

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 11 th day of December, 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 families of Irene Dudley and Tommy Gonzales, Sr.

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 November 2006.

Motion was made by Commissioner Reissig, seconded by Commissioner Miertschin, 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 Claims as presented by the Auditor's Office (on file).

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

THE STATE OF TEXAS 9:20

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to declare as salvage and surplus property for auction in January the items listed by: the Tax Office; Debby Hudson, Justice of the Peace Precinct 3; Forres Meadows, Constable 3; Road & Bridge; Sheriff's Office; and the other miscellaneous items on the third floor from other departments.

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

9:22

No action was taken on the nomination of a member to the Kendall Appraisal District Board of Directors.

THE STATE OF TEXAS 9:24

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve payment to Turner, Collie & Braden Inc. for July 2006 engineering services ordered by the Commissioners' Court and to take the payment amount from the Commissioners' Contingency - Miscellaneous line item.

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

9:10

Bill Lydon, Department of State Health Services, gave a presentation on Strategic National Stockpile (SNS) preparedness in the event of a bio-terrorist attack and stated the need for a group of about 85 volunteers to staff the two POD (point of dispensing) sites. He asked the Court to appoint a volunteer coordinator to work with the Emergency Management Coordinator to start the recruitment process.

THE STATE OF TEXAS 9:05

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize the request to pay the \$1,000.00 deductible for insurance coverage of an EMS vehicle damaged during a Homeland Security Conference and to be paid out of the Commissioners' Contingency Miscellaneous line item.

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

THE STATE OF TEXAS 9:07

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to allow an EMS employee to carry over into 2007 the allowed 160 hours of vacation as well as an additional 40 hours for a vacation being taken in July 2007.

Motion was made by Commissioner Busby, seconded by Judge Vogt, and carried by a vote of 3-2 with

Commissioner Miertschin and Commissioner Lux voting against.

9:26

No action was taken on lifting the burn ban.

THE STATE OF TEXAS 9:27

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to prohibit the sale or use of restricted fireworks classified under 49 C.F.R. part. 173.100(r)(2)

(10-1-86 edition) as skyrockets with sticks and missiles with fins in any portion of the unincorporated areas of Kendall County (attached).

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

THE STATE OF TEXAS 9:28

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize lease agreements for lots in Comfort deeded to the County from FEMA after the 2002 flood: 205 8 th Street, 218 8 th Street, and 226 8 th Street to the Comfort Youth Area Commission; 206 7 th Street, 211 7 th Street, and 729 Broadway to Carlos Castro; 822 Avenue A to Ray Castro; and 717 Broadway to Art and Sandy Galindo and authorize the Judge to sign. The leases will automatically renew annually with a 30-day cancellation/termination option for either side for \$1.00.

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

THE STATE OF TEXAS 9:29

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize the lease agreement with Comfort Little Theater for the property at 635 Main Street in Comfort and authorize the Judge to sign. The lease will automatically renew annually with a 30-day cancellation/termination option for either side for \$1.00.

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

THE STATE OF TEXAS 9:30

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize a lease agreement with the Boy Scouts in Comfort for the building currently occupied by Road & Bridge contingent on Road & Bridge vacating the building and authorize the Judge to sign. The lease will automatically renew annually with a 30-day cancellation/termination option for either side for \$1.00.

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

THE STATE OF TEXAS 9:31

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize the adds and deletes to the new Road & Bridge facility all of which are within the budget.

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

THE STATE OF TEXAS 9:32

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to approve the expenditure, not to exceed \$4,000.00, from the Lateral Road & Bridge Fund for the purchase of ArkView and the associated license for data conversion contingent on approval by the County Attorney and to authorize the County Judge to sign.

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

THE STATE OF TEXAS 9:35

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to grant the request for relief to minimum road frontage for Lot 133 on a proposed plat revision in Comfort in accordance with paragraph 301.1150 of the Development Rules and Regulations dated August 29, 2005 (amended September 2006) to change five lots into seven lots (130A, 131A, 132A, 133A, 134A, 178A, and 179A) with one lot having less than 100 feet of frontage (Wayne Thurber).

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

THE STATE OF TEXAS 9:40

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to grant the request for relief to minimum road frontage on Pleasant Valley Road in accordance with paragraph 301.1000 of the Development Rules and Regulations dated August 29, 2005 (amended September 2006) for a 19.228-acre tract to be divided out of a 63.144-acre tract with access through a 50-foot easement to Pleasant Valley Road (Cliff Lewis). An affidavit of land

location is authorized which is to state that the property cannot be further subdivided without Court approval. This notation is ordered to be on the deed as well.

Motion was made by Commissioner Miertschin, seconded by Commissioner Busby, and carried by a vote of 4-0 with

Judge Vogt abstaining.

THE STATE OF TEXAS 9:40

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to grant the request for relief for the platting process in favor of an affidavit of land location for the 19.228-acre tract that is to be divided out of a 63.144-acre tract with access through a 50-foot easement to Pleasant Valley Road (Cliff Lewis).

Motion was made by Commissioner Miertschin, seconded by Commissioner Busby, and carried by a vote of 4-0 with

Judge Vogt abstaining.

THE STATE OF TEXAS 9:45

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to grant the request for relief to minimum building setbacks to be 25 feet in lieu of 50 feet for Lots 21, 23, 25, 27, and 29 (Comfort Falls Development LP-Sandy Smith, Partner) for the proposed Comfort Falls Aviation Estates Subdivision in accordance with paragraph 301.1600 of the Development Rules and Regulations dated August 29, 2005 (amended September 2006).

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

THE STATE OF TEXAS 9:47

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to grant the request for relief to minimum road frontage and density on FM 1376 in accordance with paragraph 301.1100 of the Development Rules and Regulations dated August 29, 2005 (amended September 2006) for a 7.5-acre tract to be divided into a 3.61-acre tract and a 3.89-

acre tract with the 3.89-acre tract having 60-foot frontage on FM1376 (Rose Marie Mathew Alegria).

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

PUBLIC COMMENTS:

Phillip Bell thanked Judge Vogt and Commissioner Busby for their service to the community.

Dan Ochoa commended the Court for the Order passed for Road & Bridge to convert GIS data.

Mike Luckey said that while he is for added authority for the Court, he is opposed to the draft of the proposal and

he asked that the Court consider his proposal for giving the Court more authority.

Commissioner Lux asked Mr. Luckey to give a copy of his proposal to the Court.

Commissioner Miertschin stated that the latest draft of the proposal was now on the County website and that it

addressed most of Mr. Luckey's concerns.

Court recessed for a Break.

10:25

O.W. Schneider presented his concern to the Court regarding the Curry Creek rock crushing operation and the

impact it will have on the environment and area residents. He asked for the Court to exercise their authority to stop or regulate the operation.

The County Attorney said that this is a perfect example of the authority the Court does not have and that rock

crushing operations are regulated, if at all, by TCEQ and currently the Court's authority to regulate a rock crushing operation is nonexistent.

Commissioner Lux asked the County Attorney if his distant relation to Roland Lux constituted a conflict of interest.

The County Attorney said there is no conflict of interest because the family relation is outside the first degree.

Jeanie Lewis gave aerial photographs to the Court and expressed concerns about the dust, water availability and

water quality, pollution, debris, traffic, property sales, noise, and air quality.

Commissioner Lux asked what is the legal distance a plant must be from either a residence or property line.

Gary Uecker, owner of the Curry Creek rock crushing operation, said the legal distance a plant must be from a

residence is ½ mile; there is no property line restriction.

Mike Reed, president of Waterstone Property Owners' Association, expressed the additional concerns of traffic

safety and road damage from truck traffic, runoff into the Guadalupe River , and the burden of costs to the County and Cow Creek Groundwater Conservation District.

G.D. Cheek, resident of The Crossing, said he is against a quarry because of water quality and availability.

Judy McMillan expressed concerns already stated and added her concern for the caves on her property.

Gary Uecker stated that he did not intend to work the plant 24 hours a day, that the roads will have an emulsion

coating so no water will be needed to keep down dust, a retention pond will be built to collect water as well as tanks to catch the silt and to increase water capacity, the plant will use approximately 1,000 gallons of water a day at the misting points, and they are building tanks to minimize use of underground water.

Commissioner Lux asked where is the closest residence.

Gary Uecker said the closest residence was ¾ of a mile at the cul-de-sac at the top of The Crossing subdivision.

Commissioner Miertschin asked how long rock-crushing operations lasted before running out of rock.

Gary Uecker said it depended on how much rock is there and that there is no estimate.

Commissioner Lux asked if the permit had a time limit or was it forever.

Gary Uecker said there was not an end date.

O.W. Schneider stated that the permit allows for 2,400 tons per day and for the plant to operate at night.

Commissioner Lux stated that the Court looked forward to being able to regulate this type of operation.

Paul Merritt said the RedLand Quarry in San Antonio left an area limited in what could be built around it.

Joanne Rine, resident of The Crossing, expressed concern for the road being dangerous before the added truck

traffic because the road has no shoulders and very narrow lanes with a 6-8 inch drop off.

Greg Malatek, TxDOT representative, said a submission to the District for funding to improve the roads will take

about three years before anything would be done and that if silt drains into the state system then they will have jurisdiction.

Dan Ochoa said the Transportation Planning Committee is open to comments on these types of road concerns and

the Kendall County Economic Development Corporation should have been aware of this type of operation.

G.D. Cheek said that the rock is not going to run out and is in high demand even outside the state.

Commissioner Lux said that the comments were appreciated but that the Court had no authority to regulate.

The County Attorney stated that the County Development Guidelines are only in effect if there is a subdivision of

property and also because the road being discussed is a state highway the Court has no authority to regulate trucks on the road, their weight limits, or anything else.

Gary Uecker said that his plant will crush 2,000 tons a day not 4,000 like the large plants that use railroad cars for

hauling and he will not be washing the rock; it will be brushed with a screen.

Court went into Executive Session and as a result the following motions were made:

THE STATE OF TEXAS 11:30 #1

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize the County Attorneys for Kendall County to proceed as discussed in Executive Session.

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

THE STATE OF TEXAS 11:30 #3

COUNTY OF KENDALL It is ordered by the Commissioners' Court of Kendall County, Texas, to authorize payments to attorneys representing Nancy White, Justice of the Peace, Precinct 1, in the amount of \$5,000.00 as previously authorized and authorize the County Attorney to write letters to attorneys telling them to get right in their minds.

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

11:50

No action was taken on reviewing the revised bill giving Kendall County additional authority.

Being no further business, the meeting was adjourned.

EXAMINED AND APPROVED THIS __ 8 th __ DAY OF __ _ JANUARY __ A.D., __ 2007
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ATTESTED: _____

COUNTY CLERK COUNTY JUDGE

KENDALL COUNTY , TEXAS KENDALL COUNTY , TEXAS