

**CITY OF SAN ANTONIO
PARKS AND RECREATION DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council
FROM: Malcolm Matthews, Director, Parks and Recreation Department
SUBJECT: Ordinance Authorizing the Purchase of a 8.264 Acre Tract
DATE: May 12, 2005

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes the purchase of an 8.264 acre tract located adjacent to Martin Luther King Park in City Council District 2 from John Poutra for the amount of \$24,940.23, authorizes \$1,000.00 for closing costs, appropriates \$25,940.23 from Proposition 3 funds; and, establishes a project budget.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

A parcel of 8.264 acres of vacant property is located south of the intersection of Martin Luther King Drive and W. W. White Road. The parcel is enclosed within the boundary of Martin Luther King Park, which is located along Salado Creek. The owner, John Poutra, has agreed to sell the parcel to the City for \$24,940.23, which is the value of taxes owed plus penalty and interest and attorney fees that are currently due. The amount was previously \$42,464.36 but Mr. Poutra's attorney has been successful in having the taxes and fees reduced. The City will pay closing costs and fees.

POLICY ANALYSIS

This acquisition is consistent with the City Proposition 3 Initiative in acquiring park properties along Salado Creek. The land purchase will rectify the current situation in which private property is completely surrounded by a public park. The acquired property will become dedicated parkland as part of Martin Luther King Park adjacent to Salado Creek.

FISCAL IMPACT

The amount of \$25,940.23 from Proposition 3 funds is available for land acquisition along Salado Creek. Property acquisition cost is \$24,940.23 and other closing costs are \$1,000.00.

This property is undeveloped and until it is developed there will be minimal maintenance and security costs associated with the new land acquisition which will not impact the General Fund.

COORDINATION

This action has been coordinated with the City Attorney's Office and the Proposition 3 Office.

SUPPLEMENTARY COMMENTS

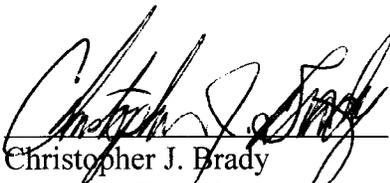
A Discretionary Contracts Disclosure Form is not required.



Malcolm Matthews
Director of Parks and Recreation



Susan Spegar
Proposition Three Special Projects Office



Christopher J. Brady
Assistant City Manager



J. Rolando Bono
Interim City Manager

f

Site Map

Martin Luther King Park Area

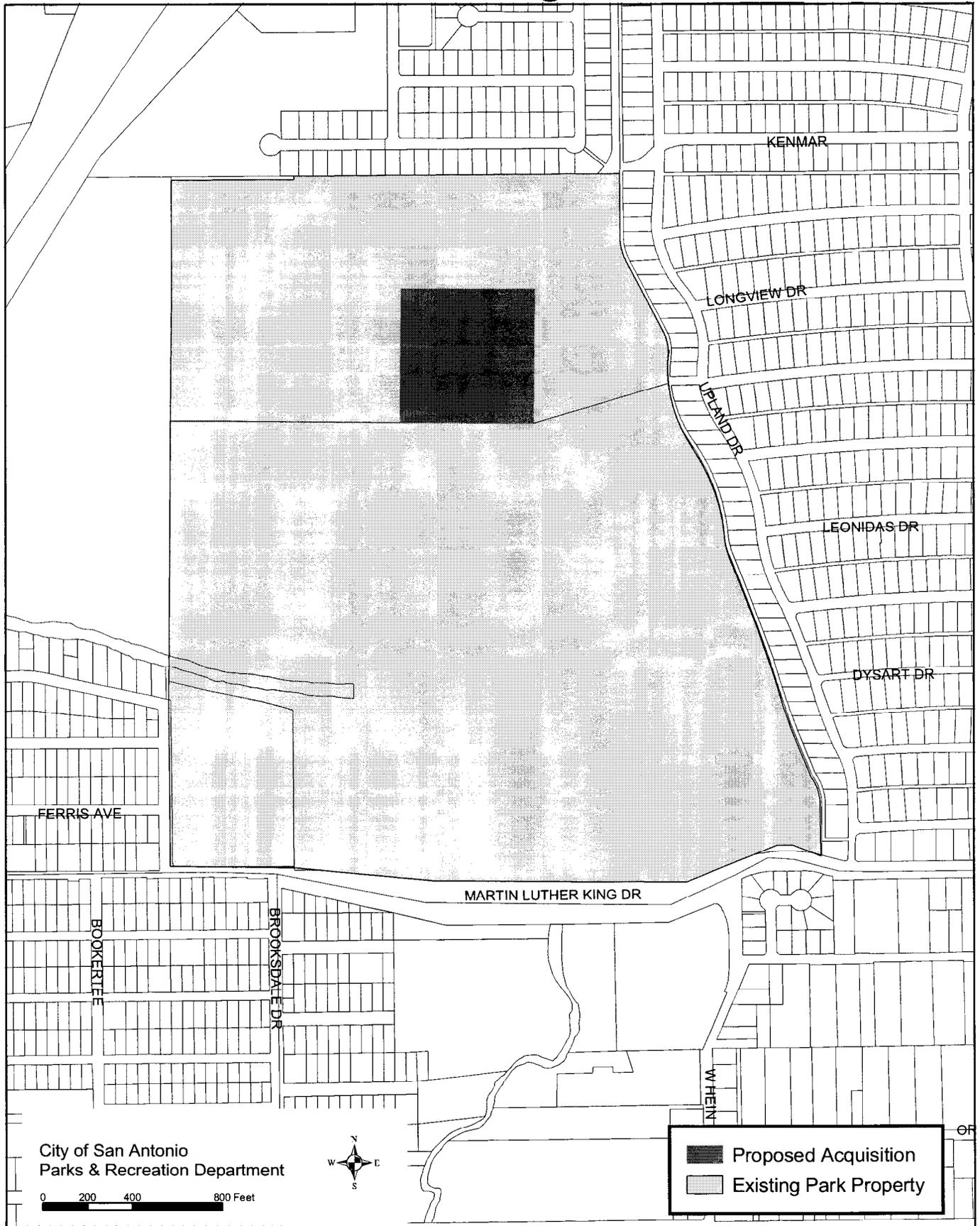


City of San Antonio
Parks and Recreation Department



Site Map

Martin Luther King Park Area



City of San Antonio
Parks & Recreation Department

0 200 400 800 Feet



	Proposed Acquisition
	Existing Park Property

Law Office Of
Charles A. Brown, P.C.
 Post Office Box 1136
 San Antonio, Texas 78294
 Phone: (210) 271-9417
 Fax: (210) 271-9567

April 18, 2005

VIA FACSIMILE (210) 207- 4004

Steven Whitworth, Assistant City Attorney
 100 South Flores, 3rd Floor City Hall
 San Antonio, TX 78205

Re: Contract For Sale Of Property Of 8.264 Acres; Lot P4, Block 29, NCB10677

Dear Mr. Whitworth:

By letter dated August 25, 2004, I forwarded an executed original Unimproved Property Contract, for the sale of the above referenced property to the City of San Antonio by John Poutra. As previously discussed the contract calls for the City to pay only the back taxes, penalty, interest, attorney fees, court costs, etc. associated with the back taxes as full compensation for the purchase of the property. The total amount of taxes, attorneys fees and costs owed to complete the purchase is as follows:

	<u>Taxes Plus</u> <u>Penalty & Interest</u>	<u>Attorneys Fees</u> <u>And Costs</u>	<u>TOTAL</u>
If paid on or before April 30, 2005	\$18,537.30	\$6,258.66	\$24,795.96
If paid on or before May 31, 2005	\$18,681.57	\$6,258.66	\$24,940.23

To refresh your memory, when we initially agreed that the City could purchase the subject property for the outstanding taxes, penalty, interest and costs assessed on the property, the outstanding balance, as reflected in the law suit against Mr. Poutra was \$42,464.36 (see attached Case No. 2004-TA1-1367).

Since it was apparent that the process necessary for the City to consummate the purchase might take a considerable period of time, we agreed to do everything in our power to limit any additional taxes, penalty, and interest, and to obtain a reduction in said amounts if possible. To assist us in this matter and to stay the costs of additional litigation, we retained the services of counsel. As a direct result of our efforts and the efforts of our attorneys, we were able to reduce the amount of current and back taxes, penalty and interest from \$42,464.36 to \$24,795.96. This is a savings of \$17,668.40 in current and back taxes which the City would be paying to acquire the property.

Please update me at your earliest convenience on your progress in this matter, and a target date for the City's acquisition of the property.

Your assistance in this matter is greatly appreciated.

Attachment

Sincerely,



Charles A. Brown, Attorney for
G.J. (John) Poutra III

cc: **VIA FACSIMILE (210) 226-3609:**

Mr. Ronald Rocha
Ms. Veronica Davila Elizalde
LINEBARGER GOGGAN BLAIR
& SAMPSON, LLP
711 Navarro, Suite 300
San Antonio, Texas 78205

G. J. POUTRA, III
102 Rio Seco
San Antonio, TX 78232

ATTACHMENT

COPY

B1

COPY

CITATION

IN ADDITION TO THE DELINQUENT TAXES THERE ARE COURT COSTS ASSESSED BY THE DISTRICT CLERK'S OFFICE. FOR COURT COST INFORMATION ONLY CALL 338-2823. FOR TAX AMOUNTS CALL YOUR TAX OFFICE. FOR QUESTIONS CONCERNING THIS LAWSUIT CALL THE ATTORNEY LISTED IN THE PETITION.

2004 APR 18 10 28 AM '05

DELIVERED THIS 85 DAY OF APR 2004 2004-TA1-1367

RALPH LOPEZ

SHERIFF OF BEXAR COUNTY, TEXAS

BY [Signature] DEPUTY

THE STATE OF TEXAS
COUNTY OF BEXAR

TO: John Poutra
102 Rio Seco
San Antonio, TX 78232

JUN 21 2004

GREETING:

YOU ARE HEREBY COMMANDED to appear and answer, by filing a written answer, before the Honorable District Court, 57TH Judicial District, Bexar County, Texas, at the Courthouse of said county in San Antonio, Texas, at or before 10:00 o'clock a.m. of the Monday next after expiration of 20 days from the date of service of this Citation, then and there to answer the Petition of the County of Bexar, et al, Plaintiff, filed in the said District Court on March 30, 2004 against JOHN POUTRA, DEFENDANT, said suit being number 2004-TA1-1367 on the docket of said Court, the nature of which demand is a suit to collect delinquent ad valorem taxes on the property hereinafter described.

The amount of taxes due Plaintiff, exclusive of interest, penalties, and costs, is the sum of \$25,173.59, said property being described as NCB 10677 P-4.

NOTICE: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

The names of all taxing units which assess and collect taxes on said property not made parties to the suit, are:

Plaintiff and all other taxing units who may set up their tax claims herein seek recovery of delinquent ad valorem taxes on the property hereinabove described, and in addition to the taxes, all interest, penalties and costs allowed by law thereon up to and including the day of judgment herein, and the establishment and foreclosure of liens securing the payment of same, as provided by law.

All parties to this suit, including Plaintiff, Defendants, and intervenors, shall take notice that claims not only for any taxes which were delinquent on said property at the time this suit was filed but all taxes becoming delinquent thereon at any time thereafter up to the day of judgment, including all interest, penalties, and costs allowed by law thereon, may upon request therefor, be recovered herein without further citation or notice to any parties herein, and all said parties shall take notice of and plead and answer to all claims and pleadings now on file and which may hereafter be filed in this cause by all other parties hereto, and by all of those taxing units above referred to, who may intervene herein and set up their respective tax claims against said property.

If this citation is not served within 90 days after the date of its issuance, it shall be returned unserved.

The Officer/Authorized Person executing this return shall promptly serve the same according to the requirements of law and the mandates hereof and make due return as the law directs.

Issued and given under my hand and seal of said Court at San Antonio, Texas, this the 30th day of March, A.D., 2004.

LINEBARGER GOGGAN BLAIR
& SAMPSON, LLP
711 NAVARRO, SUITE 300
SAN ANTONIO, TEXAS 78205

(210) 225-4422

ATTORNEY FOR PLAINTIFF



MARGARET G. MONTEMAYOR
CLERK OF THE DISTRICT COURTS
OF BEXAR COUNTY, TEXAS
100 DOLOROSA
SAN ANTONIO, TX 78205

BY: [Signature]

NO. 2004-TA1-1367

175 JH

COUNTY OF BEXAR, ET AL

:

IN THE DISTRICT COURT

VS.

:

57TH JUDICIAL DISTRICT

JOHN POUTRA

:

BEXAR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

11 21 57

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to the provisions of the Texas Tax Code, the County of Bexar, together with the City of San Antonio, and the San Antonio Independent School District, hereinafter referred to as Plaintiffs, bring this suit for the collection of delinquent ad valorem taxes and in connection therewith would show this Court the following:

I.

Each of the above-named Plaintiffs is a taxing unit legally constituted and authorized to impose and collect ad valorem taxes on property. Plaintiffs intend discovery to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II.

The following are named as Defendants for all purposes in this suit and may be served with notice of these claims by service of this Original Petition at the address and in the manner identified as follows: John Poutra, 102 Rio Seco, San Antonio, TX 78232, (01 10556 0251 RD); and all unknown persons owning, having or claiming any interest or lien in the property described herein and the unknown heirs and legal representatives of all Defendants.

III.

The following are impleaded herein as Defendants because they have or claim a lien interest in the property described herein and may be served with notice of these claims by service of this Original Petition at the address and in the manner identified as follows: None.

IV.

All other taxing units assessing or collecting taxes on said property are and shall be included in this suit and shall be invited to add their claims.

V.

All the parties to this suit, including Plaintiffs, Defendants, and intervenors, shall take notice that claims for any and all taxes becoming delinquent on said property at any time subsequent to the filing of this suit, up to the day of judgment, are incorporated in this suit, and upon request therefor shall be recovered herein without further citation or notice, and that such claims for such delinquent taxes shall include all penalties, interest, and costs allowed by law. Plaintiff(s) are entitled to recover each penalty that is incurred and all interest that accrues on delinquent taxes imposed on the property from the date of judgement to the date of sale.

VI.

As to each separately described property, there are delinquent taxes, penalties, interest, and costs justly due, owing and unpaid against the property described in Exhibit A, which is attached hereto and made a part hereof by reference for all purposes, for the years and in the amounts therein set forth.

VII.

All of these taxes were authorized by law and said taxes in the stated amount were legally imposed on each separately described property for each year specified and on each person named, if known, who owned the property on January 1 of the year in which the tax was imposed. Plaintiff(s) now have and assert a lien on each tract of real property and each item of personal property described and mentioned herein to secure the payment of all taxes, penalties, interest and costs due. Pursuant to Rule 54 of the Texas Rules of Civil Procedure, Plaintiff(s) affirmatively aver that all things required by law to be done have been done properly by the appropriate officials and all conditions precedent have been met.

VIII.

All of the real and personal property described in Exhibit A was, at the time the taxes were assessed, located within the territorial boundaries of each political subdivision in whose behalf this suit is brought. All Defendants named in this suit either owned the property that is the subject of this suit on January 1 of the year in which taxes were imposed on said property, or owned or claimed an interest in said property at the time of the filing of this suit.

IX.

The law firm whose name is signed hereto is legally authorized and empowered to institute and prosecute this action on behalf of Plaintiff(s). Plaintiffs should recover attorney's fees as provided by law for the prosecution of this case, and such attorney's fees should be taxed as costs.

X.

Plaintiff(s) may have incurred certain expenses in procuring data and information as to the name, identity and location of necessary parties, and in procuring necessary legal descriptions of the property that is the subject of this suit. Said expenses, if incurred, are reasonable and are shown in Exhibit A as abstractor's costs, which expenses should be taxed as costs herein.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff(s) ask that the Sheriff of Bexar County and his lawfully empowered deputies, or any other person duly authorized to serve legal process, be directed to serve process upon each Defendant named herein, citing and commanding them to appear and answer herein in the time and manner required by law. Plaintiff(s) further pray that upon final hearing in this cause, they receive judgment against the above-described property for the total amount of taxes, penalties and interest, including taxes, penalties and interest accruing during the pendency of this suit, costs of court, reasonable attorney's fees, expenses of title search and of locating owners, and expenses of foreclosure sale, together with foreclosure of all tax liens. Plaintiff(s) further pray for personal judgment jointly and severally against all Defendants who own or have owned the property in question for the total amount of taxes, penalties and interest, including taxes, penalties and interest accruing during the pendency of this suit, costs of court, reasonable attorney's fees, and abstractor's fees. Plaintiff(s) further ask for the appropriate writs of execution, directing the sheriffs and constables for the State of Texas, to search out, seize, and sell sufficient property of the Defendants against which personal judgment is taken to satisfy the lawful judgment sought herein. Finally, Plaintiff(s) pray for such other and further relief, at law or in equity, to which they may show themselves justly entitled.

Respectfully submitted,
LINEBARGER GOGGAN BLAIR
& SAMPSON, LLP

By: Veronica Elizalde

VERONICA DAVILA ELIZALDE 711 Navarro
State Bar No. 24020269 Suite 300
Attorney for Plaintiff(s) San Antonio, Texas 78205
(210) 225-4422
(210) 226-3609 (FAX)

EXHIBIT "A"

106770000040

2004-TA1-1367

POUTRA, JOHN
102 RIO SECO
SAN ANTONIO

NCB 10677 P-4

TX 78232-3034

LEGAL DESCRIPTION OF PROPERTY:

P-4 BEING 8.264 ACRES OUT OF THE G. NUNEZ SURVEY #151 ABSTRACT 548 SITUATED IN NEW CITY BLOCK 10677 BLOCK 029 IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, AS SHOWN IN VOLUME 06521 PAGE 0649 OF THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.

DELINQUENT TAX STATEMENT

COUNTY OF BEXAR

ACCT# 106770000040

YEAR	TAX AMT	P & I	TOTAL
1990	1,017.55	2,141.95	3,159.50
1997	678.55	281.26	959.81
1998	676.03	60.84	736.87
1999	671.32	278.26	949.58
2000	672.21	278.63	950.84
2001	650.38	277.06	927.44
2002	665.31	268.11	933.42
2003	665.26	59.87	725.13
TOTAL	5,696.61	3,645.98	\$9,342.59

CITY OF SAN ANTONIO

ACCT# 106770000040

YEAR	TAX AMT	P & I	TOTAL
1989	985.50	2,210.48	3,195.98
1990	1,091.57	2,297.76	3,389.33
1997	550.22	228.07	778.29
1998	547.90	49.31	597.21
1999	550.22	228.07	778.29
2000	550.22	228.07	778.29
2001	549.03	233.89	782.92
2002	549.03	221.26	770.29
2003	549.03	49.41	598.44
TOTAL	5,922.72	5,746.32	\$11,669.04

EXHIBIT "A" (CONT.)

10677000040

2004-TA1-1367

SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

ACCT# 10677000040

YEAR	TAX AMT	P & I	TOTAL
1990	1,984.62	4,177.62	6,162.24
1997	1,720.82	713.28	2,434.10
1998	1,677.92	151.01	1,828.93
1999	1,634.18	677.37	2,311.55
2000	1,634.18	677.37	2,311.55
2001	1,634.18	696.16	2,330.34
2002	1,634.18	658.58	2,292.76
2003	1,634.18	147.08	1,781.26
TOTAL	13,554.26	7,898.47	\$21,452.73

TOTAL DUE AS OF MARCH 2004

TOTAL	25,173.59	17,290.77	\$42,464.36
--------------	------------------	------------------	--------------------

This suit covers all delinquent taxes owed on this property, whether or not itemized herein for all years. Penalty and Interest continue to accrue monthly at 1%.

ABSTRACTOR'S FEE: \$175.00 (JH)

THE ABOVE AMOUNTS DO NOT INCLUDE ANY FEES DUE THE DISTRICT CLERK OF THE COUNTY WHERE THE SUIT IS FILED. TEXAS LAW MAKES YOU RESPONSIBLE FOR PAYMENT OF THESE FEES. PLEASE CONTACT THE DISTRICT CLERK FOR THE AMOUNT DUE. THESE FEES MUST BE PAID BEFORE THE SUIT MAY BE DISMISSED. PAYMENT OF COURT COSTS MUST BE IN THE FORM OF A CASHIERS CHECK OR MONEY ORDER.