

THE STATE OF TEXAS

COUNTY OF KENDALL BE IT REMEMBERED, that the Commissioners' Court of Kendall County, Texas, was begun and held at a Regular Meeting at the Courthouse in Boerne, Texas, and via Zoom on the 12th day of June 2023.

Present: SHANE STOLARCZYK, COUNTY JUDGE
CHRISTINA BERGMANN, COMMISSIONER, PCT. #1
ANDRA WISIAN, COMMISSIONER, PCT. #2
RICHARD CHAPMAN, COMMISSIONER, PCT. #3
CHAD CARPENTER, COMMISSIONER, PCT. #4
PAULA PFEIFFER, DEPUTY COUNTY CLERK

1. Call to Order - 9:00 a.m.
2. Pledge of Allegiance to the United States and Texas flags.
3. Comments from the bench to share items of community interest as allowed under and limited by Texas Government Code Section 551.0415.
Commissioner Andra Wisian, Precinct 2, Commissioner Richard Chapman, Precinct 3, Commissioner Chad Carpenter, Precinct 4, and Shane Stolarczyk, County Judge
4. Declarations of Conflict of Interest – none
5. Consent Agenda:
Items on the Consent Agenda are considered to be of a routine nature and may require only limited discussion. All items under the Consent Agenda are heard and acted upon collectively unless opposition is presented. Any member of the Commissioners Court may request that an item be removed from the Consent Agenda and considered separately for the purpose of discussion and voting.
 - a. Consideration and action to approve Commissioner Court Minutes for May 15, 2023 Special Session, May 15, 2023 Budget Workshop, May 22, 2023 Regular Session, May 23 & 24, 2023 Budget Workshop, and May 30 & 31, 2023 Budget Workshop
 - b. Consideration and action on the approval of amending the FY2023 budget through certification of new revenue and regular budget adjustments
 - c. Consideration and action to approve the cash summary at Frost Bank for April 2023

5a. THE STATE OF TEXAS
COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve budget adjustments(attached).

Motion was made by Commissioner Wisian, seconded by Commissioner Bergman, and carried by a vote of 4-1 with Commissioner Chapman voting against.

5b. THE STATE OF TEXAS
COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve Minutes as presented.

Motion was made by Commissioner Bergmann, seconded by Commissioner Carpenter, and carried by a vote of 5-0.

5c. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the cash summary at Frost Bank for April 2023(attached).

Motion was made by Commissioner Chapman, seconded by Commissioner Carpenter, and carried by a vote of 5-0.

6. Recognizing children for participation in Lemonade Day, a free community-wide educational event providing the opportunity to learn and apply entrepreneurial thinking.

7. PUBLIC COMMENTS: Robert Johnson, Robert Saenz
The following people spoke during item #14: Darrel Lux, Don Durden, Jeff Mnick, Steve Mack, Alex Rudd and Lance Kyle
The following people spoke during item #15: Darrel Lux, Alex Rudd and Don Durden

8. No action was taken on reinstating the burn ban. It is still off.

9. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve accounts payable claims for purchases, services and vendors in the amount of \$1,626,479.66.

Motion was made by Commissioner Chapman, seconded by Commissioner Wisian, and carried by a vote of 5-0.

10. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the request to transfer a Harris XG-75 radio from Precinct 1 Constable's Office (Property Tag 4376, Serial No. A40204003134) and a Harris XG-75 radio from Precinct 4 Constable's Office (Property Tag 4343, Serial No. A4024003131) to Precinct 3 Constable's Office.

Motion was made by Commissioner Chapman, seconded by Commissioner Carpenter, and carried by a vote of 5-0.

11. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the request for a quote from the Texas Association of Counties Health and Employee Benefits Pool in accordance with the Texas Local Government Code Chapter 262.

Motion was made by Commissioner Bergmann, seconded by Commissioner Carpenter, and carried by a vote of 5-0.

Commissioner Bergmann left courtroom at 9:49 a.m.

Commissioner Bergmann returned to court at 9:50 a.m.

12. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve a contract for the modification of the Courthouse sprinkler system with 1st FP Services, LLC as presented (attached).

Motion was made by Commissioner Wisian, seconded by Commissioner Chapman, and carried by a vote of 5-0.

13. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Addendum to the Service Agreement between 1st FP Services, LLC and Kendall County for 1st FP Services to perform installation services for the Kendall County Courthouse in an amount not to exceed \$953.00 (attached).

Motion was made by Commissioner Chapman, seconded by Commissioner Carpenter, and carried by a vote of 5-0.

14. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve moving \$205,000.00 of AARPA funds provided those funds are available in the account and provided that we can legally allocate this money to Das GreenHaus.

Motion was made by Commissioner Wisian, seconded by Commissioner Bergmann, and carried by a vote of 4-1 with Judge Stolarczyk voting against.

15. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to rescind previous Kendall County Order allowing the Kendall County Judge to negotiate with TXDOT to purchase the tract of land know as Surplus North Tract No. 1 furthermore the County shall not pursue purchasing said property.

Motion was made by Commissioner Chapman, seconded by Commissioner Bergmann, and carried by a vote of 5-0.

16. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the transfer of the decommissioned ambulance, 2014 Dodge Ram 3500, Unit 2790 from EMS to the Sheriff's Office.

Motion was made by Commissioner Bergmann, seconded by Commissioner Wisian, and carried by a vote of 5-0.

17. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the partial cancellation of Miralomas Garden Homes Subdivision, Unit 1, recorded in Volume 8, Page 157, and Volume 9, Page 144 of the plat records of Kendall County, Texas.

Motion was made by Commissioner Bergmann, seconded by Commissioner Chapman, and carried by a vote of 5-0.

18. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the final plat of Miralomas Garden Homes Subdivision, Unit 3, in accordance to the 1997 Development Rules and Regulations and relief granted. The proposed subdivision would create 80 lots out of 53.474 acres for an average density of 0.67 acres/lot and 2,285 linear feet of private roadway. The proposed subdivision would be served by central water and central sewer.

Motion was made by Commissioner Bergmann, seconded by Commissioner Wisian, and carried by a vote of 5-0.

19. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to accept the financial guarantee for Miralomas Garden Homes Subdivision, Unit 3, in the form of a cash deposit in the amount of one million, one hundred sixty-six thousand, five hundred eighty-nine, and 55/100 dollars (\$1,166,589.55) for street and drainage improvements in the subject subdivision.

Motion was made by Commissioner Bergmann, seconded by Commissioner Chapman, and carried by a vote of 5-0.

20. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Change Order No. 1 between Kendall County and Kimley-Horn pursuant to RFQ 2022-06, to increase the contract by \$12,500.00 for a total contract not to exceed \$25,000.00 for traffic engineering services (Fund 10-402-54861).

Motion was made by Commissioner Chapman, and seconded by Commissioner Bergmann, and carried by a vote of 5-0.

21. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve releasing the financial guarantee for Cordillera Ranch, Unit 303 in the amount of \$524,049.45 for roadway and drainage improvements.

Motion was made by Commissioner Chapman, seconded by Commissioner Carpenter, and carried by vote of 5-0.

22. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve releasing the financial guarantee for Cordillera Ranch, Unit 304 in the amount of \$1,927,148.96 for roadway and drainage improvements.

Motion was made by Commissioner Chapman, seconded by Commissioner Carpenter, and carried by vote of 5-0.

23. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to reject all bids received by May 26, 2023, Bid #2023-03 and granting permission to re-advertise and rebid Seal Coat FY2024.

Motion was made by Commissioner Bergmann, seconded by Commissioner Wisian, and carried by a vote of 5-0.

24. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to execute the Upper Cibolo Creek Watershed Supplemental Watershed Agreement No. 1, Flood Retarding Structure No. 2.

Motion was made by Commissioner Chapman, seconded by Commissioner Bergmann, and carried by a vote of 5-0.

25. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve renewal of the Texas Department of State Health Services Interlocal Cooperation Contract regarding remote birth services (attached).

Motion was made by Commissioner Bergmann, seconded by Commissioner Chapman, and carried by a vote of 5-0.

At 11:55 a.m. the Court recessed Open Session, took a break, and went into Executive Session:

- I. Pursuant to Texas Government Code § 551.071 (Attorney Consultation) and Texas Government Code § 551.072 (Real Property) the deliberation of the purchase, exchange, or lease or value of real property. (Note: deliberation in an open meeting would have a detrimental effect on the position of Kendall County in negotiations with a third person.)
 1. Discussion regarding the purchase of office/warehouse/and other space for the county
 2. Discussion regarding Surplus North Tract No. 1

II. Pursuant to Texas Government Code § 551.071 (Attorney Consultation) and Texas Government Code § 551.074 (Personnel Matters), consultation with legal counsel to seek the advice of attorney(s) representing the County, concerning pending and/or threatened litigation, settlement offers, and/or matters in which the duties of the attorney(s) under the Texas Rules of Professional Conduct of the State Bar of Texas require confidential communications.

- 1. County fire protection and firefighter duties, responsibilities, and service**
- 2. Cause No. 23-079, Scott Harrison v. Barbara Christman et al., in the 451st Judicial District Court**
- 3. CA No. 5:22-cv1073; Chris Kniffin v. Kendall County, in the United States District Court for the Western District of Texas, San Antonio Division**
- 4. Violation of flood plain regulations regarding 216 FM 473, Comfort, TX**
- 5. Cause No. 5:23-CV-00683-FB; Gabriel Miranda v. Kendall County, in the United States District Court for the Western District of Texas, San Antonio Division**

At 1:01 p.m. the Court closed Executive Session, resumed Open Session.

26. Action resulting from Executive Session deliberations.

26. THE STATE OF TEXAS

II-5 COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize Judge Stolarczyk to seek qualified legal counsel to represent the County should the need arise for representation on Cause No. 5:23-CV-00683-FB, Gabriel Miranda v. Kendall County, in the United States District Court for the Western District of Texas, San Antonio Division.

Motion was made by Commissioner Wisian, seconded by Commissioner Bergmann, and carried by a vote of 5-0.

26. THE STATE OF TEXAS

II-4 COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize legal counsel to pursue legal action regarding a flood plain violation at 216 FM 473, Comfort, Texas in the event the landowner does not comply with the final request from Kendall County.

Motion was made by Commissioner Wisian, seconded by Commissioner Carpenter, and carried by vote of 5-0.

26. THE STATE OF TEXAS

I-1 COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize Commissioner Wisian to seek and negotiate real estate for purchase or lease in Precinct 2.

Motion was made by Judge Stolarczyk, seconded by Commissioner Bergmann, and carried by vote of 5-0.

Being no further business, the meeting was adjourned at 1:02 p.m.

EXAMINED AND APPROVED THIS 26TH DAY OF JUNE 2023.

/s/ Shane Stolarczyk
COUNTY JUDGE
KENDALL COUNTY, TEXAS

ATTESTED: /s/ Denise Maxwell
COUNTY CLERK
KENDALL COUNTY, TEXAS

The Court reserves the right to adjourn, by majority vote, into Executive Session at any time during the course of this meeting to discuss any of the matters listed in this agenda, in the order deemed appropriate, as authorized by Chapter 551, Open Meetings, Texas Government Code, Sections 551.071, 551.072, 551.073, 551.074, 551.0745, 551.075, 551.076, 551.087, and 551.089 or to seek the advice of its attorney and/or other attorneys representing Kendall County on any matter in which the duty of the attorney to the Commissioners Court under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with chapter 551 of the Texas Government Code or as otherwise may be permitted under chapter 551. Action, if any, will be taken in the open session.

This agenda has been reviewed and approved by the Court's legal counsel. This paragraph is intended to constitute a legal opinion of the Court's legal counsel that the presence of any subject in and Executive Session portion of the agenda is properly noticed pursuant to the Texas Open Meetings Act. This constitutes an interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by that attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to that attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.