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Source: The Daily News
Author: T.J. Aulds

SIIS Office: (512) 795-8214
SIIS Cell: (512) 965-4001 Jerry
(512) 468-6965 Sandra

TWIA \$3M payout on hold

[By T.J. Aulds](#)

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A split commissioners court thwarted the county's ability to accept a \$3 million payout as part of a settlement with the Texas Windstorm Insurance Association.

Commissioners Ken Clark and Kevin O'Brien objected to how much the county's outside counsel was getting in contingency fees as part of the settlement, so in a 2-2 vote, the money will just set — for now.

Two years ago, county commissioners voted to hire state Rep. Craig Eiland's law firm on contingency to sue TWIA over what the county claims were under payments on its claims for storm damage to 51 county facilities damaged by Hurricane Ike.

Eiland, D-Galveston, reached a settlement with TWIA that would pay the county \$3.065 million to settle its claims. In addition, TWIA agreed to pay Eiland's law firm \$1.885 million to pay for expenses and the firm's fees.

Clark, who originally opposed hiring Eiland because he is a state representative who sits on the insurance committee of the state house that has oversight of TWIA, objected to accepting the settlement in part because he said Eiland's fees were too high.

"I didn't feel like voting for an hourly rate of \$1,200 for an attorney who is an elected official who oversees TWIA was a proper thing to do," Clark said. "It's still taxpayer money. Actually, it's Galveston County residents' money because TWIA is a co-op. I thought it was incumbent to get the county taxpayers more money."

Eiland disputed Clark's math on fees saying \$650,000 of the expenses was to pay experts who worked on the county's case. He said his fees after additional expenses were actually about \$425 an hour, which is in line with what other attorneys who worked on TWIA cases charged.

For Additional Information:

8303 N Mopac, Ste B-231
Austin, TX 78759

Phone: (512) 795-8214
Fax: (512) 795-9363



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Clark also claimed the county's contract with Eiland was void because the contingency fee was not at first approved by the Texas Comptroller's Officer as required by a law. But seeking that approval was up to the county, not the law firm, Eiland said.

Clark's objections pitted the Republican court member against fellow GOPer County Judge Mark Henry, who said while he would have been opposed to hiring outside counsel for the case in the first place, he reviewed the settlement and found it to be fair.

"From what I can tell, Craig did a meticulous job," Henry said. "He found instances where TWIA underpaid us \$18 on one claim but obviously found others where it was much, much more. We never expected the settlement to be as much as it was."

Henry echoed sentiments from County Commissioner Stephen Holmes, who argued Clark's stance was going back on what the county already had agreed.

"The man did the job and did a good or better job than I expected, Henry said. "Now, we want to beat him up over his fees. That's not really fair."

Holmes said the time to negotiate the terms of the fees was before the contract with Eiland was signed.

"A deal is a deal," he said. "We are in breach if we don't agree to those terms. Either we want the settlement or we don't. I think it's a great windfall for the county."

Eiland said despite the setback, he expects the commissioners will resolve their differences when the settlement comes up again.

Commissioner Patrick Doyle was absent from Tuesday's meeting and said he would support the settlement when it comes up again.

Clark, however, thinks the contract with Eiland is void and claims the county could just walk away from the deal if Eiland doesn't agree to take less money.

"I had one high-profile attorney tell me he'd do this for \$500 an hour," Clark said. "One can argue that \$1,200 is still too much money. If he charged a standard rate, then maybe. I wish I made \$1,200 an hour."

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