

Item 6



Travis County Commissioners Court Agenda Request

Meeting Date: May 7, 2013

Prepared By/Phone Number: Danny Hobby/854-4416

Elected/Appointed Official/Dept. Head: Danny Hobby

Commissioners Court Sponsor: County Judge Samuel T. Biscoe

AGENDA LANGUAGE:

CONSIDER AND TAKE APPROPRIATE ACTION FOR
RECOMMENDATIONS REGARDING THE TRAVIS COUNTY FIRE
MARSHAL:

- A. RE-APPOINT HERSHEL NOAH LEE AS TRAVIS COUNTY FIRE
MARSHAL FOR A TERM CERTAIN NOT TO EXCEED 2 YEARS;
AND
- B. SET AN APPROPRIATE SALARY; AND
- C. APPROVE RENEWAL OF CURRENT BOND

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

Hershel Noah Lee was appointed Fire Marshal for a two year term in May 2011 by the Court. Mr. Lee has continued to provide leadership and management oversight for the Fire Marshal's office in regard to both administration and operations (Investigations, planning review, inspections, fire code enforcement, and special programs such as the juvenile fire safety program).

The Fire Marshal has many responsibilities and coordination with outside law enforcement agencies, fire districts, municipalities, school districts, medical care agencies, criminal courts, event coordinating agencies, contractors and developers, and many other groups involving fire code regulations and requirements.

Noted achievements this past term have been implementation of the new fire code enforcement guidelines for those who violate the fire code (the first such guidelines we have found state-wide); the oversight of the

investigative work involved in the Labor Day Fires; the leadership provided to the Fire Marshal's Office and to the community regarding fire code requirements for the planning and design of facilities and structures at the Circuit of the Americas for the Formula 1 race held this past November 2012; oversight and direction for drought risks regarding both burn ban requirements and the sale of fireworks; and continued convictions for arson cases taken forward through the legal process.

STAFF RECOMMENDATIONS:

Emergency Services recommends approval of the three requests.

ISSUES AND OPPORTUNITIES:

There are no issues that are of concern regarding Mr. Lee's past performance and continued excellent service to Travis County. The opportunity is to continue Mr. Lee's term for another 2 years so that his good work can continue and the community be served well by his dedication, his skills, and his superb work ethic.

FISCAL IMPACT AND SOURCE OF FUNDING:

A salary increase is recommended for Mr. Lee. This request is asking funding to be taken from allocated reserves. Possible salary options are recommended for Court consideration, and will be discussed with the Court if they desire to do so.

REQUIRED AUTHORIZATIONS:

Barbara Wilson, County Attorney's Office
Alan Miller, Planning and Budget Office
Bill Patterson, Risk Management Division, HRMD

EMERGENCY SERVICES

DANNY HOBBY, COUNTY EXECUTIVE

P. O. Box 1748

AUSTIN, TEXAS 78767

(512) 854-4416, FAX (512) 854-4786



*Emergency Management
Pete Baldwin, Emergency
Mgmt. Coordinator*

*Fire Marshal
Hershel Lee*

*Chief Medical Examiner
Dr. David Dolinak*

*STAR Flight
Casey Ping, Program
Director*

MEMORANDUM

To: Travis County Commissioners Court

From: Danny Hobby, County Executive, Emergency Services 

Date: April 29, 2013

Subject: Travis County Fire Marshal Re-Appointment

This memorandum is to recommend your re-appointment of Hershel Noah Lee, Travis County Fire Marshal, into the Travis County Fire Marshal position for a term of two years commencing May 19, 2013.

I have received very favorable commendations from various stakeholders (ESD Chiefs, AFD, STAR Flight, TCSO), and from his operational staff within the office. I feel Mr. Lee has shown the leadership within his office and with those whom he serves in the public safety community, including first responders from the various fire departments in the county.

Noted achievements have been implementation of new fire code enforcement guidelines for those who violate the fire code (the first such guidelines we have found state-wide); the oversight of investigative work involved in the Labor Day Fires; the leadership provided to the office and to the community regarding fire code requirements for the planning and design of facilities and structures at the Circuit of the Americas for the Formula 1 race held this past November 2012; oversight and direction for drought risks regarding both burn ban requirements and the sale of fireworks; and continued convictions for arson cases taken forward through the legal process.

I also recommend your consideration of a salary increase for Mr. Lee. This position is exempt and does not have any exceptions for hours worked beyond 40 hours per week. Mr. Lee has shown this past term that he works many hours beyond his 40 hours and provides the leadership necessary for sensitive and high profile issues and cases. Funding will need to come from allocated reserves since we do not have internal salary savings to contribute at this time. I have possible salary options for your consideration if you wish to discuss them with me.

Lastly, I recommend the Court approve a renewal of his current bond. This will be handled through Risk Management. The renewal bond will be effective from May 19, 2013 to May 19, 2015.

Thank you for your consideration in this matter.

WORMLEY MITCHELL

April 16, 2013

Travis County Fire Marshal
C/o Dan Mansour, Tcab 100
PO Box 1748
Austin, TX 78767

Re: Policy #TX627214
Coverage Type: Surety
Policy Period: 5/19/2013 To 5/19/2015

Dear Mr. Mansour:

Enclosed please find Public Official Renewal Bond for Mr. Hershel Noah Lee.

Please review and advise should you have any questions or require any changes.

Thank you, we appreciate your business....

Sincerely,



Carla D. White
Account Manager
Direct Line: (512)628-8413
cw@gcia-tx.com

Since 1952

"YOU CAN DEPEND ON US"

HOME OFFICE
2100 FLEUR DRIVE
DES MOINES, IA 50321-1158
(515) 243-8171
(515) 243-3854 FAX

MERCHANTS BONDING COMPANY

AUSTIN OFFICE
P.O. BOX 26720
AUSTIN, TX 78755-0720
(512) 343-9033
(512) 343-8363 FAX

TEXAS OFFICIAL BOND AND OATH

THE STATE OF TEXAS

County of Travis

} ss.

Bond No. TX 627214

KNOW ALL PERSONS BY THESE PRESENTS:

That we, HERSHEL NOAH LEE, as Principal, and the MERCHANTS BONDING COMPANY (Mutual), a corporation duly licensed to do business in the State of Texas, as Surety, are held and bound unto Travis County Judge, his successors in office, in the sum of Ten Thousand Dollars (\$10,000.00) DOLLARS, for the payment of which we hereby bind ourselves and our heirs, executors and administrators, jointly and severally, by these presents.

THE CONDITION OF THE ABOVE OBLIGATION is such, that, whereas, the above bounden Principal was on the 16th day of May, 2009, duly Appointed to the office of Fire Marshal in and for Travis County in the State of Texas, for a term beginning the 19th day of May, 2013 and ending the 19th day of May, 2015.

Now, therefore, if the said Principal shall well and faithfully perform and discharge all the duties required of him by law as the aforesaid officer, and shall

"faithfully perform the duties of office"

then this obligation to be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that regardless of the number of years this bond may remain in force and the number of claims which may be made against this bond, the liability of the Surety shall not be cumulative and the aggregate liability of the Surety for any and all claims, suits, or actions under this bond shall not exceed the amount stated above. Any revision of the bond amount shall not be cumulative.

PROVIDED, FURTHER, that this bond may be canceled by the Surety by sending written notice to the party to whom this bond is payable stating that, not less than thirty (30) days thereafter, the Surety's liability hereunder shall terminate as to subsequent acts of the Principal.

Dated this 1st day of March, 2013

HERSHEL NOAH LEE

Hershel Noah Lee Principal

HERSHEL NOAH LEE

MERCHANTS BONDING COMPANY (Mutual)

By: Leandra Vasquez
Leandra Vasquez Attorney-in-Fact

ACKNOWLEDGEMENT OF PRINCIPAL

THE STATE OF TEXAS

County of Travis

} ss.

Before me, Debra Eaton Ties, a notary public, on this day personally appeared

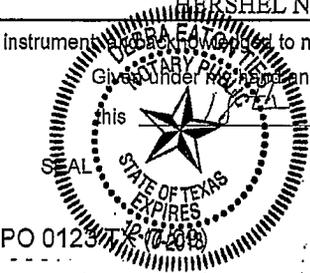
HERSHEL NOAH LEE known to me to be the person whose name is subscribed to the foregoing instrument and he/she appeared to me that he/she executed the same for the purposes and consideration therein expressed.

Given Under My Hand and seal of office, at 5555 Airport Blvd. Ste. 400

this April day of 2013

Debra Eaton Ties

Travis County, Texas.



OATH OF OFFICE
(COUNTY COMMISSIONERS and COUNTY JUDGE)

I, _____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected; and I furthermore solemnly swear (or affirm) that I will not be, directly or indirectly, interested in any contract with or claim against the County, except such contracts or claims as are expressly authorized by law and except such warrants as may issue to me as fees of office. So help me God.

Signed _____

Sworn to and subscribed before me at _____, Texas, this _____ day of _____, _____

SEAL _____ County, Texas

OATH OF OFFICE
(General)

I, _____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God.

Signed _____

Sworn to and subscribed before me at _____, Texas, this _____ day of _____, _____

SEAL _____ County, Texas

THE STATE OF TEXAS } ss
County of _____

The foregoing bond of _____ in and for _____ County and State of Texas, as this day approved in open Commissioner's Court.

ATTEST: _____ Date _____
_____ Clerk _____ County Judge,
County Court _____ County _____ County, Texas

THE STATE OF TEXAS } ss
County of _____

I, _____, County Clerk, in and for said County, do hereby certify that the foregoing Bond dated the _____ day of _____, with its certificates of authentication, was filed for record in my office the _____ day of _____, at _____ o'clock _____ M., and duly recorded the _____ day of _____, at _____ o'clock _____ M., in the Records of Official Bonds of said County in Volume _____, on page _____

WITNESS my hand and the seal of the County Court of said County, at office in _____, Texas, the day and year last above written.

_____ Clerk

By _____ Deputy County Court _____ County

MERCHANTS
BONDING COMPANY™
POWER OF ATTORNEY
for Company Employees

Bond #: TX 627214

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint the following company employees, individually,

Leandra Vasquez

of **Austin** and State of **Texas** their true and lawful Attorney-in-Fact, with full power and authority hereby conferred in their name, place and stead, to sign, execute, acknowledge and deliver in their behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

Unlimited

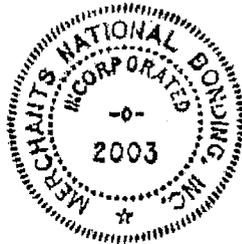
and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 1st day of November, 2011.



MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

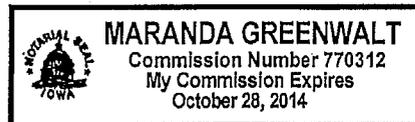
By *Larry Taylor*

President

STATE OF IOWA
COUNTY OF POLK ss.

On this 1st day of November, 2011, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



Maranda Greenwalt

Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 1st day of March, 2013.



William Warner Jr.

Secretary