

**AGENDA ITEM 39**

Discuss previous action concerning Rabies Control Officer and take any appropriate action.

Mahlon Arnett addressed the court with a request to be reinstated as the Rabies Control Authority for Williamson County. He said that he has always followed what the law says, and has often asked for the advice of Dr. Beverlee Nix, the head of the Health Department Zoonosis Control for this region.

Commissioner Limmer stated that some owners of domestic animals that had bitten someone were not confining their animals properly.

Sgt. Mike Gleason stated that the Sheriff's Office wanted to standardize the procedures so that they have the responsibility for picking up the animal, responsibility for dispensing information to the citizen, and responsibility for the outcome of the situation.

Mr. Arnett shared his concern that Animal Control may not be impounding the animals quickly enough, and feels that one disagreement in the last year does not constitute good reason to replace him as the Rabies Control Authority.

Judge Doerfler asked Commissioner Limmer to meet with Mr. Arnett and Sgt. Gleason to discuss the issue.

**AGENDA ITEM 40**

Discuss and consider setting date to receive bids for the Courts Annex Expansion.

No action was taken on this agenda item, which will be added to the September 3, 2002 agenda.

**AGENDA ITEM 41**

Discuss and take appropriate action on jail/courthouse annex expansion.

No action was taken on this agenda item.

**AGENDA ITEM 42**

Discuss and take appropriate action on the road bond program.

No action was taken on this agenda item.

**AGENDA ITEM 43**

Discuss and consider a resolution authorizing the County Judge to execute and submit a Petition of Travis and Williamson Counties for approval for a Regional Mobility Authority.

No action was taken on this agenda item, which will be added to the September 3, 2002 agenda.

**AGENDA ITEM 44**

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

The contract with Hickory Pass is in the amount of \$582,500 for 116.5 acres of the mitigation bank. It will satisfy the requirements of the Endangered Species Act, and will cover the Parmer Lane Extension from Leander Road to SH 29.

Moved: Commissioner Hays

Seconded: Commissioner Heiligenstein

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

Vote: 5 – 0

## **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 August \_\_\_, 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 (FM 2243 to Hwy 29) 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. 116.5 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 \$582,500 (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, October 15, 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 5<sup>th</sup> 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:**

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

#### **To Buyer:**

Williamson County, Texas  
c/o John C. Doerfler  
County Judge  
710 Main Street  
Suite 201  
Georgetown, Texas 78626  
(512) 943-1550

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.

THIS AGREEMENT IS EFFECTIVE & BINDING on the last date shown below.

HP:

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

By: \_\_\_\_\_

Name: D.H. Johnson

Title: General Partner

Date: August 13, 2002

Buyer:

Williamson County, Texas

By: \_\_\_\_\_

Name: John C. Doerfler

Title: County Judge

Date: 8-27-02

**AGENDA ITEM 45**

Discuss and take appropriate action concerning the park advisory committee.

Commissioner Boatright said that the committee has drafted job descriptions for the Parks Director and the Scheduler, and will give them to Human Resources Director John Willingham by next week.

**AGENDA ITEM 46**

Consider approving professional services contract for development of the Brushy Creek Trailhead facility.

Charlie Crossfield stated that Tim O'Connor has been working with Lisa England to advise the County on how the industry works and helped with financial projects to determine if the project will work.

**Moved: Commissioner Heiligenstein**

**Seconded: Judge Doerfler**

**Motion:** To approve a professional services contract with Tim O'Connor for development of the Brushy Creek Trailhead facility.

**Vote: 4 – 0. Commissioner Limmer was absent from the dais.**

< Attachment >