



**DIANE DAY**

*AUSTIN COUNTY CLERK*

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## **COMMISSIONERS COURT MINUTES**

**February 24, 2025** Austin County Commissioners Court met in the 2<sup>nd</sup> floor Courtroom at the Austin County Courthouse with the following present:

Tim Lapham, County Judge  
Greg Mikel, Commissioner, Precinct 1  
Robert "Bobby" Rinn, Commissioner, Precinct 2  
Leroy Cerny, Commissioner, Precinct 3  
Chip Reed, Commissioner Reed, Precinct 4  
Kimberly Benjamin, Deputy Clerk

### **9:00 A.M. OPENING**

**CALL TO ORDER**

**INVOCATION**

**PLEDGES OF ALLEGIANCE**

**ROLL CALL AND CERTIFICATION OF QUORUM**

**CONSIDERATION/ADOPTION OF AGENDA**

*Motion to Adopt: Commissioner, 2<sup>nd</sup> Commissioner (4-0)*  
**Order #25-55**

### **1. Petitions or Requests from the Public.**

Diane Day (County Clerk) introduced new hire Allison Gerick from the County Clerk's office to Judge and Commissioners.

### **2. Discussion regarding commercial development plan for On Energy Battery Storage System, Pct. 1 and action as appropriate.**

Per Jonathan Hopko (County Engineer), City does not have ordinance.

County has three options available in regards to project: 1) Approve Battery Storage System, as minimum guidelines have been met. 2) Disapprove. 3) Table the matter. If tabled, project will administratively be approved on March 4, 2025.

Per Jonathan Hopko (County Engineer), County's approval is for access and drainage to site. Those are the main two items County is allowed to control.

Citizens of Austin County addressed Court with their concerns in regards to Battery Storage Facility.

Kase Schindler property is located in front of facility. Concerned that there is no evacuation plan.

Donald Bleyl expressed concern regarding safety plans and off gassing issues. Advised Court to address importance of safety.

Danny Jacob advised that he is not against Battery Storage Facility, but against location. Informed Court that Fire Chief is not aware of an emergency plan. Expressed concern about containment. Encouraged Court to vote against facility.

Donna Jacob expressed concern for safety of residents and kids. States that facility could affect the quality of life. Supports decision of Commissioner's and Judge by trusting they will consider the citizen's safety when making their decision.

Caleb Berry expressed concern of safety, as facility is located too close to homes. Encourage Court to vote against facility.

Representatives of Battery Storage Project addressed some concerns of citizens.  
Kenneth Cargill – Civil Engineer Developer (Kimley-Horn)  
Dustin Breaux – Head of Field Service (On Energy Storage)  
Julian Castro (Kimley-Horn)

Dustin Breaux (Head of Field Service, On Energy Storage), explained how storage facility operates to ensure citizens that there is no threat of disaster. Provided description of safety measures used with building this facility compared to facilities manufactured years ago.

Commissioner Reed inquired on location of lines running to property. Per Kenneth Cargill (Civil Engineer Developer, Kimley-Horn), lines are run through right-of-way to site where there will be no impact to private properties. Lines are located on South side of West Fisher Street. Lines will run underground and underneath driveway of site, then above ground to connect to poles.

Per Commissioner Reed, not comfortable with location of storage facility. Concerned that location is too close to homes. Referenced House Bill 2127, which puts County in a bind when deciding the approval or denial of project.

Commissioner Rinn inquired on who would be responsible for clearing out or cleaning the site in the event the power company no longer needs use of batteries. Per Dustin Breaux (Head of Field Service, On Energy Storage), his company would be responsible for clearing out batteries.

Commissioner Rinn inquired if State issued permits held by On Energy trucking companies, covers damage done to city streets and county roads when transporting batteries. Per Kenneth Cargill (Civil Engineer Developer, Kimley-Horn), the loads do not exceed HS-20 loading weight. Therefore, it does not require special permitting.

Commissioner Rinn inquired if On Energy had obtained all permits from property owners. Representatives for On Energy Storage stated that permits were obtained.

Commissioner Rinn expressed concern in regards to jail evacuation in the event of emergency.

Commissioner Mikel expressed concern of safety due to location of facility. Personal home, hospital and jail is located within vicinity.

Per Kenneth Cargill (Civil Engineer Developer, Kimley-Horn), they have worked with other cities all over Texas that had similar concerns in regards to location and safety. Have worked with fire marshals in the cities that have jurisdictions to explain safety through videos, data safety sheets, etc., to work through their safety concerns.

Commissioner Reed and Commissioner Rinn advised on the difference in capacity, capabilities and limits between the city and county fire departments. Per Dustin Breaux (Head of Field Service, On Energy Storage), training is provided to fire teams.

Kenneth Cargill (Civil Engineer Developer, Kimley-Horn) reassured Court that battery containers have chemicals inside to treat themselves. Batteries are self-contained.

Commissioner Cerny expressed his concerns to be the same as other Commissioners.

Judge Lapham distributed a diagram created by Emergency Management, that showed a 500-yd. radius circle which includes jail, Justice Center, hospital and nursing home.

Per Judge Lapham, County is responsible for care and safety of all inmates in County Jail. Inquired on amount of time that it will take to evacuate jail in the event of fire/emergency. Per Sheriff Brandes, evacuation to Highway 36 would take 90 minutes.

Judge Lapham inquired on amount of time it would take to evacuate nursing home. Per Chief Morrow (EMS Department), it would take hours depending on mobility of patients. Evacuation of hospital would also require hours. EMS crews are not trained to wear required equipment for hydrogen sulphide fumes.

Judge questions why State did not put rule in place immediately as opposed to waiting until September. Commissioners agree.

*Motion to Deny: Commissioner Reed, 2<sup>nd</sup> Commissioner Rinn (4-0)*  
**Order #25-56**

Discussion

Commissioner Reed encourages citizens to reach out to State Representatives in regards to this matter.

**3. Discussion to approve Southfork Ranch Phase II, Final Plat and action as appropriate.**

Per Jonathan Hopko (County Engineer), Final Plat for Southfork Ranch located at 2546 Ricefield Road (Sealy, TX) has met all minimum obligations. Request to approve.

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Cerny (4-0)*  
**Order #25-57**

**4. Discussion to approve DRJ Unlimited/FM 3013 Commercial Development Final Plans and action as appropriate.**

Per Johnathan Hopko (County Engineer), plans are for an Electrical Contractor. Site location is 1619 FM 3013 (Sealy, TX). All obligations have been met. Request to approve.

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Rinn (4-0)*  
**Order #25-58**

**5. Discussion regarding Auditor's Office new hire sign-on package and action as appropriate:**

- a. **Approve starting pay rate that exceeds the maximum new hire rate in the compensation order**
- b. **Give 3 sick days at date of hire**

Per Billy Doherty (County Auditor), Auditor's office has hired a new employee. Employee is very knowledgeable in the field. Request to pay \$22/PH based on experience. Employee has three sick days remaining with previous employer, which is why he is requesting to start with three sick days available.

Per Judge Lapham, requested salary is acceptable. However, starting employee with three sick days available may cause issues. Court needs to address New Hire Sick Day Policy during next Budget Year.

Billy Doherty (County Auditor) reminded Court that an exception was made at a previous time. Therefore, he is asking for approval in this matter. Commissioner Reed agrees.

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Cerny (3-1)*  
**Order #25-59**

Commissioner Rinn opposed.

## Discussion

Per Commissioner Rinn, Court needs to address New Hire Sick Day Policy before Budget Time.

Per Commissioner Cerny, County used to give new employees one sick day at the start of employment. Judge Lapham agrees that how it should be.

Commissioner Rinn inquired if policy could be changed now to give new employees one sick day to accommodate Billy Doherty's request.

### **6. Discussion to approve San Bernard Replat, Kaechele Road, and action as appropriate.**

Per Jonathan Hopko (County Engineer), replat has been submitted for San Bernard Bend Division Tracts 5 & 6. The two lots are within HOA regulations and conditions have been met. Request to approve.

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Rinn (4-0)*  
**Order #25-60**

### **7. Consideration and action to award bid for Constable & SO (SB22 funds) vehicles.**

Per Judge Lapham, Sheriff's Office has SB22 money left to use towards the purchase of two vehicles. Tegeler Chevrolet has two Chevy 1500's available. Request to approve one truck for Constable (Precinct 2).

County will go out for rebid on SUV request from Sheriff's Office.

Request to approve bid from Tegeler Chevrolet for two vehicles at \$48,071.16.

*Motion to Approve: Commissioner Rinn, 2<sup>nd</sup> Commissioner Mikel (4-0)*  
**Order #25-61**

### **8. Discussion regarding financing of Constable vehicle and action as appropriate.**

Judge Lapham inquired on the status from the financing companies in regards to financing the vehicle. Per Billy Doherty (County Auditor), he had not been contacted, but will follow up.

Per Judge Lapham, will bring documents from financing company back to court for signatures once received. Request to give Auditor authority to move forward with financing of Constable vehicle with Welch State Bank or Government Capital Corporation. Whomever provides best quote.

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Rinn (4-0)*  
**Order #25-62**

9. Consideration and action to declare the following Pct. 4 equipment as surplus:
  - a. 1995 International 4900 Truck (VIN ending 3732)
  - b. Trailer King Belly Dump (VIN ending 3922)
  - c. Ferguson Pneumatic Roller (SN 1167)
  - d. John Deere 2755 (SN 1027550094312)
  - e. CAT Scraper 621B (SN 8R2246)
  - f. 2004 Somerset Pusher Trailer (VIN ending 6101)
  - g. 1997 Peterbilt 379 (VIN ending 5440)

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Rinn (4-0)*  
**Order #25-63**

10. **CONSENT AGENDA** - Items listed are of routine nature and may be acted on in a single motion unless requested otherwise by members of Commissioners Court.
  - a. Consideration and action to ratify Right of Way installation permit application(s) by Industry Telephone Company at:
    - i. Wilde Road, Pct, 2
    - ii. Zettel Road, Pct. 2
  - b. Consideration and action to accept Racial Profiling Report from Const., Pct. 3.
  - c. Consideration and action to ratify Interoperable Communications Grant Resolution.
  - d. Consideration and action to accept special donations per LGC 81.032:
    - i. \$ 200 to Austin County SO
    - ii. \$ 100 to West End Public Library Summer Reading Program
    - iii. \$ 300 to West End Public Library Summer Reading Program
    - iv. \$ 200 to Austin County EMS
  - e. Consideration and action to accept executed MOU between Austin County SO and Lavaca County SO.
  - f. Approval of Minutes:
    - i. December 30, 2024
    - ii. January 13, 2025
  - g. Consideration and action to approve required schooling application to Rick Yancey, Justice of the Peace, Pct. 1, to be held March 2-4, 2025 at TJC Training Center in Austin, Texas.
  - h. Consideration and action to accept executed agreement between Austin County and Cintas.

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Rinn (4-0)*  
**Order #25-64**

**11. Budgetary and Financial Claims - action as appropriate.**

**a. Payment of Claims**

Total = \$1,264,563.52

*Motion to Approve: Commissioner Rinn, 2<sup>nd</sup> Commissioner Mikel, passed (4-0)*  
**Order #25-65**

Payment to FireTron, Inc. not to exceed \$1800.

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Cerny, passed (4-0)*  
**Order #25-66**

Payment of \$48,071.16 to Tegeler Chevrolet for vehicles for Sheriff's Office.

*Motion to Approve: Commissioner Rinn, 2<sup>nd</sup> Commissioner Reed, passed (4-0)*  
**Order #25-67**

**b. Fund Transfers**

Total = \$763,072.21

*Motion to Approve: Commissioner Rinn, 2<sup>nd</sup> Commissioner Mikel, passed (4-0)*  
**Order #25-68**

**c. Budget Amendments**

No Budget Amendments.

**d. County Auditor's Review of finances**

Issued by County Auditor to Judge and Commissioners for self-review.

**e. County Treasurer**

- i. Monthly Treasurers Report – July 2024, August 2024, September 2024, October 2024, November 2024, December 2024, & January 2025**

*Motion to Approve: Commissioner Cerny, 2<sup>nd</sup> Commissioner Mikel, passed (4-0)*  
**Order #25-69**

- ii. Payroll and Escrow Report**

- 1. 02.07.2025**
- 2. 02.21.2025**

*Motion to Approve: Commissioner Reed, 2<sup>nd</sup> Commissioner Rinn, passed (4-0)*  
**Order #25-70**

12. **Written end-of-the month reports submitted by County Offices.**
  - a. **Statutory Court – January 2025**
  - b. **Justice of the Peace, Pct. 2 – January 2025**
  - c. **Library – January 2025**
  - d. **Texas AgriLife Extension Office – January 2025**
  - e. **OSSF**

*Motion to Accept: Commissioner Cerny, 2<sup>nd</sup> Commissioner Rinn, passed (4-0)*  
**Order #25-71**

Court recessed at 9:59 a.m.

**13. EXECUTIVE SESSION**

In accordance with Texas Local Government Code §551.071, §551.125 and §551.129, a closed meeting will be held concerning the following items:

- a. Legal Matter

Court Reconvened at 10:35 a.m.

**14. Action as appropriate on Executive Session.**

No action.

**15. Commissioners Court Inquiry.**

Court recessed at 10:49 a.m.

Court Reconvened at 2:00 p.m.

Court reopened with video conference including Salvatore Minopoli (President, On Energy), Kenneth Cargill (Civil Engineer Developer, Kimley-Horn) and Dustin Breaux (Head of Field Service, On Energy).

Salvatore Minopoli (President, On Energy), inquired on current status in regards to decision for battery storage facility.

Per Judge Lapham, State Jail Commission is concerned with safety due to facility being close to Austin County Jail.

Per Salvatore Minopoli (President, On Energy), they currently have 14 projects in Houston area. Fire Chief of Pasadena County can speak with anyone to confirm testing performed to assure safety of battery facility. Facility design is required to comply with Federal Code Standard. There is no possibility of thermal runaway with design.

Judge Lapham inquired on what material is in battery system. Per Salvatore Minopoli (President, On Energy), material is lithium-ion.



Per Salvatore Minopoli (President, On Energy), willing to meet with Court and give tour of other storage facilities for observation of operation. Company has impeccable safety record with zero incidents.

Judge Lapham inquired on reassurance that storage facility will never catch fire. Per Salvatore Minopoli (President, On Energy), facility will never catch fire. Containers have detection and suppression system to prevent fires.

Salvatore Minopoli (President, On Energy), encourages Court to speak with Fire Chief David Brannon (Pasadena County, TX), to answer any questions or concerns in regards to results of safety tests performed.

Judge Lapham inquired if Salvatore Minopoli (President, On Energy) believe Austin County to have same emergency response capabilities of Pasadena County. Salvatore Minopoli could not answer question and inquired if question is relevant in terms of design.

Per Commissioner Reed, inquired on how County would fight fire without capabilities to do so. Per Salvatore Minopoli (President, On Energy), probability is low for catching fire. In creating design, all issues have been addressed in regards to any causes of fires (lightning, etc.). There is a fire suppressant agent inside the battery cabinet. Battery cabinet is self-contained. Everything stays within cabinet.

Per Salvatore Minopoli (President, On Energy), willing to come meet with Judge and bring in national experts to further explain the process of how battery cabinet works.

Commissioner Reed explains that County does not have emergency response capabilities to fight fire in the event it was to happen. Main concern is location of the facility relating to safety.

Judge Lapham read Section 11.10.2 of the Emergency Operation Plan from On Energy. Questioned Salvatore Minopoli on location of evacuation area mentioned in their document, since stating that fire will never occur.

Per Salvatore Minopoli (President, On Energy), it's standard protocol when dealing with lithium-ion to designate an evacuation area for Safety Personnel.

Per Dustin Breaux (Head of Field Service, On Energy), safety exit for personnel is the entry point of site. Commissioner Rinn inquired on process for evacuating residents located in area.

Judge Lapham inquired on need to involve Fire Department if there's not a fire. Per Dustin Breaux (Head of Field Service, On Energy), it's a requirement to notify Fire Department of any incident at storage facility.

Commissioner Rinn inquired on how On Energy assumes Bellville to have emergency equipment without knowledge. Per Dustin Breaux (Head of Field Service, On Energy), basic equipment (fire extinguishers, SCBA) is only required.

Judge Lapham looked up other facility located in Pasadena County at 3379 Strawberry Road, Pasadena, TX 77504.

Judge Lapham inquired on the manufacturer of the containers. Per Salvatore Minopoli (President, On Energy), build their own design. Other contributing manufacturers are CATL (electrical use), SunGrid Solar and Tesla Energy.

Salvatore Minopoli (President, On Energy), provided contact information for Fire Chief in Pasadena County. Encourages Court to reach out to Fire Chief to learn what measures were taken to test storage containers. Per Salvatore Minopoli, Chief Brannon went to extreme measures in order for container to combust.

Per Commissioner Reed, his original motion to deny still stands. Reason for denial is public health and safety.

Salvatore Minopoli (President, On Energy), reiterate that State has approved project, as well as other Counties, but Austin County denies because of public health and safety. Commissioner Reed confirms denial.

Per Salvatore Minopoli (President, On Energy), County will be hearing from him.

*Motion to Adjourn: Commissioner Reed, 2<sup>nd</sup> Commissioner Mikel, passed (4-0).*  
**Order #25-72**

Court adjourned at 2:36 p.m.

**ALL SUPPORTING DOCUMENTS ON FILE WITH COUNTY CLERK AS PROVIDED BY  
COMMISSIONERS COURT**

I, Diane Day, Austin County Clerk, attest to the minutes of the Commissioners Court proceedings for February 24, 2025.

Date: April 2, 2025

Diane Day, Austin County Clerk  
Clerk of Commissioners Court  
Austin County, Texas

By: Kimberly Benjamin  
Kimberly Benjamin, Deputy



FILED

2025 APR -2 PM 2:40