

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 13th day of February 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: Commissioner Christina Bergmann, Precinct 1, Commissioner Andra Wisian, Precinct 2, Commissioner Richard Chapman, Precinct 3, Commissioner Chad Carpenter, Precinct 4 and Shane Stolarczyk, County Judge

4. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Minutes for January 23, 2023.

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

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

6. At 9:15 a.m. a public hearing was held on the application filed by James & Lisa Jenkins for the proposed plat revision Lot 113A, Town of Comfort, recorded in Volume 8, Page 152 of the Kendall County Plat Records.
At 9:16 a.m. the public hearing was closed.

7. PUBLIC COMMENTS: Armando Martinez, Lisa Sallick, Steve Mack, Robert Saenz, Bill Hetherington, Alex Rudd, Robert Imler, Somer Baburek, Maxie Zinsmeister
The following people spoke during item #20: Phil Hunke, Tommy Mathews, Don Durden, Cindy Breuer, Gary Lindner, Drake Gossi
The following person spoke during item #21: Lance Kyle
The following person spoke during item #34: Denise Dever

8. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve amending the FY2023 budget through regular budget adjustments (attached).

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

9. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to accept the list of donations on behalf of Kendall County as per Local Government Code 81.032 (attached).

Motion was made by Commissioner Chapman, seconded by Commissioner Bergmann, 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 accounts payable claims for purchases, services, and vendors as presented by the Auditor.

Motion was made by Commissioner Wisian, 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 Interlocal Agreement between Region 8 Education Services Center and Kendall County to provide cooperative purchasing services through a program known as The Interlocal Purchasing System (TIPS).

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

12. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to participate in the Alamo Area Regional Mitigation Program as part of the CDBG Mitigation Action Plan through the Texas General Land Office.

Motion was made by Commissioner Carpenter, 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 cash summary at Frost Bank for December 2022 (attached).

Motion was made by Commissioner Chapman, seconded by Commissioner Wisian, 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 accept the Racial Profiling Reports for Constables for Precincts 1, 2, 3, and 4.

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

15. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the four new committee members to the committee approved by the Commissioners Court on January 9, 2023 to educate and advise the Court as to the acquisition of property using the \$20 million bond funding approved by taxpayers in November 2022 under Proposition A.

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

16. **Announcement of the appointments to the committee to educate and advise the Court as to the acquisition of property using the \$20 million bond funding approved by taxpayers in November 2022 under Proposition A (attached).**

17. **THE STATE OF TEXAS**

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the updated bylaws with changes as noted as presented by Joe Reissig, Parks Director.

Motion was made by Commissioner Chapman, seconded by Commissioner Wisian, 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 appointments/reappointments to the Kendall County Parks Advisory Board as read by Judge Stolarczyk (attached).

Motion was made by Commissioner Wisian, seconded by Commissioner Chapman, 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 approve closing the following streets for Comfort ISD Anti-Bullying Run/Walk on March 1, 2023. The intersections involved are 6th Street and Main Street, 6th Street and Broadway, 6th Street and Water Street, 7th Street and Water Street, 8th Street and Broadway, 8th Street and Main Street, and 7th Street and Main Street.

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

20. **The court discussed the 501(c)(3) nonprofit Das GreenHaus's termination of the Economic Development Agreement with Kendall County dated August 22, 2022 regarding the renovation of the public building located at 400 East Blanco Road, Boerne, Texas 78006.**

21. **Kathy Estes, Board President and Justin McKenzie, founding board member discussed the 501(c)(3) nonprofit Das GreenHaus's proposal for a new Economic Development Agreement with Kendall County and the purpose of said agreement.**

22. **THE STATE OF TEXAS**

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the prisoner housing Interlocal Agreement with Atascosa County.

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

23. **Announcement of appointments to the Alamo Area Council of Government (AACOG) committees (attached).**

24. **Ernesto Martinez, Employee Benefits Consultant and Mark Zollitsch, Wellness Consultant presented the health and wellness program at Texas Association of Counties.**

25. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to apply for continuation of the Justice Assistance Grant 2024 Funding and of Related Resolution (attached).

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

26. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to apply for the continuation of Victims of Crime Act Grant 2024 Funding and of Related Resolution (attached).

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

27. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to apply for the continuation of Violence Against Women Act Grant 2024 funding and of Related Resolution (attached).

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

28. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to execute a specified rate contract with BGE Inc. for general engineering services.

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

29. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to rescind Commissioners Court approval of the Preliminary Plat of Windmill Ranch Subdivision, in accordance to Section 203 of the 2010 Kendall County Development Rules and Regulations (448 Waring Welfare, LLC).

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

30. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to allow Commissioner Bergmann to proceed with getting quotes and information for a fence and gate for the west side of the 114 Rosewood property.

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

31. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to enter into a one-year preventative maintenance contract with Bio Medical for Preventative Maintenance on 10 Sapphire I/V Pumps.

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

32. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve Kendall County EMS to enter into a Memorandum of Understanding for the Regional Whole Blood Program with Southwest Texas Regional Advisory Council (STRAC).

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

33. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve a service agreement with Metro Fire to meet the Texas Commission on Fire Protection & NFPA 1989 requirement for air testing.

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

34. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the County Judge to meet with County Staff to set up a meeting with the City of Boerne to discuss the proposed terms for the Interlocal Agreement concerning the ETJ and to meet all other requirements required by law and proceed with negotiations.

Motion was made by Commissioner Chapman, seconded by Commissioner Bergmann, and carried by a vote of 3-2 with Commissioner Wisian and Commissioner Carpenter voting against.

35. No action was taken concerning IT's attendance to a Cybersecurity course pursuant to Texas Government Code § 2054.5191.

At 12:13 p.m. the Court recessed Open Session, and went into Executive Session.

- I. Pursuant to Texas Government Code Section 551.072, to deliberate the purchase, exchange, 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. Lease of 635 Highway 46 East, Boerne, Texas 78006**
 - 2. Hiring of an Inspector to advise Kendall County on the condition of real property being considered for purchase**

- II. Pursuant to Texas Government Code Section 551.071 and 551.074, 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. 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
 - 2. Newsom Winery Attorney General Opinion request
 - 3. Law Enforcement Center – Turner Construction Dispute
 - 4. Land Lease for 400 East Blanco Road, Boerne, Texas 78006
 - 5. Duties and responsibilities of the County Engineer

- III. Pursuant to Texas Government Code Section 551.074, to deliberate on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or a charge against an officer or employee.
 - 1. Appointment of Outside Counsel
 - 2. Appointment of Shannon Schmoyer and firm Schmoyer Reinhard, LLC to represent the county in CA No. 5:22-cv1073, Chris Kniffin v Kendall County
 - 3. Duties and responsibilities of the County Engineer – Rick Tobolka

At 4:46 p.m. the Court closed Executive Session and resumed Open Session.

Commissioner Carpenter was absent from Open Session

36. NON ACTION ITEM

37. THE STATE OF TEXAS
III-2

COUNTY OF KENDALL It is ordered by the Commissioners’ Court of Kendall County, Texas, to enter into an engagement agreement with outside counsel Shannon Schmoyer and firm Schmoyer Reinhard, LLC to represent the county in Case No. 5:22-cv1073; Chris Kniffin 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 Chapman, and carried by a vote of 4-0.

38. THE STATE OF TEXAS
II-3

COUNTY OF KENDALL It is ordered by the Commissioners’ Court of Kendall County, Texas, to authorize the Gravely Firm to take all legal actions necessary to represent the County against all necessary parties regarding the incomplete construction project of the Sheriff’s Office, Jail, and renovation of the former jail and Sheriff’s Office.

Motion was made by Judge Stolarczyk, seconded by Commissioner Chapman, and carried by a vote of 4-0.

39. THE STATE OF TEXAS

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to pay \$1700.00 per month to Christine Jacques for February, March, April of 2023 for Justice of the Peace, Precinct 2 office located at 32828 IH 10 West, Boerne, Texas 78006.

Motion was made by Commissioner Wisian, seconded by Commissioner Bergmann, and carried by a vote of 4-0.

Being no further business, the meeting was adjourned at 4:52 p.m.

EXAMINED AND APPROVED THIS 27TH DAY OF FEBRUARY 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.