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Board bars doctor from treating female patients, B3

DPS chief upholds firing of trooper over Bland case, B3

NEW DETAILS TEXAS 130

Chapter 11 sought by tollway operator

SH 130 Concession Co.'s payments lag on about \$1.7 billion of debt.

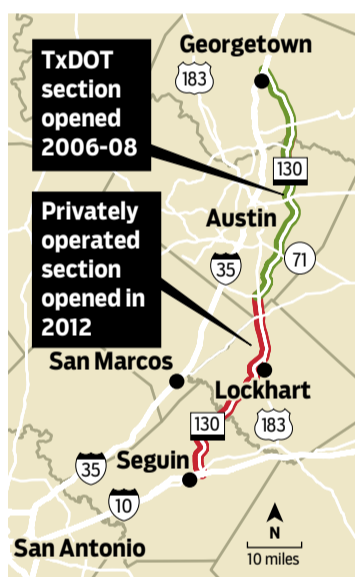
By Ben Wear
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The company operating the southern 41 miles of Texas 130, a tollway that has struggled with light traffic and heavy debt since opening in late 2012, filed for Chapter 11 bankruptcy protection Wednesday afternoon in federal court.

That will put before a federal court negotiations over SH 130 Concession Co.'s lagging payments on about \$1.7 billion of debt owed on the four-lane road, a figure that includes \$1.27 billion in principal and more than \$400 million in unpaid interest, expenses and fees. About \$500 million is owed to the federal government under a low-interest loan program for transportation projects, and payments on that portion of the debt begin in 2017.

In its filing for bankruptcy protection, the company (which depleted a \$65 mil-

Tollway continued on B5



ROBERT CALZADA / STAFF

PUBLIC ART

\$1.1 million donated for Waller Creek art

Marcus Foundation gives money to the Contemporary Austin.

By Jeanne Claire van Ryzin
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The future of public art along Austin's Waller Creek received major support thanks to a \$1.1 million donation from the Edward and Betty Marcus Foundation that was announced Wednesday.

Melba Whatley, chair of the Dallas-based foundation, made the announcement at the preview opening of "Hurlyburly," a massive, site-specific installation made of repurposed lobster rope by artist Orly Genger that is on view on a stretch of public park adjacent to the Waller Creek Boathouse.

On hand for the announcement were Mayor Steve Adler; City Council Members Kathie Tovo, Leslie Pool and Sabino "Pio" Renteria; and state Rep. Eddie Rodríguez, D-Austin.

The \$1.1 million is being

Donation continued on B6

"HURLYBURLY" PUBLIC OPENING

When: Noon to 3 p.m. Saturday
Where: Waller Creek Boathouse, 72 Trinity St.
Tickets: Free
Information: 512-453-5312, thecontemporaryaustin.org

ELECTION 2016 CENTRAL TEXAS

Primary result: New faces abound

Both Travis County and Williamson County will have new sheriffs and district attorneys.

By Philip Jankowski and Claire Osborn
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Travis and Williamson counties will see sweeping changes in their top criminal justice officials after Tuesday's primaries assured that both counties will have a new sheriff and district attorney.

Margaret Moore cruised to victory, earning the Democrat-

ic nomination for Travis County district attorney in what experts saw as the primary's most shocking voting result, with Moore handily defeating the man who was once considered the clear successor to the post being vacated by Rosemary Lehmborg.

Precinct 3 Constable Sally Hernandez also pulled off a surprise by narrowly winning a majority of the Democratic primary vote in a four-per-

son Travis County sheriff's race that seemed destined for a runoff. Sheriff Greg Hamilton isn't seeking another term.

On Wednesday, local political experts were still assessing the district attorney's race, but the consensus was that both Hernandez and Moore were aided by women voters.

"The sheriff's race, especially," political consultant David Butts said. "That is probably where the power of the women's vote is most evident, no question."

Indeed, women notched several wins in Travis County

in a primary election that had the highest turnout – 37 percent – since the 2008 primary, according to the Travis County clerk's office. Gina Hinojosa won a majority in the race for District 49's state representative (second place also went to a woman), and Tamara Needles defeated Judge Jim Coronado in the primary for 427th District Court seat.

Only one woman lost to a male challenger in a Travis County race. Brad Urrutia defeated Chantal Melissa

Primary continued on B6

TEXAS INDEPENDENCE DAY

Texas' independence celebrated



Men in period costumes fire a volley on Wednesday in honor of those who fought and died in the Texas Revolution. Wednesday marked the 180th anniversary of Texas Independence Day, when settlers in Mexican Texas declared independence from Mexico. Celebrate Texas organized activities that featured a musket volley on the grounds of the Texas State Cemetery. See more photos at statesman.com. RALPH BARRERA / AMERICAN-STATESMAN

ENVIRONMENT

Plan to protect lizard upheld

Appeals court says state's conservation approach is adequate.

By Eric Dexheimer
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Texas' voluntary and privately administered plan to protect the dunes sagebrush lizard is legal and adequate to protect the species, a federal appeals court ruled Tuesday. The decision appears to end challenges to the state's conservation plan by environmental groups that argued Texas' efforts are unenforceable and so leave the species vulnerable to development by oil and gas companies.

The U.S. Fish and Wildlife Service had proposed listing the species as endangered in 2010. Because the lizard is found primarily in West Texas lands that are rich with oil and gas, petroleum companies were concerned it would have had a dramatic impact on exploration and drilling. So, led by then-Comptroller Susan Combs, the state in 2012 proposed instead an alternative plan to protect the species.

Yesterday's court decision said: "The focus of the Tex-

Lizard continued on B5



The U.S. Fish and Wildlife Service had proposed listing the dunes sagebrush lizard, found mainly in oil-rich areas of West Texas, as endangered in 2010. MIKE HILL / U.S. FISH AND WILDLIFE SERVICE

HEALTH

State board scraps proposed rule restricting 'distance' counseling

Proposal's foes said rule would cause fewer people to seek help.

By Mary Ann Roser
 maroser@statesman.com

After receiving overwhelming opposition from counselors, a Texas regulatory board scrapped a proposed rule Wednesday that would have required an in-person session before a therapist could provide "distance" services, such

as a video call.

In addition, the Texas State Board of Examiners of Professional Counselors said it didn't see problems indicating the rule was needed, said Steven Christopherson, chairman of the board's rules committee.

"We haven't really seen a pattern of complaints," he told the board. "Show us a pattern of complaints, we'll show you a rule."

The rules committee took up the rule earlier in the day and agreed it wasn't needed.

"There's very little support for this rule," Christopherson said at that meeting. He added that those making comments pointed out that not allowing the use of technology for counseling clients in rural areas where mental health professionals are sparse could cause fewer people to seek help.

The rule was proposed for safety reasons, so counselors could get a better handle on who they were treating,

Counseling continued on B6

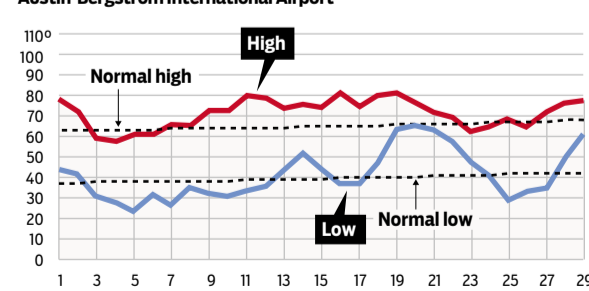
CENTRAL TEXAS WEATHER

February weather summary

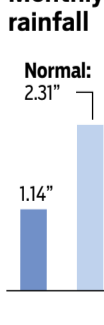
With all but 10 days of high temperatures at or above 70 degrees, this February at Camp Mabry was the 8th warmest on record. The only significant rainfall of the month occurred on the 23rd.

Daily temperature

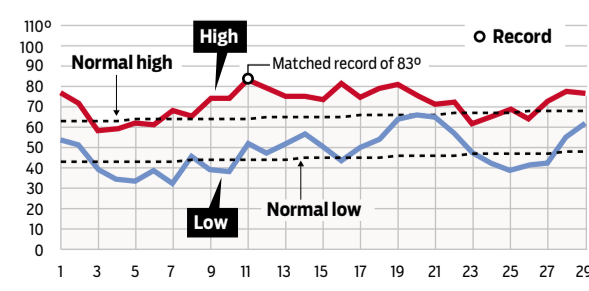
Austin-Bergstrom International Airport



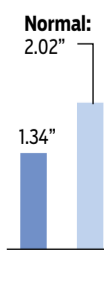
Monthly rainfall



Camp Mabry



Monthly rainfall



Sources: National Weather Service, Lower Colorado River Authority, KVUE

LINDA SCOTT/STAFF

El Niño continued as 'El Nada' in February

Colder, wetter weather anticipated for month never materialized.

By Marty Toohey
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El Niño "sputtered." El Niño "has been a weird one." El Niño's anticipated rainfall was "El Nada."

However you want to put it – those assessments came from Central Texas meteorologist Bob Rose, Houston meteorologist Matt Lanza and Austin weather spotter Michael Lyttle, respectively – February wasn't the kind of month that El Niño was expected to usher in. El Niño is typically associated with colder and wetter conditions than usual in Central Texas. It tends to make winter feel more like winter.

Nope. With highs some-

times reaching into the lower 80s, winter was effectively over by the end of February, a month that also brought little rainfall to the Austin area. The winter of our discontent, it was not.

All but 10 days of February saw temperatures climb to 70 degrees or above, according to the National Weather Service. The only significant rainfall for the month fell during a few pre-dawn hours the morning of Feb. 23, when the Austin metro area saw up to 2 inches of rain.

"Winter hardly showed up in Austin," said Rose, the Lower Colorado River Authority's meteorologist. According to Rose:

■ Since Dec. 1, only 4.68 inches of rain fell at the Camp Mabry weather station in Central Aus-

Weather continued on B6

Counseling

continued from B1

he told the Statesman. It was similar to a rule proposed three years ago and withdrawn in the face of strong opposition.

Bob Batlan, a board member of the New Life Institute, an Austin nonprofit that provides counseling services on a sliding-fee scale, said he was thrilled to see the rule chucked. It would have posed a hardship on some clients, many of whom are low-income, he said.

“We want to be able to treat people in the most economical way,” said Batlan, one of several members of the public attending the committee meeting and full board session.

Neither the board nor



The Texas State Board of Examiners of Professional Counselors meets Wednesday at the Travis Building. The board agreed to continue to let licensed professional counselors hold sessions via distance technology. A new rule had been proposed so counselors could get a better handle on who they were treating. LAURA SKELDING / AMERICAN-STATESMAN

the committee held a public hearing on the proposed rule but instead referred to written comments.

Using technology to

provide medical and counseling services at a distance, often with the provider in an office and the patient at home, is accelerating nationally,

with many private insurers covering the care. But physician and mental health providers of what is called telemedicine, or telehealth, said Texas

boards are moving against the tide.

In April 2015, the Texas Medical Board approved a rule requiring an in-person session before doc-

tors can treat patients. The board exempted mental health physicians because of concerns about access to that care. A 2014 state report says 201 counties out of 254 had mental health provider shortages. In 174 counties, there wasn't a single psychiatrist.

After the medical board's action, Lewisville-based Teladoc sued the board, saying the rule would harm its business, reduce access to care and drive up costs.

In December, a federal judge in Austin denied the medical board's attempt to dismiss Teladoc's lawsuit. With a trial pending, Teladoc is continuing business as usual, a company spokeswoman said.

Contact Mary Ann Roser at 512-445-3619.



Nanny Paula Hersey helps her 19-month-old charge, Luke, scale the hills of “Hurlyburly,” a new site-specific art installation made of repurposed lobster rope by artist Orly Genger. The work, which runs along the south end of Waller Creek where it connects to Lady Bird Lake, was unveiled on Wednesday. TOM MCCARTHY JR. / FOR AMERICAN-STATESMAN

Donation

continued from B1

donated to the Contemporary Austin to facilitate a new collaboration between the museum and the Waller Creek Conservancy, the private nonprofit spearheading the transformation of the 1.5-mile stretch of Waller Creek downtown.

Last month, the two private nonprofit organizations announced that they had initiated a partnership to realize more art projects along Waller Creek, with “Hurlyburly” being the first.

“Waller Creek has a

plenty of issues that it must attend to as it develops, and bringing in the curatorial and art world expertise of the Contemporary to guide public art makes sense,” said Whatley, who is on the board of both the Conservancy and the Contemporary. “The city profits enormously when there is a collaboration like this.”

In 2013, the Marcus Foundation gave the Contemporary \$9 million to create the Betty and Edward Marcus Sculpture Park at the museum's 12-acre Laguna Gloria site along Lake Austin.

Since then, the museum has added significant outdoor artworks to its

collection as well as commissioned important site-specific temporary installations.

The newly donated money will provide support for similar art projects along Waller Creek.

“This gift from the Marcus Foundation allows us to follow our ‘museum without walls’ philosophy – to dovetail with Waller Creek’s goals and to share our resources to bring the best projects to the larger community beyond our own sites,” said Louise Grachos, executive director of the Contemporary. “This is true collection sharing – a way for us to share art with an even

greater public.”

Two years ago, the Contemporary commissioned Genger to create the repurposed rope installation “Current” for the amphitheater at Laguna Gloria. For “Hurlyburly,” the New York-based artist repainted the rope used for the Laguna Gloria installation, recycling the material once again.

“Hurlyburly” will be celebrated Saturday with a family-friendly public opening from noon to 3 p.m. The installation will remain on view through February 2017.

Contact Jeanne Claire van Ryzin at 512-445-3699.

Primary

continued from B1

Eldridge 53 percent to 47 percent in the primary for 450th District Court judge, which experts predicted would be a close contest.

“It’s not like you get elected just because you’re a woman, but it does help,” Butts said. “The primary was obviously driven by the presidential race on the Democrat side. You had a lot more young voters, probably disproportionately female, if I had to guess.”

But it was apparent that Cobb’s campaign was hampered when the details of a decades-old vitriolic dispute over his 1994 divorce came to light.

“Obviously a significant majority of voters knew about Gary’s issues and made a decision based on that,” political consultant Mark Littlefield said. “It is surprising how deep that information had penetrated without the TV advertising and other ads to disseminate that.”

In Williamson County, defense attorney Shawn Dick beat District Attorney Jana Duty in the Republican primary. Since there is no Democratic opponent, Dick is all but assured to become the new district attorney.

Dick out-campaigned Duty, said Bob Phillips, one of Duty’s supporters who has been a criminal defense attorney in Georgetown for more than 30 years.

“She failed to speak at various candidate forums, and it was kind of mystifying,” Phillips said. He also said there was “no doubt” that negative publicity generated about the Crispin Harmel capital murder case “hurt her in the election.”

“There’s no question that case was a flashpoint for the campaign,” he said.

Duty spent five days’ time in jail for violating a gag order in the Harmel case by talking to an American-Statesman reporter.

Harmel’s first trial ended in a mistrial, and his attorneys filed motions accusing Duty of withholding evidence in the case. Duty has repeatedly denied the accusations. The case is waiting on a decision from an appeals court over whether Harmel can be retried.

With no Democratic challengers, Dick is expected to take office Jan. 1 along with the new Williamson County Sheriff Robert Chody, who won the Republican primary in the race to replace retiring Sheriff James Wilson. Chody, a Williamson County constable, outpaced his three fellow GOP opponents by winning 58 percent of the

HAYS COUNTY SHERIFF’S RACE

Hays County Sheriff Gary Cutler won a decisive victory over a longtime political rival in Tuesday’s Republican primary.

It was the third time Cutler faced off against former Sheriff Tommie Ratliff in a contentious campaign in which Ratliff accused Cutler of criminal misconduct in his handling of a complaint made against an investigator at the sheriff’s office.

Cutler will face Democratic challenger Rodrigo Amaya in November’s general election.

A Cutler win would increase the likelihood that Hays County taxpayers will be asked to fund the construction of a new county jail. The jail is at or near capacity almost every day, prompting the county to pay to send inmates to other counties’ jails.

Cutler has said he would support a bond for a new jail.

BASTROP COUNTY SHERIFF’S RACE

Two candidates emerged Tuesday night from a packed Republican primary in a race that will head to a runoff election.

Maurice Cook and Matthew Henderson both secured nearly 30 percent of the vote. Cook, a former head of the Texas Rangers, and Henderson, the Precinct 3 constable who switched parties to run in the Republican primary, will face each other in the May 24 runoff.

Eight candidates had filed for sheriff in the primary after Bastrop County Sheriff Terry Pickering announced he would not seek re-election. Pickering served two terms. The winner of the runoff will face Democratic challenger Mike Renck in November’s general election.

vote. His closest competitor received 15 percent.

Chody, who became a millionaire when his wife won the lottery several years ago, invested more than half a million dollars in his campaign, far outspending his opponents.

Political consultant Charles Carter said that Chody won because “people said he was not in the sheriff’s race for the money but because he loves law enforcement and wants to make a difference in the community.”

Chody received numerous law enforcement endorsements and organized a “Police Lives Matter” march in Austin.

“He’s very well-liked among Republicans and the Commissioners Court because he runs a top-notch constable’s office,” Carter said.

Contact Philip Jankowski at 512-445-3702.

Contact Claire Osborn at 512-246-0040. Twitter: @cosbo4



Temperatures approached 80 degrees on Monday afternoon, giving way to outdoor activities for the adventurous near Lou Neff Point on Lady Bird Lake. This winter had the fewest freezes since the 1997-98 season, KEYE-TV chief meteorologist Chikage Windler recently noted. “So much for El Niño!” she tweeted. RALPH BARRERA / AMERICAN-STATESMAN

Weather

continued from B1

tin, making it the 41st driest winter on record.

■ Camp Mabry saw only four freezes, the eighth-fewest on record for a winter.

■ The temperature never dipped below 30 degrees this winter. That’s only happened twice before.

■ It was the sixth-warmest winter on record at Camp Mabry.

El Niño started by contributing to the torrential rains that led to devastating floods in Hays County, southeastern Travis County and other parts of Central Texas.

But that turbulent fall gave way to one of the lowest winters on record, dating back to 1897. The winter had the fewest freezes since the 1997-98 season, KEYE-TV chief meteorologist Chikage Windler recently noted.

“So much for El Niño!” she tweeted.

Spring has now sprung, at least by one definition: Meteorological spring started March 1. Astronomical spring starts March 20. It isn’t clear what the upcoming season will look like. Most weather experts, including state climatologist John Nielsen-Gammon, say the “Godzilla El Niño” that seems to have passed out on New Year’s Eve should struggle back to its knees and hurl wetter weather at Central Texas until its strength finally

gives out in summer.

Forecasters are giving roughly even odds that summer will, in turn, give way to a La Niña. That is basically El Niño’s evil twin, bringing even hotter and drier weather to Central Texas than the region generally sees.

But who knows for sure? Forecasting is still a relatively new science, and weather in Austin, naturally, is weird.

Contact Marty Toohey at 512-445-3673.



Margaret Moore, who won the Democratic nomination for Travis County district attorney, celebrates at Threadgill’s. LAURA SKELDING / AMERICAN-STATESMAN