

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 Historic Courthouse in Boerne, Texas, on the 25th day of September, 2006.

Present: EDDIE J. VOGT, COUNTY JUDGE

ANN REISSIG, COMMISSIONER, PCT. #1

GENE MIERTSCHIN, COMMISSIONER, PCT. #2

DARREL LUX, COMMISSIONER, PCT. #3

RUSSELL C. BUSBY, COMMISSIONER, PCT. #4

SALLY W. PETERS, DEPUTY COUNTY CLERK

The meeting was called to order with the Pledge of Allegiance to the United States and Texas flags.

The Court extended sympathy to the family of James Baethge.

The Court recognized Jeff Fincke who has been honored to represent Kendall County and the Alamo Area Council of Governments (AACOG) in Dallas at the Texas Regional Catastrophic Preparedness Conference.

THE STATE OF TEXAS 9:01

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas , to approve the Minutes for the month of August 2006.

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

THE STATE OF TEXAS 9:02

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Monthly Reports for August 2006 as submitted by the Auditor's Office (on file).

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

THE STATE OF TEXAS 9:03

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Budget Adjustments as submitted by the Auditor's Office (attached).

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

THE STATE OF TEXAS 9:05

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve

the Claims and Additional Claims as presented by the Auditor's Office (on file).

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

THE STATE OF TEXAS 9:05

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve

the Claim for the Texas Association of Counties for the 4 th Quarter as presented by the Auditor's Office (attached).

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

THE STATE OF TEXAS 9:05

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve

the changes to the Recurring Payments as presented by the Auditor's Office (attached).

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

THE STATE OF TEXAS 9:10

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to remove the burn ban until further notice.

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

9:13

No action was taken on amending the 2006 Commissioners' Court Calendar for the month of December.

THE STATE OF TEXAS 9:15

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Commissioners' Court Calendar for 2007 and that December 26 th will be the second December meeting.

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

THE STATE OF TEXAS 9:17

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Holiday Schedule for 2007 with the addition of Friday, March 2, 2007, for Texas Independence Day.

Motion was made by Commissioner Busby, seconded by Judge Vogt, and carried by a vote of 3-2 with Commissioner Miertschin, and Commissioner Reissig voting against.

THE STATE OF TEXAS 9:20

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize the substitution of employees to work shifts for Shannon Stockton-Brandt on a voluntary basis as outlined in the Fair Labor Standards Act.

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

THE STATE OF TEXAS 9:23

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize employees to donate sick leave time to another employee of Kendall County.

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

THE STATE OF TEXAS 9:25

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to adopt a Resolution to recognize October as Domestic/Family Violence Awareness Month. .

Motion was made by Judge Vogt, seconded by Commissioner Miertschin, and carried by a vote of 5-0.

THE STATE OF TEXAS 9:27

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to adopt a Resolution in Support of the Texas Brush Control Program in the Guadalupe River Basin in Kendall, Kerr, and Comal Counties.

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

9:30

A Public Hearing was held concerning proposed amendments to the Kendall County Development Rules and Regulations for:

- **Development in the Comfort Historic Township Area**
- **Other Amendments**

Don Allee, County Attorney, explained the proposed amendments and the options that the Court could take after the hearing.

The following people spoke concerning the Development in the Comfort Historic Township Area amendment:

John Kight spoke as a Kendall County citizen against the amendment and concerned about insufficient groundwater to support the type of density being proposed and water quality.

Russell Busby said the water district and Cow Creek would still have control over the water since the amendment deals only with areas within the historic township of Comfort .

Micah Voulgaris pointed out some changes to the document wording and said that Cow Creek Groundwater Conservation District has the authority to regulate tract size per the water code.

Skip Shumpes, former director of Cow Creek and Boerne businessman, said that fewer wells, brush control, and maintaining large tracts is the best situation.

Wheeler Hughes spoke about Comfort losing its heritage, small-town friendliness, safety, rural character, and about the existing groundwater shortage.

Andy Burge expressed concern about waiving existing Rules and Regulations, the increased load on county services, the problems with affordable housing on ½-acre lots, and future litigation if the amendment is approved.

Paul Urban voiced approval for the amendment because the proposed changes are within the jurisdiction of the water district and lot sizes are large enough to insure no high-density development.

Paula Cairns with Boerne Together spoke against the amendment saying there must be government cooperation for water conservation and management, impact of growth on water quality and availability, Cow Creek rules, recharge features, pollution risks, and preservation of the county's agricultural character.

James Billingsley spoke against the proposed amendment expressing concern for uncontrolled growth and no vision statement for the historic town of Comfort, and he spoke in favor of incorporating Comfort.

David Langford expressed concern for the amendment and increased density, water availability, pressure on schools, impact on county budget, no clear communication of the issue's details, adverse impact on the state legislature to extend more powers to county government to control growth, and hurrying the decision.

John LaRoche said that rather than rush a decision on the proposed amendment, let the citizens of Comfort decide what they want done with their community.

Rod Fowler expressed concern about rushing to make a decision and that passing the amendment would leave a legacy of lawsuits.

David Thomas said that although he is not a resident of the County, he is dependent on the county water and is concerned about decisions that impact the aquifer.

David Biermann spoke about the amendment being a private property issue and the possibility of litigation if approved.

John Maskey spoke against the amendment and asked if it was true that a variance in existing Rules and Regulations could not be done for economic reasons as was discussed at the Cow Creek Groundwater Conservation District meeting.

Russell Busby stated that was a correct statement, but that this is not a variance but a rule addition to amend an existing rule.

Fred Bartel recommended disapproving the amendment due to loss of water recharge capability with the increase in wells and the impact on the infrastructure.

Joe Cooper spoke about the limited groundwater resource and its regulation being a shared resource issue and high- density development exceeding the available resources.

Robert Ligon from Center Point spoke about wells going dry, the water demand from businesses, and the subsequent impact on the recharge of the aquifer in Kendall County.

Jim McCormick spoke against the amendment because it is against the current Rules and Regulations and he spoke in favor of Comfort incorporating.

Otto Kasten expressed concerns about water availability with increased density.

Jack Hall expressed concerns about water and undesirable development.

Bob Manning, Boerne City Councilman, spoke about the different sources of Boerne's water, why the City of Boerne's Master Plan has some high density, and managing growth with cooperative citizen input.

Tommy Mathews spoke about a request to the San Antonio Water System (SAWS) in anticipation of wells going dry, but no water has been bought yet.

Fred Bartel spoke about Boerne's water sources being Canyon Lake, the Trinity aquifer, and Boerne Lake as opposed to Comfort's only water source being the Trinity aquifer.

Skip Shumpes spoke about seeking water sources other than groundwater and not implementing rules that conflict with Cow Creek restrictions.

Dub Smothers said that the County, Boerne, and Comfort need to work together and that Cow Creek is the best authority on controlling groundwater.

Paula Cairns spoke about protecting private property value by protecting the water availability.

THE STATE OF TEXAS 9:45 #2

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve all of the proposed changes and corrections to the Kendall County Development Rules and Regulations with the exception of 303.2 (which deals with the 30 acre/20 acre issue) and renumbering rules as appropriate.

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

THE STATE OF TEXAS 9:45 #1 MOTION FAILED

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to adopt the amendment to the subdivision rules and adopting 301.1300 Development of the Comfort Historic Township Area and the subsequent sections as provided in attachment 2.

Motion was made by Commissioner Busby, seconded by Judge Vogt, and failed by a vote of 2-3 with Commissioner Reissig, Commissioner Miertschin, and Commissioner Lux voting against.

PUBLIC COMMENTS No one spoke.

Court recessed for a Break.

THE STATE OF TEXAS 10:10

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve overtime pay to Road & Bridge employee Jean Maxwell for emergency response to repair a downed stop sign at the intersection of Cascade Caverns Road and Ranch Drive and a downed tree on Upper Cibolo Creek Road (attached).

Motion was made by Judge Vogt, seconded by Commissioner Busby, and carried by a vote of 5-0.

THE STATE OF TEXAS 10:12

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize Road & Bridge to seek replacement of a Road & Bridge Crew Leader truck through state purchasing.

Motion was made by Commissioner Busby, seconded by Judge Vogt, and carried by a vote of 5-0.

Court recessed for Lunch.

10:15

The presentation of the summary of activities for Road & Bridge during August 2006 was waived for the sake of time (attached).

10:18

The presentation of the summary of activities for Development Management during August 2006 was waived for the sake of time (attached).

THE STATE OF TEXAS 10:30

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to adopt the Resolution requesting the Texas Legislature to expand the Jurisdiction of the Kendall County Court at Law with modification to the language for Section 1, Subchapter C, Chapter 25, Government Code.

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

THE STATE OF TEXAS 10:40 MOTION FAILED

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to create a committee to meet with Judge Ables and Bruce Curry, District Attorney, to look into the idea of creating a new District Court for Kendall and Bandera Counties with the members of the committee to consist of the County Attorney or his representative, the Sheriff of Kendall County or his representative, and the Judge Elect.

Motion was made by Judge Vogt, seconded by Commissioner Reissig, and failed by a vote of 2-3 with Commissioner Miertschin, Commissioner Lux, and Commissioner Busby voting against.

THE STATE OF TEXAS 10:50

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve extending the current Interlocal Agreement with the City of Boerne for Regulation of Subdivision Plats within the ETJ of Boerne until January 1, 2007.

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

THE STATE OF TEXAS 11:00

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve a Memorandum of Understanding among Guadalupe Blanco River Authority (GBRA), the City of Boerne, Kendall County Commissioners' Court, and Cow Creek Groundwater Conservation District (the 2 nd draft) contingent upon the approval of the other two entities.

Motion was made by Commissioner Lux, seconded by Judge Vogt, and carried by a vote of 4-1 with Commissioner Busby voting against.

THE STATE OF TEXAS 10:20

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to accept a renewal Letter of Credit in the amount of \$300,000.00 for subdivision improvements

for the Reserve at Falling Water Subdivision effective October 14, 2006, in accordance with Development Rules and Regulations dated August 29, 2005.

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

THE STATE OF TEXAS 10:23

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Amending Plat for Tapatio Springs Subdivision, Unit 3, Block 18, Lot 10 and a portion (0.165 acres) of Tapatio Springs Golf Resort into Lot 10A (Robert and Sandra Vrana) in accordance with paragraph 208.1200.4 of the Development Rules and Regulations dated August 29, 2005.

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

THE STATE OF TEXAS 10:25

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the Amending Plat for Kendall Pointe Subdivision, Lots 109 and 110 into Lots 109A and 110A and the request for relief to minimum road frontage in accordance with paragraph 208.1200.4 and 301.1000 of the Development Rules and Regulations dated August 29, 2005.

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

Court went into Executive Session where no motions were made.

Being no further business, the meeting was adjourned.

EXAMINED AND APPROVED THIS ____ DAY OF ____ OCTOBER __ A.D., __ 2006
_____ .

ATTESTED:_____

COUNTY CLERK COUNTY JUDGE

KENDALL COUNTY , TEXAS KENDALL COUNTY , TEXAS