

AGENDA ITEM 31

Consider approving reimbursement to Belinda Bartz for expenses incurred during a training school.

No action was taken on this agenda item, pending the receipt of additional information.

AGENDA ITEM 32

Enter into a contract with Hickory Pass LP to purchase golden-cheeked warbler habitat from the Hickory Pass Ranch mitigation bank.

Mike Weaver stated that this is a mitigation bank recently approved by U.S. Fish & Wildlife. It is a \$546,000 acquisition for 109.2 acres, which grants the county a permit to build Parmer Lane to FM 2243. Another permit will be submitted for the FM 2243 to SH 29 portion.

Moved: **Commissioner Hays**

Seconded: **Judge Doerfler**

Motion: To enter into a contract with Hickory Pass, L.P. to purchase golden-cheeked warbler habitat from the Hickory Pass Ranch mitigation bank.

Vote: **4 - 0**

< Attachment >

GOLDEN-CHEEKED WARBLER MITIGATION CREDIT PURCHASE AGREEMENT

THIS MITIGATION CREDIT PURCHASE AGREEMENT (this "Agreement") is made by **Hickory Pass, L.P.**, a Texas limited partnership ("HP"), and **Williamson County, Texas** ("Buyer"), on _____, 2002.

BACKGROUND

- A. HP, in cooperation with U.S. Fish and Wildlife Service (the "Service"), has established the Hickory Pass Ranch Conservation Bank (the "Conservation Bank") for the preservation and protection of the Golden-cheeked Warbler ("GCW").
- B. HP and the Service signed the Hickory Pass Ranch Conservation Bank Agreement (the "Conservation Bank Agreement"), effective April 1, 2002, that governs the Conservation Bank.
- C. The Conservation Bank Agreement provides for the creation of mitigation credits ("Mitigation Credits") that HP may sell to public or private parties seeking to mitigate the effects of their proposed projects on GCWs. Each Mitigation Credit shall be equivalent to one acre of GCW habitat that is acceptable by the Service for GCW mitigation.
- D. Buyer desires to develop certain property that is sometimes known as the Parmer Lane extension and that development will have an impact on GCWs.
- E. Buyer desires to mitigate that impact by purchasing Mitigation Credits from HP and HP desires to sell Mitigation Credits to Buyer.

AGREEMENT

IN CONSIDERATION of the premises above and other good and valuable consideration, HP and Buyer agree as follows:

1. Sale/Purchase of Mitigation Credits. HP shall sell to Buyer and Buyer shall purchase from HP the following number of Mitigation Credits upon the terms and conditions below:

1.1. Number of Mitigation Credits. **109.2** Mitigation Credits shall be sold by HP and purchased by Buyer.

1.2. Purchase Price. The purchase price of the Mitigation Credits shall be **\$5,000 per Mitigation Credit**, for a total of \$546,000 (the "Purchase Price").

1.3. Closing. The closing of this transaction (the "Closing") shall be conducted as follows:

A. Closing Date. The date of Closing (the "Closing Date") shall be at the earlier of the following dates:

1. At a mutually acceptable time and date on or before 5 days after the issuance of Buyer's (i) 404 Permit and (ii) Section 7 Consultation Biological Opinion; or

2. At 10:00 a.m. on Tuesday, June 18, 2002.

B. Location. The Closing shall be held at a mutually acceptable location or, if no location is mutually acceptable, then at the offices of Ikard & Golden, P.C., 106 E. Sixth Street, Suite 500, Austin, Texas 78701.

C. Items Delivered. At Closing, HP shall deliver to Buyer an Assignment of Mitigation Credits that is substantially similar to Exhibit F of the Conservation Bank Agreement and any other instruments reasonably requested by Buyer to effectively vest in Buyer all of HP's right, title, and interest in and to the Mitigation Credits. Buyer shall deliver the Purchase Price in cash or other immediately available funds to HP.

2. Representations and Warranties. The following representations and warranties are made as of the effective date of this Agreement and the Closing Date and shall survive Closing:

2.1. HP's. HP represents and warrants that HP has full authority to enter into and perform its obligations under this Agreement and no other person or entity, including the Service, must approve or ratify this Agreement to be effective.

2.2. Buyer's. Buyer represents and warrants that Buyer has full authority to enter into and perform its obligations under this Agreement and no other person, board, committee, council, or entity must approve or ratify this Agreement to be effective.

3. General.

3.1. Notice. Any notice or other communication given under this Agreement shall be in writing and shall be deemed to have been given (i) when delivered by hand with receipt acknowledged, (ii) on the next business day following confirmation of a fax transmission, or (iii) on the 5th day after deposit in the United States mail, registered or certified with postage prepaid, return receipt requested. Each notice shall be delivered using the following information:

To HP:

To Buyer:

Hickory Pass, L.P.
D.H. Johnston, General Partner
1803 Brookhaven Drive
Austin, Texas 78704
Phone: (512) 472-4542
Fax: (512) 472-3669

3.2. Parties Bound. The terms and provisions of this Agreement shall be binding upon the parties, their heirs, personal representatives, successors, and assigns.

3.3. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the sale and purchase of mitigation credits and no other agreement, statement, or promise made by any party, or to any employee, officer, partner or agent of any party, which is not contained in this Agreement, shall be binding or valid.

3.4. Modification. This Agreement is not subject to modification except in a writing signed by all parties and any attempted modification not in compliance with this requirement is void.

3.5. Further Assurances. HP and Buyer shall cooperate to take and complete any other reasonable or necessary actions to fulfill the parties' intent as expressed by this Agreement.

3.6. Interpretation.

A. Headings. All titles, headings, and captions used in this Agreement have been inserted for reference purposes only and shall not in any way affect the meaning and interpretation of its provisions.

B. Gender, Tense. Pronouns, nouns, and terms used in this Agreement shall include the masculine, feminine, neuter, singular and plural forms wherever appropriate to the context.

C. Including. "Including" is used to list examples and is not used by way of limitation.

D. May. "May" is used to indicate that an action or inaction is permissible but not required.

E. No Presumption. This Agreement shall be deemed to be drafted equally by both parties after consultation with each party's attorney.

3.7. Attorney's Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be awarded attorney's fees and costs.

3.8. Multiple Originals. This Agreement is being executed as two original documents so that each party may have an original. Both documents shall be considered original and shall be interpreted as one and the same document.

3.9. Applicable Law. This Agreement shall be governed by and construed according to Texas law.

EXECUTED ON 5-7-02

HP:

Hickory Pass, L.P.,
A Texas limited partnership

By: [Signature]
Name: D.H. Johnston
Title: General Partner

Buyer:

Williamson County, Texas

By: [Signature] 5-7-02
Name: John C. Doerflinger
Title: County Judge

AGENDA ITEM 33

Discuss and take appropriate action on the appointment of a Judge for County Court #2.

The following persons addressed the court regarding the proposed appointment:

Rick Birkman, Republican Precinct Chair, Precinct 160, asked the court to appoint Suzanne Brooks to the vacancy in County Court at Law #2.

Kathy Boyd, Republican Precinct Chair, Precinct 305, asked the court to appoint Suzanne Brooks to the vacancy in County Court at Law #2.

Christine Smart, Republican Precinct Chair, Precinct 381, asked the court to appoint Suzanne Brooks to the vacancy in County Court at Law #2.

Bleecker Morse, Republican Precinct Chair, Precinct 275, asked the court to wait to make an appointment until the GOP Executive Committee makes a decision.

Commissioner Boatright stated that he believes that it would be good for Suzanne Brooks to be appointed so that she could learn the system and become familiar with the job.

Judge Doerfler said, that after much thought on the subject, he had a problem with appointing someone to the position right now. He stated that to avoid confusion and disruption in the court, he felt that an appointment should wait until after the Executive Committee makes a decision. He said that if the motion fails, the item would be put back on the agenda for next week.

Commissioner Limmer also stated that he believes the vote should wait until the Executive Committee makes a decision.

Moved: **Commissioner Boatright**

Motion: To appoint Suzanne Brooks as Judge for County Court at Law #2.

Motion failed for lack of a second.

AGENDA ITEM 34

Consider declaring an emergency and approving a budget amendment from cash ending balance to:

0100-0570-003316	Jail, Medical	392,000.00
------------------	---------------	------------

Moved: **Commissioner Hays**

Seconded: **Commissioner Boatright**

Motion: To declare an emergency and approve a budget amendment from cash ending balance to:

0100-0570-003316	Jail, Medical	392,000.00
------------------	---------------	------------

Vote: **4 - 0**

< Attachment >