

COMMISSIONERS COURT MINUTES
110 S. Main St. 2nd Floor, Lockhart, Texas
Regular Meeting September 21, 2015 9:00 a.m.



KEN SCHAWÉ	County Judge	ALFREDO MUÑOZ	Commissioner Pct. 1
CAROL HOLCOMB	County Clerk	EDDIE MOSES	Commissioner Pct. 2
		NETO MADRIGAL	Commissioner Pct. 3
		JOE IVAN ROLAND	Commissioner Pct. 4

Call Meeting to Order. Meeting called to order by Judge Schawe at 9:05 a.m. All members of the Court were present.

2015.09.21.01 Invocation.

A member of the Lockhart Ministerial Alliance opened the meeting with prayer.

2015.09.21.02 Pledge of Allegiance to the Flags. (Texas Pledge: Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible).

Judge Schawe led all present in the Pledge of both flags.

2015.09.21.03 Announcements. Items or comments from Court Members or Staff.

Commissioner Muñoz announced he had attended a meeting with the Greater San Marcos Partnership earlier in the week which discussed the Division 20/20 program. He also attended a meeting with the Austin/San Antonio Corridor Council which discussed regional issues as well as a meeting with regional partners and discussed the recent developments in Caldwell County. **Commissioner Moses** thanked the Unit Road Department for doing a great job repaving roads. **Commissioner Madrigal** met with and expressed gratitude for volunteer organizations that are still cleaning up the County's flood areas. **Judge Schawe** mentioned the economic growth occurring in the County and expects big changes in the near future.

2015.09.21.04 Citizens' Comments. At this time any person may speak to Commissioners Court if they have filled out a Caldwell County Commissioners Court Participation Form. Comments will be limited to four (4) minutes per person. No action will be taken on these items and no discussion will be had between the speaker(s) and members of the Court. The Court does retain the right to correct factual inaccuracies made by the speakers. (If longer than 30 minutes, then the balance of comments will continue as the last agenda item of the day).

Sandy Gravel thanked the commissioners for listening to citizens of the County with issues about the landfill. She spoke about issues that occurred with the Green Group in Waller County and requested that the Court not re-negotiate a host agreement but instead wait until the contested case hearing in January.

Robert Kohler lives 3 miles away from the proposed landfill and shared his concerns on how it will affect his property. He also shared concerns about water and for the residents living downstream of Plum Creek. He then asked the Court to keep the County in mind and not the money.

Leslie Holder spoke on behalf of EPICC and thanked the Court for its involvement regarding legal matters against the proposed landfill. She said EPICC looks forward in continuing to work with the County in protecting the interests of its residents.

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Byron Friedrich stated he is in opposition to any consideration of a host agreement. He then shared his concerns if the landfill were to come to Caldwell County including economic development.

Jessica A. Neyman spoke of current issues involving Green Group. She then suggested the Court wait until the contested case hearing before negotiating a host agreement.

Linda Hinkle shared her concerns about the funding of legal counsel against the landfill. She said it's ethically wrong to fight a battle to keep one business out of town because another business does not want it. Suggested the residents of Caldwell County should vote on the matter.

Lou MacNaughton corrected previous speakers and stated she is against negotiations of a possible host agreement. She also spoke about issues with Green Group and thanked the Court for proceeding with the contested case hearing.

2015.09.21.05

Consent Agenda. (The following consent items may be acted upon in one motion. Any member of the Court may request that an item within the Consent Agenda be pulled for separate discussion and/or action).

- A. To accept continuing education hours from Commissioner Muñoz.
- B. To accept Budget Amendment #2014-21 as approved by Commissioners Court, November 17, 2014.
- C. To accept Budget Amendment #2014-22 to move monies between two budget line items in the District Attorney's Office. No additional cost to the County.

Motion made by Commissioner Muñoz, second by Commissioner Moses to approve Consent Agenda items A-C. All voting "Aye"

2015.09.21.06

Special Presentation – Explanation of 130 Environmental Park's Host Agreement. Presented by Marisa Perales on behalf of EPICC.

Marisa Perales, the attorney for EPICC (Environmental Protection in the Interest of Caldwell County), addressed the Court and clarified that TDS is not funding any legal costs. She expressed EPICC does not believe the County should enter into a host agreement nor should they spend time and resources negotiating one. She then presented issues with Green Group Holdings and the 130 Environmental Park including concerns about water. She then requested the Court continue gathering information that is necessary to protect the resources of the county.

(ALL OTHER AGENDA ITEMS)

2015.09.21.07

Discussion/Action regarding the burn ban for Caldwell County.

Martin Richey addressed the Court explaining there have been multiple fires in the County and recommends leaving the burn ban on.

Motion made by Commissioner Roland, second by Commissioner Madrigal to leave the burn ban on. All present voting "Aye". Commissioner Muñoz absent during voting.

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2015.09.21.10

Discussion/Action to accept bids for aggregate, asphalt materials, flexible base, fuel (regular unleaded and #2 diesel), oil and lubricants for the budget year 2015-2016.

Unit Road Supervisor, Dwight Jeffrey reported the results from bids received on materials. He then gave his recommendations to the Court. For flexible base, Dwight Jeffrey recommended Industrial Asphalt & Aggregates as well as Cemex. For asphalt material, he recommended Ergon Asphalt & Emulsions, Inc. Johnson Oil Corporation came recommended for fuel and diesel as well as Schmidt & Sons, Inc. for oil and lubricants.

Motion made by Commissioner Moses, second by Commissioner Muñoz to accept the recommended bids for aggregate, asphalt materials, flexible base, fuel (regular unleaded and #2 diesel), oil and lubricants for the budget year 2015-2016. All voting "Aye".

2015.09.21.08

Discussion/Action to approve the 2015-2016 Caldwell County Proposed Budget as required by Section 111.008(a) of the Local Government Code. Pursuant to Section 111.008(b), the Commissioners Court may make any changes in the proposed budget that it considers warranted by the law and required by the interest of the taxpayers.

Commissioner Muñoz shared his concern about the clerk's position in the DPS office and would like to see that position stay full time for 6 months. Discussion amongst the Court and with County Auditor, Debra French regarding the position ended with agreeance that it will remain full time for 6 months. Commissioner Muñoz also requested a change to the budget in regards to the County Auditors salary. He requested no increase in salary. Judge Schawe asked Judge Blomerth, who was one of the judges who hired the County Auditor, to address the Court. Judge Blomerth explained the process in hiring the County Auditor and events that occurred during that time. County Auditor, Debra French announced that she was offered \$70,000 for her position. Commissioner Roland stated this budget is the second worst budget he had ever seen. Judge Schawe said he believes the Commissioners are making a big mistake.

Judge Schawe asked for a roll call vote on who wants to keep the Auditor's salary at \$57,000.

Commissioner Muñoz, yes; Commissioner Moses, yes; Commissioner Madrigal, yes; Commissioner Roland, yes; Judge Schawe, no.

Commissioner Moses inquired about the Emergency Management position as well as other current exempt employees and shared his concerns about what the County will do if a proposed law passes. Civil Attorney, Jordan Powell clarified the proposed law which if passed would likely take effect in January 2016. Martin Ritchey then explained a grant that the Emergency Management Department is trying to obtain in order to pay for an additional employee for that department. Judge Schawe stated he has put in a merit raise and will look over revenues halfway through the year.

Motion made by Judge Schawe, second by Commissioner Roland to approve the 2015-2016 Caldwell County Proposed Budget as required by Section 111.008(a) of the Local Government Code.

Roll call vote: Commissioner Muñoz, yes; Commissioner Moses, yes; Commissioner Madrigal, yes; Commissioner Roland, yes; Judge Schawe, yes. All voting "Aye".

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2015.09.21.13

Discussion/Action to consider USFon Inc. for the County's fiber system.

Brian DeHaven, President of USFon, Inc., explained to the Court its' services and current projects. Commissioner Madrigal asked how soon USFon, Inc. would be out to fix a problem if one should arise. Brian DeHaven responded they would have a contractor out immediately for emergencies. He also stated the equipment would be provided on a cost plus basis. Brian Beresford along with Steve Broussard with Time Warner Cable addressed the Court with an amendment to the current contract to reduce cost by \$5,500 per month. Steve Broussard clarified what services Time Warner Cable provides and what would occur if the County were to purchase their own fiber. Civil Attorney, Jordan Powell explained the costs if the County were to terminate its' contracts with Time Warner Cable. Mark Hinnenkamp from the IT Department for the County explained the fiber system that the City of Lockhart and the local ISD's are planning on proceeding with. Brian DeHaven stated they would need an answer from the Court within two weeks if they would like to move forward with USFon, Inc. and also explained the funding program that schools use to pay for part of its cost related to the fiber system. Brian Beresford also stated Time Warner Cable has customers that use the same type of funding. Judge requested tabling this item until next week.

Motion made by Commissioner Madrigal, second by Commissioner Roland to table this item of considering USFon Inc. for the County's fiber system until next meeting. All voting "Aye".

2015.09.21.09

Discussion/Action to consider adopting an order setting the tax rate of \$0.7175 per \$100.00 of assessed valuation for the fiscal year 2015-2016.

Motion made by Commissioner Muñoz, second by Commissioner Roland to adopt the order setting the tax rate of \$0.7175 per \$100.00 of assessed valuation for the fiscal year 2015-2016.

Roll call vote: Commissioner Muñoz, yes; Commissioner Moses, yes; Commissioner Madrigal, yes; Commissioner Roland, yes; Judge Schawe, yes. All voting "Aye".

2015.09.21.11

Discussion/Action authorizing County Judge with Commissioner Precinct 3 to use budgeted funds to assign a paid temporary full time Chief Deputy Constable to assist in Precinct 3.

Judge Schawe explained he would like to work with Commissioner Madrigal in appointing someone to Precinct 3 and use funds from the existing budget to cover those expenses.

Motion made by Commissioner Roland, second by Commissioner Muñoz to authorize the County Judge with Commissioner Precinct 3 to use budgeted funds to assign a paid temporary full time Chief Deputy Constable to assist in Precinct 3. All voting "Aye".

2015.09.21.12

Discussion/Action to consider procedures and nominations for the Caldwell County Appraisal District directors.

Motion made by Commissioner Muñoz, second by Commissioner Roland to table this item of considering procedures and nominations for the Caldwell County Appraisal District directors until next meeting. All voting "Aye".

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2015.09.21.14

Discussion/Action to consider Caldwell County joining the Lone Star Rail District (LSRD), authorize the County Auditor to submit the annual membership fee, and appoint a member of the Commissioners Court as a LSRD Board member.

Commissioner Muñoz mentioned the meetings he had attended for the Lone Star Rail District. He recommends the County be a part of the Council and be a voting member on the board.

Motion made by Commissioner Muñoz, second by Commissioner Madrigal to have Caldwell County join the Lone Star Rail District (LSRD), authorize the County Auditor to submit the annual membership fee, and appoint Commissioner Muñoz as a LSRD Board member. All voting "Aye".

County Auditor, Debra French asked for clarification on which budget to use funds to pay membership fee. Judge Schawe stated payment can be made next fiscal year, October 1, 2015.

2015.09.21.15

Discussion/Action authorizing the County Judge to execute an Interlocal Agreement with the City of Austin regarding development in the City's extraterritorial jurisdiction (ETJ).

Civil Attorney, Jordan Powell explained that the City of Austin had annexed a portion of land which expanded their ETJ and now falls in part of Caldwell County. She stated there is not much development in that area currently, however an agreement is necessary for future developments. The City of Austin has already approved of the agreement. Commissioner Madrigal requested to table this item so that he has time to go out there to view the area.

Motion made by Commissioner Madrigal, second by Commissioner Muñoz to table this item of authorizing the County Judge to execute an Interlocal Agreement with the City of Austin regarding development in the City's extraterritorial jurisdiction (ETJ). All voting "Aye".

2015.09.21.16

Host Agreement Workshop: Relating to the proposed host agreement submitted by 130 Environmental Park, LLC.

Eric Magee stated there has been no form of negotiations regarding a host agreement at all, as the Court never gave direction for counsel to do so. The draft host agreement is dated September 2013 and has been available online and throughout the community for quite some time. He stated certain matters pertaining to the proposed host agreement are considered legal advice and may be discussed in an executive session, as those matters are considered privileged and confidential. He then clarified the difference between a workshop and an executive session, with a workshop providing an avenue for the Court to discuss matters or terms in the proposed host agreement that they like or don't like, but an executive session providing an avenue for the Court to discuss legal matters and legal ramifications with counsel. He stated that he had discussed legal issues with Jordan Powell and Fred Weber, as well as the duties, obligations, and responsibilities of the company and the County. Mr. Magee stated that counsel needs some instruction from the Court as to how to move forward (or if to move forward) on the various other issues of the agreement, including the terms of the agreement.

Motion made by Commissioner Roland, second by Commissioner Madrigal to table the workshop concerning the proposed host agreement until September 28th, 2015. Commissioner Moses suggested adding an executive session to the next meeting.

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Commissioner Madrigal requested to add a friendly amendment to the motion. He requested to have an executive session on September 28th, 2015 to get an update on legal proceedings and have a workshop on October 12th, 2015.

Eric Magee reminded the Court there are deadlines to be met per the SOAH Hearing and recommends not pushing the meetings out too far.

Commissioner Muñoz asked to have the workshop and the executive session at the same meeting.

Commissioner Madrigal withdraws his amendment to the motion.

Motion made by Commissioner Roland, second by Commissioner Madrigal to table this item, as well as item 17, concerning the proposed host agreement between Caldwell County and 130 Environmental Park, LLC until September 28th, 2015 and add an executive session. All voting "Aye".

2015.09.21.17

Discussion/Action concerning proposed host agreement between Caldwell County and 130 Environmental Park, LLC.

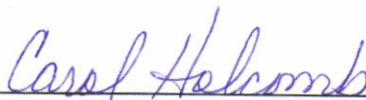
Motion made by Commissioner Roland, second by Commissioner Madrigal to table this item concerning the proposed host agreement between Caldwell County and 130 Environmental Park, LLC until September 28th, 2015 and add an executive session. All voting "Aye".

2015.09.21.18

Adjournment. Motion made by Commissioner Muñoz, second by Commissioner Moses to adjourn. All voting "Aye"

Meeting adjourned at 12:08 p.m.

I, CAROL HOLCOMB, COUNTY CLERK AND EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Caldwell County Commissioners' Court on September 21, 2015.



CAROL HOLCOMB, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
CALDWELL COUNTY, TEXAS

