

AGENDA ITEM # 38AUGUST 31, 1999

Consider request of Parks Advisory Board of Hutto for assistance in purchase of land for park development.

Hutto City Administrator Melvin Yantis requested \$44,000.00 for purchase of 5.67 acres land for park development. The acreage is located east of FM 1660 near Cottonwood Creek adjacent to the elementary school. The city has received a \$200,000.00 grant from Lower Colorado River Authority to assist in development of a community recreation facility with a pavilion, ball fields, hike and bike trails and picnic facilities.

The City of Hutto will accept all operational responsibility of the park.

The owners of the property are selling 5.67 acres and donating 5 acres to the City of Hutto.

Moved: Commissioner Limmer

Seconded: Judge Doerfler

Motion: To approve payment of \$44,000.00 to the City of Hutto for purchase of 5.67 acres of land for city park development.

Vote: Motion carried 5 - 0

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LIMMER

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102 Highway 79 East
P.O. Box 280
Hutto, Texas 78634



August 2, 1999

Commissioner Frank Limmer
900 S. Main
P O Box 1104
Taylor, Tx 76574

Office: (512) 759-1011
Office: (512) 759-3479
Fax: (512) 846-2653
Court: (512) 846-6000
Police Dispatch: (512) 846-2200
Police Office: (512) 759-1011
Public Works: (512) 759-1011

Re: City of Hutto Park Development

Dear Sir,

As we discussed the City of Hutto is in the process of obtaining Grants to develop a community park in the City. The goal is to obtain donations and grants to have a community recreation facility with a pavilion, ball fields, hike and bike trails, and picnic facilities. There is a great need for a park in the Hutto area.

We the Parks Advisory Board of Hutto request the County assist us in the purchase of land for park development. I am enclosing a copy of a contract for the purchase of approximately 5 acres of land with a donation of a matching amount of land. If the County provides the \$44,000.00 purchase price, we can use that to obtain a matching amount in the State grant.

Thank you for your assistance in the park development for Hutto.

Sincerely,

Mel Yantis
City Administrator

*approved 8-31-99
out of park bonds
John C. Daerfler Thanks JJ*

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RECORDERS MEMORANDUM

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clearly legible for satisfactory recordation.

UNIMPROVED PROPERTY CONTRACT

1. PARTIES: JANET DAVENPORT AND JOEL SANDBERG (Seller) agrees to sell and convey to THE CITY OF HUTTO, TEXAS, a General Law City (Buyer) and Buyer agrees to buy from Seller the property described below.
2. PROPERTY: Being 5.67 acres, described in the attached Exhibit "A" (the Property). The Property is not subject to mandatory membership in an owners' association. The TREC Addendum For Property Subject To Mandatory Membership In An Owners' Association is not attached.
3. CONTRACT SALES PRICE:
 - A. Cash portion of Sales Price payable by Buyer at closing \$ 44,000.00
 - B. Sum of financing described below \$ 0.00
 - C. Sales Price (Sum of A and B) \$ 44,000.00
4. FINANCING: Not Applicable
5. EARNEST MONEY: Buyer shall deposit \$500.00 as Earnest Money with Longhorn Title Company, at 309 North Main Street, Taylor, Texas 76574, as Escrow Agent, upon execution of this contract by both parties. If Buyer fails to deposit the Earnest Money as required by this contract, Buyer will be in default.
6. TITLE POLICY AND SURVEY:
 - A. TITLE POLICY: Seller shall furnish to Buyer at Buyer's expense an owner policy of title insurance (the Title Policy) issued by Longhorn Title Company (the Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
 - (1) Restrictive covenants common to the platted subdivision in which the Property is located.
 - (2) The standard printed exception for standby fees, taxes and assessments.

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- (3) Liens created as part of the financing described in Paragraph 4.
- (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
- (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
- (6) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements.
- (7) The standard printed exception as to marital rights.
- (8) The standard printed exception as to waters, tidelands, beaches, streams and related matters.

Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for Title Insurance (the Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment other than the standard printed exceptions. Seller authorizes the Title Company to mail or hand deliver the Commitment and related documents to Buyer at Buyer's address shown below. If the Commitment is not delivered to Buyer within the specified time, the time for delivery shall be automatically extended up to 15 days.

B. SURVEY:

Within thirty (30) days after the effective date of this contract, Buyer shall obtain a survey at Buyer's expense.

The survey must be made by a Registered Professional Land Surveyor acceptable to the title company and any lender.

Buyer may object to existing building and zoning ordinances, items 6A(1) through (8) above and matters shown on the survey if Buyer determines that any such ordinance, items or matters prohibits the following use or activity: N/A

Buyer will have 7 days after the receipt of the latter of the Commitment or survey to object in writing to matters disclosed in the Commitment or survey. Buyer's failure to object under

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RECORDERS MEMORANDUM

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Paragraph 6 within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment will not be deemed to have been waived. Seller shall cure the timely objections of Buyer or any third party lender within 20 days from the date Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured by the extended Closing Date, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer elects to waive the objections.

NOTICE TO SELLER AND BUYER:

- (1) Buyer is advised to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49 of the Texas Water Code requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (3) If the property abuts the tidally influenced waters of the state, Section 33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum either promulgated by TREC or required by the parties should be used.
- (4) Buyer is advised that the presence of wetlands, toxic substances including asbestos and wastes or other environmental hazards or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum either promulgated by TREC or required by the parties should be used.
- (5) Unless expressly prohibited in writing by the parties, Seller may continue to show the Property for sale and to receive, negotiate and accept back up offers.

7. PROPERTY CONDITION:

- A. **INSPECTIONS, ACCESS AND UTILITIES:** Buyer may have the property inspected by an inspector selected by Buyer,

licensed by TREC or otherwise permitted by law to make such inspections. Seller shall permit access to the Property at reasonable times for inspection, repairs and treatment and for reinspection after repairs and treatment have been completed. Seller shall pay for turning on utilities for inspection and reinspection.

B. ACCEPTANCE OF PROPERTY CONDITION

Buyer accepts the Property in its present condition; provided Seller, at Seller's expense, shall complete the following repairs and treatment: None.

8. **BROKER'S REPRESENTATION AND FEES:** All obligations of the parties for payment of brokers' fees are contained in separate written agreements.
9. **CLOSING:** The closing of the sale will be on or before January 2, 2000, or within 7 days after objections to matters disclosed in the Commitment or by the survey have been cured, whichever date is later (the Closing Date). If financing or assumption approval has been obtained pursuant to Paragraph 4, the Closing Date will be extended up to 15 days if necessary to comply with lender's closing requirements (for example, appraisal, survey, insurance policies, lender-required repairs, closing documents). If either party fails to close this sale by the Closing Date, the non-defaulting party will be entitled to exercise the remedies contained in Paragraph 15. At closing Seller shall furnish tax statements or certificates showing no delinquent taxes, and a general warranty deed conveying good and indefeasible title showing no additional exceptions to those permitted in Paragraph 6.
10. **POSSESSION:** Seller shall deliver possession of the Property to Buyer at closing and funding.
11. **SPECIAL PROVISIONS:** This Contract is contingent upon the following: 1) The award of Park Grants to the City of Hutto by the Lower Colorado River Authority and the Texas Parks and Wildlife Commission; 2) Donation of the adjacent 5.67 acres by Seller to Buyer; 3) In the event Buyer is unable to obtain the Park Grant and donation of the adjoining 5.67 acres on or before closing, then at Buyer's option, this Contract shall be terminated without liability to Seller or Buyer; and 4) The park will be named after C.F. "Fritz" Jernquist, the name will be placed on appropriate commemorative plaque or entrance sign.

12. SETTLEMENT AND OTHER EXPENSES:

- A. The following expenses must be paid at or prior to closing:
1. Appraisal fees will be paid by Buyer.
 2. The total of loan discount fees may not exceed N/A% of the loan of which Seller shall pay N/A and Buyer shall pay the remainder. The total of any buydown fees may not exceed 2.5 which will be paid by Buyer.
 3. Seller's Expenses: Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses stipulated to be paid by Seller under other provisions of this contract.
 4. Buyer's Expenses: Loan application, origination and commitment fees; loan assumption costs; preparation and recording of deed of trust to secure assumption; lender required expenses incident to new loans, including preparation of loan documents, recording fees, tax service and research fees, warehouse or underwriting fees, copies of restrictions and easements, amortization schedule, premiums for mortgagee title policies and endorsements required by lender, credit reports, photos; required premiums for flood and hazard insurance; required reserve deposit for insurance premiums and ad valorem taxes; interest on all monthly installment payment notes from date of disbursements to one (1) month prior to dates of first monthly payments; customary Program Loan costs for Buyer; one-half of escrow fee; and other expenses stipulated to be paid by Buyer under other provisions of this contract.
- B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. In no event will Buyer pay charges and fees expressly prohibited by governmental loan program regulations.

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clearly legible for satisfactory recordation.

13. PRORATIONS AND ROLLBACK TAXES:

A. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If a loan is assumed and the lender maintains an escrow account, the escrow account must be transferred to Buyer without any deficiency. Buyer shall reimburse Seller for the amount in the transferred account. Buyer shall pay the premium for a new insurance policy. If taxes are not paid at or prior to closing, Buyer will be obligated to pay taxes for the current year.

B. ROLLBACK TAXES: If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of Buyer. If Seller's change in use of the Property prior to closing or denial of a special use valuation on the Property claimed by Seller results in Assessments for periods prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty loss after the effective date of the contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may either (a) terminate this contract and the Earnest Money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition and accept an assignment of insurance proceeds. Seller's obligations under this paragraph are independent of any obligations of Seller under Paragraph 7.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may either (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the Earnest Money as liquidated damages, thereby releasing both parties from this contract. If, due to factors beyond Seller's control, Seller fails within the time allowed to make any non-casualty repairs or deliver the Commitment, Buyer may either (a) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (b) terminate this contract as the sole remedy and receive the Earnest Money. If Seller fails to comply with this contract for any

RECORDERS MEMORANDUM

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other reason, Seller will be in default and Buyer may either (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the Earnest Money, thereby releasing both parties from this contract.

16. **DISPUTE RESOLUTION:** It is the policy of the State of Texas to encourage the peaceable resolution of disputes through alternative dispute resolution procedures. The parties are encouraged to use an addendum approved by TREC to submit to mediation disputes which cannot be resolved in good faith through informal discussion.
17. **ATTORNEY'S FEES:** The prevailing party in any legal proceeding brought under or with respect to the transaction described in this contract is entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.
18. **ESCROW:** The Earnest Money is deposited with Escrow Agent with the understanding that Escrow Agent is not (a) a party to this contract and does not have any liability for the performance or non-performance of any party to this contract, (b) liable for interest on the Earnest Money and (c) liable for any loss of earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent. At closing, the earnest money must be applied first to any cash down payment, then to Buyer's closing costs and any excess refunded to Buyer. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties. If one party makes written demand for the earnest money, escrow agent shall give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 30 days after notice to the other party, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursement of the earnest money. Escrow agent's notice to the other party will be effective when deposited in the U.S. Mail, postage prepaid, certified mail, return receipt requested, addressed to the other party at such party's address shown below. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

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19. **REPRESENTATIONS:** Seller represents that as of the Closing Date (a) there will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing payment of any loans assumed by Buyer and (b) assumed loans will not be in default. If any representation in this contract is untrue on the Closing Date, this contract may be terminated by Buyer and the earnest money will be refunded to Buyer. All representations contained in this contract will survive closing.
20. **FEDERAL TAX REQUIREMENT:** If Seller is a "foreign person", as defined by applicable law, or if Seller fails to deliver an affidavit that Seller is not a "foreign person", then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. IRS regulations require filing written reports if cash in excess of specified amounts is received in the transaction.
21. **AGREEMENT OF PARTIES:** This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part for this contract are (list): NONE
22. **CONSULT YOUR ATTORNEY:** This is intended to be legally binding. READ IT CAREFULLY. If you do not understand the effect of this contract, consult your attorney BEFORE signing.

BUYER'S ATTORNEY AND ADDRESS:

Ted W. Hejl
311 Talbot
P.O. Box 192
Taylor, Texas 76574
512-352-6348
512-352-2226-Fax

SELLER'S ATTORNEY AND ADDRESS:

23. **NOTICES:** All notices from one party to the other party must be in writing and are effective when mailed to, or hand delivered at, or transmitted by facsimile machine as follows:

EXECUTED in multiple originals on _____, 1999. (THE EFFECTIVE DATE.)

RECORDERS MEMORANDUM
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BUYER
THE CITY OF HUTTO, TEXAS,
a General Law City

By: Glen Pierce
Its: Mayor

ADDRESS AND TELEPHONE:
P.O. Box 280
Hutto, Texas 78634

Telephone: 512-759-3249
Facsimile: 512-846-2653

SELLER

Janet Davenport
Janet Davenport
Joel J. Sandberg
Joel Sandberg

ADDRESS AND TELEPHONE:
1400 FM 1660
Hutto, TX 78634
Telephone: 512-869-7080
Facsimile: 512-868-0433

RECEIPT

Receipt of [] Contract and [] \$_____ Earnest Money in
the form of _____ is acknowledged.

Date: _____, 1999.

Longhorn Title Company
Escrow Agent

BY: _____

ESCROW AGENT'S ADDRESS: 309 North Main Street, Taylor, Texas
76574

PREPARED IN THE OFFICE OF:
Ted W. Hejl
P.O. Box 192
Taylor, Texas 76574

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RECORDERS MEMORANDUM
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clearly legible for satisfactory recordation.

Tract I-A

All that certain tract or parcel of land situated in Williamson County, Tenn., out of the W. J. Brown Survey, Abstract No. 105, and being a part of that tract conveyed to C. F. Jarnquist by Deed dated October 23, 1946 and recorded in Volume 378, Page 272 of the Williamson County Deed Records and described by notes and bounds as follows:

BEGINNING at an iron pin set for the Southwest corner of Lot 31, The Commonwealth, a subdivision recorded in Cabinet E, Side 307 of the Williamson County Plat Records for the Northwest corner of said Jarnquist tract and this tract;

THENCE: N 77° 35' 00" E 544.76 feet along the South line of said subdivision and the North line of said Jarnquist tract, being the basis of bearings cited herein, to an iron pin set for the Northwest corner of this tract;

THENCE: S 9° 30' 00" E 554.20 feet to an iron pin set in the South line of said Jarnquist tract for the Southeast corner of this tract;

THENCE: S 79° 50' 01" W 339.01 feet to an iron pin set for a corner of that tract described in a Warranty Deed to Lena Geiser, et al, dated November 13, 1944 and recorded in Volume 473, Page 73 of said deed records for the Southwest corner of said Jarnquist tract and this tract;

THENCE: N 9° 30' 00" W 234.27 feet to an iron pin set for the Northwest corner of that tract conveyed to the Northwest corner of that tract described in a Warranty Deed to Leflore Kyle dated July 31, 1972 and recorded in Volume 553, Page 373 of said deed records for an inside corner of said Jarnquist tract and this tract;

THENCE: S 77° 45' 00" W 197.99 feet to an iron pin found for the most Westerly Southwest corner of said Jarnquist tract and this tract;

THENCE: N 11° 17' 07" W 301.69 feet to the place of Beginning and containing 3.67 acres of land.

Tract I-B

All that certain tract or parcel of land situated in Williamson County, Tenn., out of the W. J. Brown Survey, Abstract No. 105, and being a part of that tract conveyed to C. F. Jarnquist by Deed dated October 23, 1946 and recorded in Volume 384, Page 272 of the Williamson County Deed Records and described by notes and bounds as follows:

BEGINNING at an iron pin set found for the Southeast corner of said Jarnquist tract and this tract;

THENCE: S 79° 50' 01" W 339.01 feet to an iron pin set for a corner of that tract described in a Warranty Deed to Lena Geiser, et al, dated November 13, 1944 and recorded in Volume 473, Page 73 of said deed records for the Southwest corner of said Jarnquist tract and this tract;

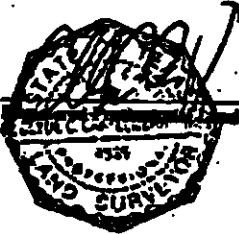
THENCE: N 9° 30' 00" W 554.20 feet across said Jarnquist tract to an iron pin set in the South line of Lot 34, The Commonwealth, a subdivision recorded in Cabinet E, Side 307 of the Williamson County Plat Records for the Northwest corner of this tract;

THENCE: N 77° 35' 00" E 534.27 feet along the South line of said subdivision and the North line of said Jarnquist tract, being the basis of bearings cited herein, to an iron pin set for the Northwest corner of that tract conveyed to the City of Hume by deed dated February 29, 1946 and recorded in Volume 410, Page 360 of said deed records, for the Northwest corner of this tract;

THENCE: S 9° 57' 13" W 514.61 feet into said Jarnquist tract, to an iron pin found for the Southwest corner of that tract conveyed to the City of Hume by deed dated September 1, 1972 and recorded in Volume 555, Page 2 of said deed records for an inside corner of this tract;

THENCE: N 79° 45' 00" E 197.99 feet to an iron pin set for the Southeast corner of said City of Hume tract (555/2) in the East line of said Jarnquist tract and the West line of an unimproved street known as Park Street for a Northwest corner of this tract;

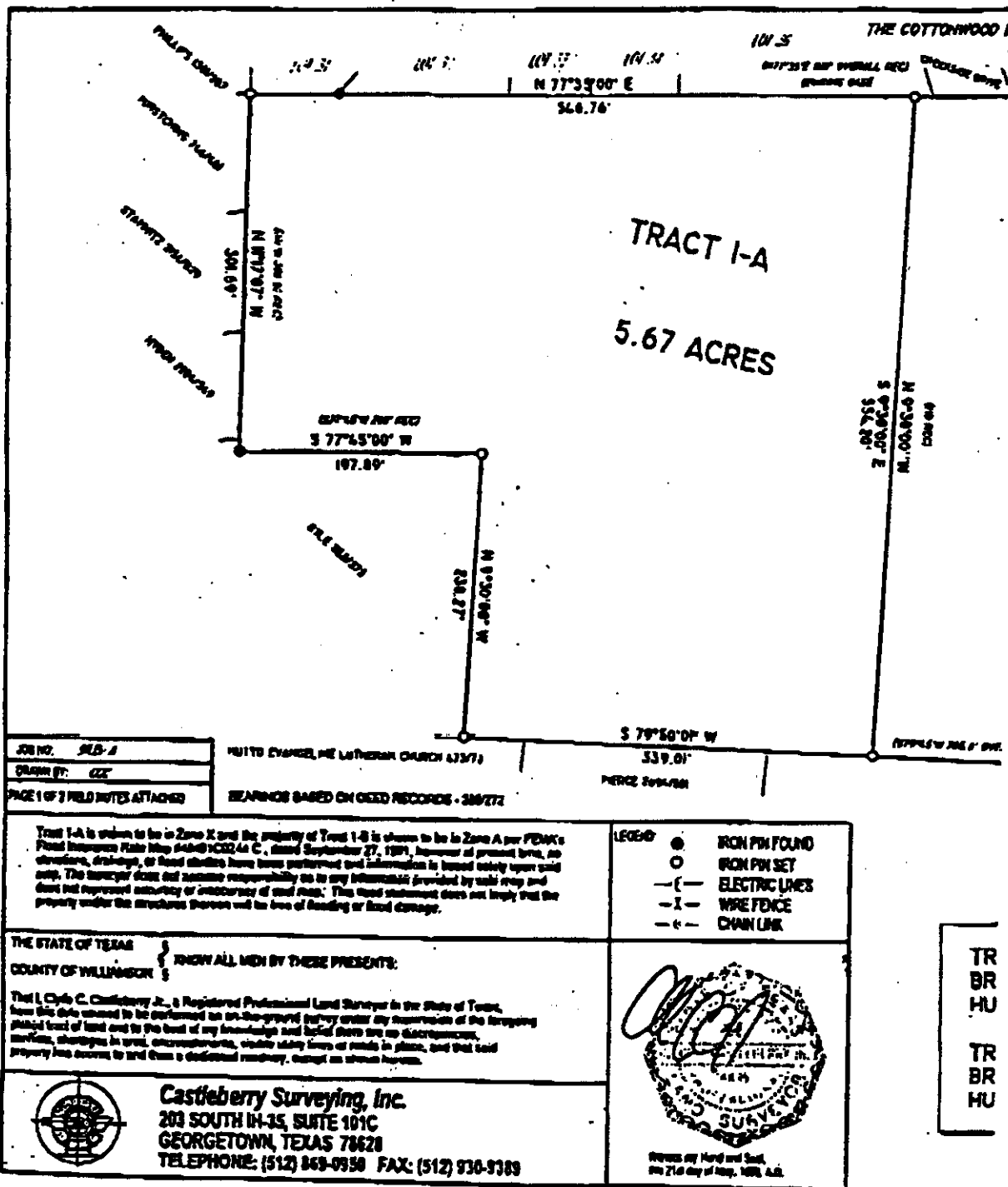
THENCE: S 11° 17' 07" W 301.69 feet to the place of Beginning and containing 3.67 acres of land.



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AGENDA ITEM # 39**AUGUST 31, 1999**

Discuss and take any appropriate action on Animal Control Ordinance.

Commissioner Limmer suggested the county animal control ordinance be revised to cover loose live stock by forming a committee to write a policy with which the Sheriff's Department could operate. He also suggested the \$225.00 fine should be reduced.

Chief Deputy Sheriff Richard Elliott advised his department has an animal control standard operating procedure in place at this time. The animal control officer should not file a citation against the owners unless it is a subsequent offense. The County Attorney will not prosecute a first offense.

County Attorney Gene Taylor advised if a fine had been issued on a first offense, that individual should call him and it will be taken care of. He continued with a fine being assessed is an attempt to modify behavior.

The decision was made for the County Attorney, Commissioner Limmer and Chief Deputy Elliott to meet for discussion of changes to the policy with an item on a later agenda for discussion and/or action.

AGENDA ITEM # 40**AUGUST 31, 1999**

Consider approving sale of surplus assets from Constable, Precinct #4 to G.T. Distributors for \$100.00 credit on certain new equipment items:
(2) Federal Signal "Streethawk" lightbars.

Moved: Commissioner Hays

Seconded: Commissioner Limmer

Motion: To approve sale of surplus assets from Constable, Precinct #4 to G. T. Distributors for \$100.00 credit on certain new equipment items:

(2) Federal Signal "Streethawk" lightbars

Vote: Motion carried 4 - 0 with Commissioner Boatright absent from the dais.

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