

Consider establishing county-wide rate for open records requests.

Moved: Commissioner Mehevec

Seconded: Commissioner Boatright

Motion: To approve guidelines set out by the General Service Commission establishing county-wide rate for open records requests with the exception of District Clerk and County Clerk offices which are statutorily exempt.

Vote: Motion carried 5 - 0

< Clerk copy here >

11/23/98 MON 10:08 FAX 512 475 3779

TX GENERAL SERVICES

001

(Untitled)



General Services Commission

1711 San Jacinto P.O. Box 13047
Austin, TX 78711-3047

General Information:
(512) 463-3035

Attn: Dorothy Fisher

Company:

Date: 11/23/98 09:13:20 AM

Fax #: 352-1536

From: Anna C. Ramirez/GSC
Office of General Counsel
Fax #: (512) 475-3779
Phone #: (512) 463-3960
Pages: 19, including cover page

Please find attached rules for Cost of Copies for Open Records. Most of the reproduction charges are listed under rule sections 111.63, 111.69, and 111.70. If you require further information, please contact Ms. Hadassah Schloss at 475-2497.

The information contained in this facsimile message is privileged and confidential information intended only for the use of the above-named recipient(s) or the individual or agent responsible to deliver it to the intended recipient. You are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone. Thank you.

*approved 12.1.98
John C. Daehler*

**General Services Commission
Executive Administration Division**

**Subchapter C. Cost of Copies of Public Information
§111.61 - §111.70**

§111.61 General

- (a) The General Services Commission ("the Commission") must:
- (1) adopt rules for use by each governmental body in determining charges under Government Code, Chapter 552, Subchapter F, (the "Public Information Act");
 - (2) Prescribe the methods for computing the charges for copies of public information in paper, electronic, and other kinds of media; and
 - (3) Establish costs for various components of charges for public information that shall be used by each governmental body in providing copies of public information.
- (b) The cost of providing public information is not necessarily synonymous with the charges made for providing public information. Governmental bodies must use the charges established by these rules, unless:
- (1) Other law provides for charges for specific kinds of public information;
 - (2) They are a governmental body other than a state agency, and their charges are within a 25 percent variance above the charges established by the Commission;
 - (3) They request and receive an exemption because their actual costs are higher; or
 - (4) They abide by § 552.267 of the Public Information Act, which reads:
 - (A) A governmental body shall furnish a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public; or
 - (B) If the cost to the governmental body of processing the collection of a charge for a copy of public information will exceed the amount of the charge, the governmental body may waive the charge.

111.61-1

effective 09/18/96

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**General Services Division
Executive Administration Division****§111.62 Definitions**

The following words and terms, when used in 1 T.A.C. §§111.61 - 111.70, shall have the following meanings, unless the context clearly indicates otherwise.

Actual cost--The sum of all direct costs plus a proportional share of overhead, or indirect costs.

Actual cost should be determined in accordance with generally accepted methodologies. To determine actual costs, governmental bodies may utilize the cost methodology adopted by the Council on Competitive Government.

Client/Server System--A combination of two or more computers that serve a particular application through sharing processing, data storage, and end-user interface presentation. PC's located in a LAN environment containing file servers fall into this category as do applications running in an X-window environment where the server is a UNIX based system.

Commission -- The General Services Commission.

Governmental Body--As defined by § 552.003 of the Public Information Act, means:

- (A) a board, commission, department, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members;
- (B) a county commissioners court in the state;
- (C) a municipal governing body in the state;
- (D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;
- (E) a school district board of trustees;
- (F) a county board of school trustees;
- (G) a county board of education;
- ~~(H) the governing board of a special district;~~

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- (I) the governing body of a nonprofit corporation organized under Chapter 26, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under the Tax Code §11.30; and
- (J) the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds; and
- (K) does not include the judiciary.

Mainframe Computer--A computer located in a controlled environment and serving large applications and/or large numbers of users. These machines usually serve an entire organization or some group of organizations. These machines usually require an operating staff. IBM and UNISYS mainframes, and large Digital VAX 9000 and VAX Clusters fall into this category.

Midsize Computer--A computer smaller than a Mainframe Computer that is not necessarily located in a controlled environment. It usually serves a smaller organization or a sub-unit of an organization. IBM AS/400 and Digital VAX/VMS multi-user single-processor systems fall into this category.

Nonstandard copy--A copy of public information that is made available to a requestor in any format other than a standard paper copy. Microfiche, microfilm, diskettes, magnetic tapes, CD-ROM, are examples of nonstandard copies. Paper copies larger than 8 1/2 x 14 inches (legal size) are also considered nonstandard copies.

Standalone PC--An IBM compatible PC, Macintosh or Power PC based computer system operated without a connection to a network.

Standard paper copy--A printed impression on one side of a piece of paper that measures up to 8 1/2 by 14 inches. Each side of a piece of paper on which an impression is made is counted as a single copy. A piece of paper that is printed on both sides is counted as two copies.

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§111.63 Charges for Providing Copies of Public Information

(a) The charges in this section to recover costs associated with providing copies of public information are based on estimated average costs to governmental bodies across the state. When actual costs are 25 percent higher than those used in these rules, governmental bodies other than agencies of the state, may request an exemption in accordance with Section 111.64 of this rule.

(b) Copy charge.

(1) ~~Standard paper copy. The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$1.10 per page or part of a page.~~ Each side that has a printed image is considered a page.

(2) Nonstandard copy. The charges for nonstandard copies are:

(A) diskette--\$1.00;

(B) magnetic tape--\$11.00 - \$13.50 (depending on width - see Section 111.70);

(C) data cartridge--\$17.50 - \$35.00 (depending on series - see Section 111.70)

(D) tape cartridge--\$38.00 - 45.00 (depending on memory) - see Section 111.70)

(E) VHS video cassette--\$2.50;

(F) audio cassette--\$1.00;

(G) oversize paper copy (i.e.: 11" x 17", greenbar, bluebar)--\$.50;

(H) Mylar--\$.85 - \$1.35/linear ft. (depending on thickness - see Section 111.70);

(I) Blueprint/Blueline paper--\$.20/linear ft. (all widths).

(3) The charges in this subsection are to cover the cost of materials onto which information is copied and do not reflect any additional charges that may be associated with a particular request.

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(c) Programming personnel. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time.

(1) The hourly charge for a programmer is \$26.00 an hour including fringe benefits. Only programming services shall be charged at this hourly rate.

(2) Governmental bodies that do not have in-house programming capabilities shall comply with requests in accordance with §552.231 of the Public Information Act.

(3) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Government Code, Chapter 552, §552.261(b).

(d) Other Personnel charge.

(1) The charge for other personnel costs, incurred in processing a request for public information is \$15.00 an hour, including fringe benefits. Where applicable, the other personnel charge may include the actual time to locate, compile, and reproduce the requested information.

(2) An other personnel charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:

(A) more than one building; or

(B) a remote storage facility.

(3) Other personnel time shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

(A) to determine whether the governmental body will raise any exceptions to disclosure of the requested information under Subchapter C of the Public Information Act; or

(B) to research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Public Information Act.

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- (4) When confidential information is mixed with public information in the same page, personnel time may be recovered for time spent to obliterate, blackout, or otherwise obscure confidential information in order to release the public information.
- (5) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Government Code, Chapter 552, §552.261(b).
- (e) Overhead charge.
- (1) Whenever any personnel charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific personnel charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.
- (2) An overhead charge shall not be made for requests for copies of 50 pages or fewer of standard paper records.
- (3) The overhead charge shall be computed at 20% of the charge made to cover any personnel costs associated with a particular request.

Example: if one hour of personnel (programming, other personnel or a combination of both) is used for a particular request, the formula would be as follows:

\$15.00	x	.20	=	\$3.00	or
\$26.00	x	.20	=	\$5.20	or
\$41.00	x	.20	=	\$8.20	

- (f) Microfiche and microfilm charge.

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- (1) If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for state agencies. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm, may charge the actual costs of having the reproduction made commercially. (2) If only a master copy of information in microform is maintained, the charge is \$.10 per page for standard size paper copies, plus any applicable personnel and overhead charge for more than 50 copies.

(g) Remote document retrieval charge.

- (1) Due to limited on-site capacity of storage of documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by governmental bodies to store current records on-site. State agencies are encouraged to store inactive or non-current records with the Texas State Library and Archives Commission. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services.
- (2) If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional personnel charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body, the boxes must still be searched for records that are responsive to the request, a personnel charge is allowed according to subsection (d)(1) of this section.

(h) Computer resource charge.

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- (1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.
- (2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges, made for purposes other than responding to public information requests.
- (3) The charges in this subsection are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge, shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s), and set its charge accordingly.

<u>Type of System</u>	<u>Rate</u>
Mainframe	\$10.00 per minute
Midsized	\$1.50 per minute
Client/Server	\$2.20 per hour
PC or LAN	\$1.00 per hour

- (4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather, it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d). No charge should be made for computer print-out time.

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Example: If a mainframe computer is used, and the processing time is 20 seconds,
the charges would be as follows:

$$\begin{array}{rclclcl} \$10.00 & / & 3 & = & \$3.33 & \text{or} \\ \$10.00/60 & \times & 20 & = & \$3.33 \end{array}$$

(5) A governmental body that does not have in-house computer capabilities shall comply with requests in accordance with Section 552.231, Chapter 552, Government Code, Public Information Act.

(i) Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

(j) Postal and shipping charges. Governmental bodies may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

(k) Sales tax. Sales tax shall not be added on charges for public information.

(l) The commission shall reevaluate and update these charges as necessary.

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§111.64 Requesting an Exemption

- (a) Pursuant to § 552.262(c) of the Public Information Act, a governmental body may request that it be exempt from part or all of these rules.
- (b) State agencies must request an exemption if their charges to recover costs are higher than those established by these rules.
- (c) Governmental bodies, other than agencies of the state, must request an exemption before seeking to recover costs that are more than 25 percent higher than the charges established by these rules.
- (d) An exemption request must be made in writing, and must contain the following elements:
- (1) A statement identifying the subsection(s) of these rules for which an exemption is sought;
 - (2) The reason(s) the exemption is requested;
 - (3) A copy of the proposed charges;
 - (4) The methodology and figures used to calculate/compute the proposed charges;
 - (5) Any supporting documentation, such as invoices, contracts, etc.; and
 - (6) The name, title, work address, and phone number of a contact person at the governmental body.
- (e) The contact person shall provide sufficient information and answer in writing any questions necessary to process the request for exemption.
- (f) If there is good cause to grant the exemption, because the request is duly documented, reasonable, and in accordance with generally accepted accounting principles, the exemption shall be granted. The name of the governmental body shall be added to a list to be published annually in the Texas Register.
- (g) If the request is not duly documented and/or the charges are beyond cost recovery, the request for exemption shall be denied. The letter of denial shall:
- (1) Explain the reason(s) the exemption cannot be granted; and
 - (2) Whenever possible, propose alternative charges.

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- (h) All determinations to grant or deny a request for exemption shall be completed promptly, but shall not exceed 90 days from receipt of the request by the General Services Commission.

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Executive Administration Division**

§111.65 Access to Information Where Copies Are Not Requested

- (a) Access to information in standard paper form. A governmental body shall not charge for making available for inspection information maintained in standard paper form. Charges are permitted only where the governmental body is asked to provide, for inspection, information that contains confidential information and public information. When such is the case, the governmental body may charge to make a copy of the page from which information must be edited. No other charges are allowed.
- (b) Access to information in other than standard form. In response to requests for access, for purposes of inspection only, to information that is maintained in other than standard form, a governmental body may not charge the requesting party the cost of preparing and making available such information, unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is needed to access the information, the governmental body shall inform the requestor before assembling the information, and shall provide the requestor with an estimate of charges.

111.65-1

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§111.66 Format for Copies of Public Information

- (a) If a requesting party asks that information be provided on a diskette or other computer-compatible media, and the requested information is electronically stored, the governmental body shall provide the information on computer-compatible media.
- (b) The extent to which a requestor can be accommodated will depend largely on the technological capability of the governmental body to which the request is made.
- (c) A governmental body is not required to purchase any hardware, software or programming capabilities that it does not already possess to accommodate a particular kind of request.
- (d) Provision of a copy of public information in the requested medium shall not violate the terms of any copyright agreement between the governmental body and a third party.
- (e) If the governmental body does not have the required technological capabilities to comply with the request in the format preferred by the requestor, the governmental body shall proceed in accordance with §552.228(c) the Public Information Act.
- (f) If a governmental body receives a request requiring programming or manipulation of data, the governmental body should proceed in accordance with §552.231 of the Public Information Act. Manipulation of data under §552.231 applies only to information stored in electronic format.

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**General Services Commission
Executive Administration Division****§111.67 Estimates and Waivers of Public Information Charges**

- (a) A party requesting copies of public information will not always be aware of the amount of time and cost that may be involved in complying with a particular request. Where a particular request will involve considerable time and resources to process, it is advisable that governmental bodies inform requestors of the anticipated completion date and potential resulting charges. When a governmental body charges for public information, a detailed statement of the charges should be made available to the requestor.
- (b) A governmental body that cannot produce the public information for inspection and/or duplication within 10 business days after the date the information is requested, shall certify to that fact in writing, and set a date and hour within a reasonable time when the information will be available.
- (c) A deposit or a bond may be required in the amount of the estimated charges if such charges exceed \$100.

111.67-1

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§111.68 Processing Complaints of Overcharges

- (a) Pursuant to § 552.269(a) of the Public Information Act, a requestor who believes he/she has been overcharged for a copy of public information may complain to the Commission.
- (b) The complaint must be in writing, and must:
- (1) set forth the reason(s) the person believes the charges are excessive; and
 - (2) be received by the General Services Commission within 10 working days after the person knows of the occurrence of the alleged overcharge.
- (c) The General Services Commission shall address written questions to the governmental body, regarding the methodology and figures used in the calculation of the charges which are the subject of the complaint.
- (d) The governmental body shall respond in writing to the questions within 10 days from receipt of the questions.
- (e) If the General Services Commission determines that the governmental body overcharged for requested public information, the governmental body shall adjust its charges in accordance with the determination, and shall refund the difference between what was charged and what was determined to be appropriate charges.
- (f) The General Services Commission shall send a copy of the determination to the complainant and to the governmental body.
- (g) Pursuant to §552.269(b) of the Public Information Act, a requestor who overpays because a governmental body refuses or fails to follow the charges established by the Commission, is entitled to recover three times the amount of the overcharge if the governmental body did not act in good faith in computing the charges.
- (h) The General Services Commission does not have the authority to determine whether or not a governmental body acted in good faith in computing charges.

111.68-1

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General Services Commission
Executive Administration Division**§111.69 Examples of Charges for Copies of Public Information**

The following tables present a few examples of the calculations of charges for information:

(1) TABLE 1 -- (Fewer than 50 pages of paper records):

\$.10 per copy x number of copies (standard-size paper copies)
 + Personnel charge (if applicable)
 + Overhead charge (if applicable)
 + Document retrieval charge (if applicable)
+ Postage and shipping (if applicable)
\$ TOTAL CHARGE

(2) TABLE 2 -- (More than 50 pages of paper records or nonstandard copies):

\$.10 per copy x number of copies (standard-size paper copies), or
 cost of nonstandard copy (e.g., diskette, oversized paper, etc.)
 + Personnel charge (if applicable)
 + Overhead charge (if applicable)
 + Document retrieval charge (if applicable)
 + Actual cost of miscellaneous supplies (if applicable)
+ Postage and shipping (if applicable)
\$ TOTAL CHARGE

(3) TABLE 3 -- (Information that Requires Programming or Manipulation of Data)

Cost of copy (standard or nonstandard, whichever applies)
 + Personnel charge
 + Overhead charge
 + Computer resource charge
 + Programming time (if applicable)
 + Document retrieval charge (if applicable)
 + Actual cost of miscellaneous supplies (if applicable)
+ Postage and shipping (if applicable)
\$ TOTAL CHARGE

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**General Services Commission
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§111.70 The General Services Commission Charge Schedule.

The following is a summary of the charges for copies of public information that have been adopted by the commission.

	Service Rendered	Charge
(1)	Standard paper copy	\$.10 per page
(2)	Nonstandard-size copy	
(A)	Diskette	\$1.00 each
(B)	Magnetic tape	
	(i) 4 mm.	\$13.50 each
	(ii) 8 mm.	\$12.00 each
	(iii) 9-track	\$11.00 each
(C)	Data Cartridge	
	(i) 2000 Series	\$17.50 each
	(ii) 3000 Series	\$20.00 each
	(iii) 6000 Series	\$25.00 each
	(iv) 9000 Series	\$35.00 each
	(v) 600A	\$20.00 each
(D)	Tape Cartridge	
	(i) 250 MB	\$38.00 each
	(ii) 525 MB	\$45.00 each
(E)	VHS video cassette	\$2.50 each
(F)	Audio cassette	\$1.00 each
(G)	Oversized Paper copy	\$.50 each
(H)	Mylar (36", 42", and 48")	
	(i) 3 mil.	\$.85/linear foot
	(ii) 4 mil.	\$1.10/linear foot
	(iii) 5 mil.	\$1.35/linear foot

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(I)	Blue/line/blueprint paper (all widths)	\$.20/linear foot
(J)	Other	Actual cost
(3)	Personnel charge	
(A)	Programming personnel	\$26.00 per hour
(B)	Other personnel	\$15.00 per hour
(4)	Overhead charge	20% of personnel charge
(5)	Microfiche or microfilm charge	
(A)	Paper copy	\$.10 per page
(B)	Fiche or film copy	Actual cost
(6)	Remote document retrieval charge	Actual cost
(7)	Computer resource charge	
(A)	Mainframe	\$10.00 per minute
(B)	Midsized	\$1.50 per minute
(C)	Client/Server	\$2.20 per hour
(D)	PC or LAN	\$1.00 per hour
(8)	Miscellaneous supplies	Actual cost
(9)	Postage and shipping charge	Actual cost
(10)	Photographs	Actual cost
(11)	Other costs	Actual cost
(12)	Outsourced/Contracted Services	Actual cost
(13)	No Sales Tax	No Sales Tax shall be applied to copies of public information

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111.70-2

effective 09/18/96

Consider awarding, rejecting or extending bids for Task Force vehicle.

Moved: Commissioner Hays

Seconded: Commissioner Boatright

Motion: To award Task Force vehicle bid to Draeger Motor Company.

Vote: Motion carried 5 - 0

AGENDA ITEM # 23**December 1, 1998*******

Consider extending bids for one or more vehicles for the Sheriff's Department from 12-8-98 to 12-22-98.

Moved: Commissioner Boatright

Seconded: Commissioner Mehevec

Motion: To extend bids for one or more vehicles for the Sheriff's Department from December 8, 1998, to 10:15 a.m. on December 22, 1998.

Vote: Motion carried 5 - 0

AGENDA ITEM # 24**December 1, 1998*******

Consider extending bids for pit run gravel in eastern Williamson County from 12-8-98 to 12-22-98.

Moved: Commissioner Boatright

Seconded: Commissioner Mehevec

Motion: To extend bids for pit run gravel in eastern Williamson County from December 8, 1998, to 10:30 a.m. on December 22, 1998.

Vote: Motion carried 5 - 0

COMMISSIONERS COURT ADJOURNED TO EXECUTIVE SESSION AT 9:47 A.M. ON TUESDAY, DECEMBER 1, 1998.

AGENDA ITEM # 25**December 1, 1998*******

Discuss personnel matters: (EXECUTIVE SESSION REQUESTED as per VTCA Govt. Code sec. 551.074 relating to personnel matters)

No action was taken in executive session.

AGENDA ITEM # 26**December 1, 1998*******

Discuss potential litigation: James Burton (EXECUTIVE SESSION REQUESTED as per VTCA Govt. Code sec. 551.071 relating to consultation with attorney).

No action was taken in executive session.

COMMISSIONERS COURT RECONVENED FROM EXECUTIVE SESSION AT 10:06 A.M. ON TUESDAY, DECEMBER 1, 1998.

AGENDA ITEM # 27**December 1, 1998*******

Discuss and take any appropriate action on personnel matters.

Moved: Commissioner Heiligenstein

Seconded: Commissioner Boatright

Motion: To authorize Judge Doerfler to offer Joseph Latteo maintenance director position at \$37,868.00 annually effective January 1, 1999, pending background check results.

Vote: Motion carried 5 - 0