BOBBY SMITH, TO APPROVE PERSONNEL ACTION FORMS
ALL VOTING YES (SEE ATTACHED)
- 10 MOTIONED BY R R "Dick" HUBERT, SECONDED BY BOB WILLIS, TO ADJOURN COURT THIS 31st DAY OF JULY 2001 AT 11 30 A M

ATTEST

 BARBARA MIDDLETON COUNTY CLERK


 JOHN P THOMPSON, COUNTY JUDGE

Item #2

Proposed Action The County proposes to adopt an ordinance designating a solid waste disposal area and prohibiting solid waste disposal in all other areas of Polk County, and providing civil and criminal penalties.

County Department Commissioners Court

Contact Person County Judge John Thompson

Phone (936) 327-6813

I Stated Purpose

The purpose of the proposed action is to protect citizens and their property in the affected area, as well as the area's natural resources, from the potential harm which can result from solid waste disposal operations. The county has sufficient waste disposal capacity, and it is the judgment of the Commissioners Court that additional waste disposal in the county would present an unnecessary threat of harm to citizens, property and natural resources.

II. The Nature of the Action

A takings impact assessment is required only for two types of governmental of actions State whether the proposed action is one of the following

- 1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure, or
- 2) an action that imposes a physical invasion or requires a dedication of private real property;

Yes. The proposed course of action is to adopt an ordinance.

III. Potential Effect on Private Property

- 1 Does the county action require a physical invasion, occupation or dedication of real property?

Yes _____ No X

- 2 Does the county action limit or restrict a real property right, even partially or temporarily?

Yes _____ No x

The proposed action does prohibit the use of property for solid waste disposal. However, under Texas law there is no right to dispose of solid waste without a permit. There are no property owners affected by the proposed ordinance who have a permit to dispose of solid waste, and there are no property owners who have applied for a permit to dispose of solid waste. Because no affected owners have a permit to dispose of solid waste, and because a property owner has no right to dispose of waste without a permit, there is no existing property right limited or restricted by the proposed action. Therefore, the proposed action does not appear to be an action covered under the Texas Real Property Rights Preservation Act.

IV Exemptions

After consideration, the Commissioners Court finds that the proposed action is

- 1 an action taken to prohibit or restrict a public or private nuisance,
- 2 an action taken to prevent a grave and immediate threat to life or property,
- 3 an action a) taken in response to a real and substantial threat to public health and safety, b) designed to significantly advance the health and safety purpose, and c) one that does not impose a greater burden than necessary to achieve the health and safety purpose, and
- 4 an action taken pursuant to the county's statutory authority to prevent waste or protect rights of owners of interest in groundwater?

Based upon the above findings, the proposed action is exempt from the provisions of the Texas Real Property Rights Preservation Act.

IV Analysis of Purpose, Burdens and Benefits

A Referring to the purpose of the county action in Section I above, state how the action achieves or advances its purpose

As stated, the purpose of the proposed action is to protect citizens, property and natural resources in the affected area from the dangers attendant to solid waste disposal operations. This purpose is furthered by preventing solid waste disposal in the affected area.

B Describe the benefits to society resulting from the county action

The benefits include 1) reducing the threat of contamination of groundwater and other water supplies, 2) reduce the threat of harm to persons and property which could result from solid waste disposal operations, 3) prevent the unnecessary reduction of property values in the county, 4) provides for orderly and appropriate development, and 5, protects neighboring landowners right to full use and enjoyment of their property.

C Discussion of the burdens that may be imposed on private real property by the county action

After consideration, the Commissioners Court finds as follows.

- 1 The proposed action will not result indirectly or directly in a permanent or temporary physical occupation of private real property;**
- 2. The proposed action does not require a property owner to dedicate property or grant an easement;**
- 3 The proposed action does not deprive the owner of all economically viable use of his property;**

- 4 The proposed action does not deny any owner the right to possess his real property, enjoy it, exclude others from it or sell it; and
- 5 It is unclear whether the proposed action will serve to reduce the market value of the owner's property. It appears in light of the fact that no owner affected by the ordinance presently has a right to engage in solid waste disposal, that there will be no reduction in the market value of any owner's property.

Additional discussion of potential burdens

The proposed action does not restrict any property owner's right to use and enjoy his property. The proposed action does not, and is not intended to, prohibit development of property. Under this ordinance, property may be put to any economically beneficial use other than solid waste disposal. Presently, there are no landowners with a right to dispose of waste on their property who will be prevented from doing so by this ordinance. Therefore, no existing property rights will be impinged and market value should not be affected.

V Alternatives

- A Describe alternative actions that could accomplish the same purpose as the proposed action

After consideration, the Commissioners Court finds that there are no alternatives which would effectively accomplish the same purpose.

- B Would these alternatives impose a lesser burden on the property which is the subject of the proposed action?

This section is inapplicable in light of the response to V(A).

VI Potential Impact on Value

- A. Will the county action reduce the market value of any parcel of private real property by 25% or more?

Yes _____ No x


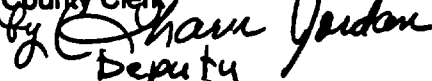
No owner affected by the ordinance presently has a right to engage in solid waste disposal, that there will be no reduction in the market value of any owner's property In addition, the ordinance does not prevent any use of the property other than solid waste disposal. The Commissioners Court finds that there are better, and more profitable, uses available for the property

- VII. Conclusion:
- _____ Not a Covered Action
 - x No Impact on Private Real Property
 - x Proposed Action is Exempt
 - x Proposed Action Fully Assessed for Potential Impact on Private Property

Read and adopted this 31st day of July, 2001, by a vote of ALL ayes and NO nays


County Judge

ATTEST


County Clerk
By 
Deputy

COPY

Item #3

NOTICE OF PUBLIC HEARING

The Polk County Commissioners Court will conduct a Public Hearing pursuant to Article 364 012, Texas Health and Safety Code V T C S , on the 10th day of September, 2001 at 9.00 a.m at the Commissioners Courtroom in the Polk County Courthouse Livingston Texas to consider the adoption of the following proposed ordinance entitled "An Ordinance Designating A Solid Waste Disposal Area and Prohibiting Solid Waste Disposal in All Other Areas of Polk County and Providing Civil and Criminal Penalties " Any interested citizen of Polk County may testify at the hearing

The Polk County Commissioners Court has conducted a Takings Impact Assessment concerning this proposed action In summary the Takings Impact Assessment resulted in the following determinations 1) that the proposed action is a "covered action" as defined in the Private Real Property Rights Preservation Act because it consists of the adoption of an ordinance 2) that no existing private property rights will be affected because no person who presently has a right to dispose of solid waste within the county will be affected by the Ordinance 3) that the proposed action is exempt from the Private Real Property Rights Preservation Act and 4) that the proposed action will not reduce the market value of any property owner s property by more than 25% A copy of the complete Takings Impact Assessment can be obtained from the County Judge

The proposed ordinance is set forth below and a copy of the proposed ordinance is available for public inspection during normal office hours at the County Judge s Office Polk County Courthouse, Livingston Texas At the conclusion of the public hearing, the Commissioners Court may take action on the proposed ordinance

ATTEST

Barbara Middleton
County Clerk
by Shawn Jordan
Deputy

PROPOSED ORDINANCE

AN ORDINANCE DESIGNATING A SOLID WASTE DISPOSAL AREA AND PROHIBITING SOLID WASTE DISPOSAL IN ALL OTHER AREAS OF POLK COUNTY, AND PROVIDING CIVIL AND CRIMINAL PENALTIES

Be it ORDAINED, ORDERED and ADOPTED by the Commissioners Court of Polk County, Texas

SECTION 1 GENERAL PROVISIONS AND FINDINGS

WHEREAS, the Polk County Commissioners Court has both the responsibility and the authority to protect the health safety and welfare of the citizens of Polk County, Texas and their property interest and

WHEREAS solid waste disposal especially the disposal of solid waste in landfills, is an activity that has high potential to negatively impact the health, safety and welfare of any community, and

WHEREAS, a safe and abundant supply of drinking water is necessary to preserve and protect the health and welfare of the citizens of Polk County, Texas, and

WHEREAS, many citizens in Polk County utilize drinking water from private wells, and

WHEREAS the Commissioners Court believes and hereby finds that a waste disposal site and development thereof anywhere in the county, except as designated by this court at the location designated below, would constitute an unacceptable risk and threat to the public health, safety and welfare for the reasons and findings stated below, among many others, to wit

The Court finds that the presence of solid waste disposal facilities in general may negatively influence property values, and

The Court finds that under the circumstances existing in Polk County that additional solid waste facilities would constitute a public or private nuisance, and

The Court finds the use of all present technology and science with regard to the location, installation, operation and maintenance of municipal, industrial and hazardous solid waste disposal sites, cannot guarantee or ensure that such sites will not contaminate, spoil and pollute areas surrounding and distant to said disposal sites,

This Court further finds that if the substances contained within a landfill escape into the waterways, including subsurface waterways significant threats to the public health safety and welfare will exist and

This Court finds that the nature of the soils of Polk County is such that it would allow migration of waste and lead to the contamination of groundwater which many citizens rely on for drinking water

The Court further finds that the traffic attendant to operation of a solid waste disposal facility, which involves receiving and dispatching a large number of heavy trucks hauling waste constitutes a hazard to the public health and a threat to the public roads,

The Court further finds that waste streams that can be received in municipal and non-hazardous industrial waste facilities include chemicals that are toxic corrosive flammable and explosive and that such substances present a threat to the public health safety and welfare,

The Court finds that the prohibition of solid waste disposal as provided in this ordinance is necessary to prevent a grave and immediate threat to life and property and

The Court finds that such a prohibition is a necessary response to a real and substantial threat to public health and safety, that such a prohibition will significantly advance the health and safety of the public and that the prohibition does not impose a greater burden than necessary to protect the public health and safety under the circumstances

SECTION 2 SUBSTANTIVE PROVISIONS AND DEFINITIONS

For the above reasons, and pursuant to the provisions of Section 364 012 of the Texas Health and Safety Code, the Polk County Commissioners Court hereby

ORDAINS, RESOLVES, ORDERS and ADOPTS the following **ORDINANCE**

IT IS ORDAINED AND ORDERED that the disposal of solid waste within Polk County, Texas is authorized and allowed in the following area

- 1 A tract of land containing 70 769 acres more or less, located in the Wm Johns Survey, Abstract No 39, Polk County, Texas as more fully described in a special warranty deed from Champion International Corporation to the County of Polk recorded in Vol 598 p 890 Deed Records, Polk County, Texas

- 2 A tract of land containing 220 000 acres, more or less, located in the Wm Johns Survey, Abstract No 39, Polk County, Texas as more fully described in a special warranty deed from Champion International Corporation to the County of Polk recorded in Vol 1047 p 994, Deed Records, Polk County, Texas
- 3 A tract of land containing 3 420 acres more or less, located in the Wm Johns Survey, Abstract No 39, Polk County, Texas or more fully described in a special warranty deed from Nationsbank of Texas N A , Trustee to Polk County recorded in Vol 1125, p 413, Deed Records, Polk County, Texas
- 4 A tract of land containing 55 90 acres more or less located in the William Johns Survey, Abstract No 39, Polk County, Texas as more fully described in a special warranty deed from Wirt Davis, II, et al to Polk County recorded in Vol 1160, p 675, Deed Records, Polk County, Texas

IT IS FURTHER ORDAINED AND ORDERED that the disposal of municipal solid waste and industrial solid waste is **PROHIBITED** in all other areas of Polk County, Texas

DEFINITIONS IN THIS ORDINANCE

- 1 "Solid waste", "municipal solid waste" and "industrial solid waste" have the meaning assigned by Chapter 361, Texas Health & Safety Code
- 2 "Solid waste facility" has the meaning assigned by Chapter 361, Texas Health & Safety Code

SECTION 3. CIVIL REMEDIES AND PENALTIES

- (a) Any violation of this ordinance is subject to a civil penalty of \$10,000 00 for each violation. Such penalty to be forfeited to Polk County, Texas Each day that a violation continues constitutes a separate ground for recovery

- (b) The Commissioners Court of Polk County, Texas, may bring a legal action to enjoin violations of this ordinance and seek judgment for any civil penalties

SECTION 4 CRIMINAL PENALTY

- (a) Disposal of solid waste in violation of this ordinance constitutes a class C misdemeanor punishable by a fine not to exceed \$500 00
- (b) Each day that a violation continues constitutes a separate offense under this ordinance

SECTION 5. SEVERABILITY

If any portion of this ordinance is deemed to be in violation of the statutes or the constitution of this state or the United States by a court of competent jurisdiction said portion shall be severed, and the remaining portions of the ordinance shall remain in full force and effect

SECTION 6 EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption

Read and adopted this _____ day of _____, 2001 by a vote of _____ ayes and _____ nays

County Judge

ATTEST

County Clerk

- Item #9

DATE: JULY 28 - JULY 31, 2001

for me

NO.	EMPLOYEE	DEPT	JOB	TYPE OF	GROUP	ACTION
					STEP & WAGE	TAKEN
(1)	MICHELLE R BLONWELL	S-SERVF	#103 TELECOM OPERATOR	LABOR POOL 400 HRS	11A1) \$8.58 HR	RE-HIRE EFFECTIVE 07/30/01
(2)						
(3)						
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