

COMMISSIONERS COURT MINUTES
110 S. Main St. 2nd Floor, Lockhart, Texas
Regular Meeting September 28, 2015 9:00 a.m.



KEN SCHAWÉ	County Judge	ALFREDO MUÑOZ	Commissioner Pct. 1
CAROL HOLCOMB	County Clerk	EDDIE MOSES	Commissioner Pct. 2
		NETO MADRIGAL	Commissioner Pct. 3
		JOE IVAN ROLAND	Commissioner Pct. 4

Call Meeting to Order. Meeting called to order by Judge Schawe at 9:02 a.m. All members of the Court were present.

2015.09.28.01 Invocation. Lockhart Ministerial Alliance.

James C. Greene with First Presbyterian Church opened the meeting with prayer.

2015.09.28.02 Pledge of Allegiance to the Flags. (Texas Pledge: Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible).

Judge Schawe led all present in the Pledge of both flags.

2015.09.28.03 Announcements. Items or comments from Court Members or Staff.

Judge Schawe congratulated the Lockhart Lions. **Commissioner Moses** announced several events occurring in October including the McMahan VFD BBQ and Auction, Lockhart Baptist Church Festival, Night in Old Luling and the Delhi Chili Cook-off. **Judge Schawe** stated the County had received reimbursement from FEMA and thanked Martin Richey for his work in accomplishing this. **Commissioner Muñoz** mentioned an October 3rd event, Meeting with the Authors, to be held at the library from 6 - 9 o'clock.

2015.09.28.04 Citizens' Comments. At this time any person may speak to Commissioners Court if they have filled out a Caldwell County Commissioners Court Participation Form. Comments will be limited to four (4) minutes per person. No action will be taken on these items and no discussion will be had between the speaker(s) and members of the Court. The Court does retain the right to correct factual inaccuracies made by the speakers. (If longer than 30 minutes, then the balance of comments will continue as the last agenda item of the day).

Esmeralda Chan stated she was disappointed in the decision made by the Court in regards to the County Auditors salary. She said the Court showed disrespect to the District Judges and that she feels the Court made it a personal agenda to refuse the Auditor the pay. She then stated that the Court approved the resolution and then went back on their word.

Leslie Holder spoke of last week's EPICC presentation and expressed more concern for the issues occurring in Waller County due to Green Group Holdings. She expressed her opposition of negotiations into a host agreement.

James Greene expressed concern about parking at the First Presbyterian Church, located next to the old Caldwell County Justice Center which is currently up for sale. He stated that the deed shows that the Church's property line goes through parking spaces which were formally used by the Caldwell County Justice Center. He has offered the Judge to commence a meeting with himself and his attorney to draw up an agreed memorandum explaining that the area is a shared space.

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Linda Hinkle said she was disturbed about the actions of the Court in regards to the Auditor's salary last meeting. She said the current County Auditor is more than qualified and believes the Court went back on their word. She requested the Court to honor the raised salary when brought up for discussion later in today's meeting.

2015.09.28.05

Consent Agenda. (The following consent items may be acted upon in one motion. Any member of the Court may request that an item within the Consent Agenda be pulled for separate discussion and/or action).

- A. To pay county invoices in the amount of \$215,851.30
- B. To accept Martindale Volunteer Fire Departments submittal of the required form 990-N e-filed and accepted by the IRS.
- C. To accept Budget Amendment #2014-23 moving moneys from the County Clerk's budget to the Records Preservation budget as requested by the County Clerk. No additional cost to the County.

Motion made by Commissioner Muñoz, second by Commissioner Moses to approve Consent Agenda items A-C. All Voting "Aye"

2015.09.28.06

Special Presentation. Caldwell Valley Development. Presented by Walton Development and Management.

Harry Savio, a senior planning and development manager for Walton Development and Management addressed the Court to present a proposed subdivision and an agreement that will be brought to Court in October for approval. He stated his company will follow requirements for roads, drainage, and flood protection. He continued to discuss what actions they have taken up to this point and mentioned proposed plans for this subdivision. Commissioner Madrigal asked for clarification on where water will come from and when groundbreaking will commence. Harry Savio said they have assurance that Maxwell would provide water and that the actual construction date is unknown but is making plans for it to begin in 2017.

(ALL OTHER AGENDA ITEMS)

2015.09.28.07

Discussion/Action regarding the burn ban for Caldwell County. **None. Speakers: Judge Schawe/Martin Ritchey. Backup: None.**

Martin Richey announced to the Court that the wildfires are still very aggressive within the County and recommended keeping the burn ban on. He also mentioned the Volunteer Fire Departments are looking for help and to contact him if you have any questions.

Motion made by Commissioner Roland, second by Commissioner Madrigal to leave the burn ban on. All voting "Aye".

2015.09.28.08

Discussion/Action to publicly open and read bids submitted for construction of the following three county roads: Old Fentress Road (CR217), Westwood Road (CR 215), and Cherryville Parkway (CR110) and to request Jones & Carter and TX DOT staff to review the bid packages and report back to the Commissioners Court. **Cost: None. Speakers: Judge Schawe/Michael Aulick. Backup: 1.**

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Michael Aulick, a consultant for Caldwell County and Andrea Ranft with Jones and Carter, Inc. addressed the Court with bids regarding construction for three roads located within the County. Judge Schawe read aloud the bids stating the first bid being from Aaron Concrete Contractors for \$1,385,689.80. The second bid from Cox Commercial Construction placed a bid in the amount of \$1,380,358.40. The last bid was from Angel Brothers in the amount of \$1,445,042.15. Andrea Ranft explained to the Court that they would now take these bids and review them along with TXDOT to make sure they meet all requirements. They will then report back to the Court with their recommendations by the end of October with construction estimated to start in November.

No action taken.

2015.09.28.09

Discussion/Action to start a process to select roadway improvement projects funded by **\$896,518** in allocated Federal STP MM funds for approval by the CAMPO Board. **Cost: TBD. Speakers: Commissioner Munoz/Michael Aulick. Backup: 1.**

Michael Aulick, a consultant for Caldwell County gave information about the federal program, CAMPO. He mentioned that CAMPO requires a match of \$225,000 in order to receive funding. CAMPO has suggested He then recommended working together with the Unit Road Department, the Judge, Commissioners, and TXDOT to come up with a list of projects to present to CAMPO for funding. Judge Schawe asked the difference between State funds and Federal funds. Michael Aulick stated the funds from CAMPO are Federal funds and explained there are more restrictions and requirements. Judge Schawe expressed his concern about the \$225,000 match requirement. Michael Aulick stated it is up to the Court to decide on which projects they would like to submit for approval of funding. CAMPO has suggested some of the funds be used for the Luling Congestion Study. There will be a CAMPO Board meeting November 3, 2015.

Motion made by Commissioner Muñoz, second by Commissioner Madrigal to start the process of selecting roadway improvement projects funded by **\$896,518** in allocated Federal STP MM funds for approval by the CAMPO Board and give Michael Aulick authority to research all necessary requirements. All voting "Aye".

2015.09.28.10

Discussion/Action to designate a day of the week on which the Commissioners Court shall convene in a regular term each month during the fiscal year as required by section 81.005 (a) of the Local Government Code. **Cost: None. Speaker: Judge Schawe. Backup: 1.**

Commissioner Roland stated that other counties conduct two Commissioner Court meetings a month. Judge Schawe agreed, mentioning similar counties have meetings on the second and fourth Monday of each month. He then stated it would save the county money if they were to go down to two meetings a month by using the video recording system less as well as saving time organizing agendas. Special meetings would be called if necessary. Commissioner Moses shared his concern about the difficulty in getting everyone together for special meetings. Civil Attorney, Jordan Powell requested clarification that this change will take effect October 1, 2015, the beginning of the next fiscal year.

Motion made by Commissioner Roland, second by Commissioner Madrigal to designate the second and fourth week of the month on which the Commissioners Court shall convene in a regular term each month during the fiscal year as required by section 81.005 (a) of the Local Government Code. All voting "Aye".

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2015.09.28.11

Discussion/Action to consider procedures and nominations for the Caldwell County Appraisal District directors. **Cost: None. Speakers: Judge Schawe/Mary LaPoint. Backup: 1.**

Commissioner Muñoz spoke with Hye Brown and nominated him as a board member for the Caldwell County Appraisal District. He also spoke with Albert Perez who requested not to be a board member at this time. Commissioner Moses spoke with Bill Watson and Frank Hinds and nominated them as board members as well.

Motion made by Commissioner Muñoz, second by Commissioner Moses to nominate Hye Brown, Frank Hinds and Bill Watson for the Caldwell County Appraisal district directors. All voting "Aye".

2015.09.28.12

Discussion/Action to consider USFon Inc. / Time Warner Cable for the County's fiber system. **Cost: TBD. Speaker: Judge Schawe. Backup: 1.**

Judge Schawe explained to the Court that he had just received an email from USFon, Inc. in regards to a lowered price but has not had time to review it yet. He shared his concerns for entering into a 10 year contract with Time Warner Cable due to the changes in technology and asked to negotiate a 5 year contract instead. Steve Broussard on behalf of Time Warner Cable addressed the Court and explained that the expansion of the fiber is indefinite. He also shared his concerns for the County if it were to use USFon, Inc. and purchase their own fiber. Civil Attorney, Jordan Powell clarified the proposed amended contract and stated she did not see any issues. Mark Tran on behalf of Time Warner Cable, explained to Judge Schawe that a final contract was submitted.

Motion made by Commissioner Muñoz, second by Commissioner Roland to table this item of considering USFon Inc. / Time Warner Cable for the County's fiber system. All voting "Aye".

2015.09.28.13

Discussion/Action authorizing the County Judge to execute an Interlocal Agreement with the City of Austin regarding development in the City's extraterritorial jurisdiction (ETJ). **Cost: None. Speaker: Judge Schawe/Jordan Powel. Backup: 1.**

Commissioner Madrigal questioned the property lines in this Interlocal Agreement. Civil Attorney, Jordan Powell explained she could put him in contact with members from the City who could explain it more and answer his questions and concerns. She also went into detail explaining what a City's ETJ entails. If an Interlocal Agreement is not authorized, any proposed development in that area must submit and adhere by both the City of Austin and Caldwell County rules and regulations. Linda Hinkle clarified some concerns of the Court and explained the importance of an Interlocal Agreement.

Motion made by Commissioner Madrigal, second by Commissioner Roland to authorize the County Judge to execute an Interlocal Agreement with the City of Austin regarding development in the City's extraterritorial jurisdiction (ETJ). All voting "Aye".

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2015.09.28.14

Discussion/Action to set Auditors salary at \$70,000.00. **Speaker: Judge Schawe. Backup: 1.**

Judge Schawe stated he went back and listened to Commissioner Meetings in January and that the Court did not have a problem with an increased Auditor's salary. He then said Judge Blomerth created an order setting the salary at \$70,000 and in August the Court had agreed to accept the order. Commissioner Moses stated he listened to the recordings also and said he was told a recommendation would come before the Court before anything was set. He also was unaware of a public hearing.

Commissioner Madrigal disagrees with the salary increase to \$70,000, he believes it should stay at the previous County Auditor's salary of \$64,000. Civil Attorney Jordan Powell, clarified that the Court only received the order and did not approve the increased salary.

Motion made by Commissioner Roland, second by Judge Schawe to set the Auditors salary at \$70,000.00.

Roll Call Vote: Commissioner Muñoz, no; Commissioner Moses, no; Commissioner Madrigal, no; Commissioner Roland, yes; Judge Schawe, yes.

Motion not carried.

2015.09.28.15

Host Agreement Workshop: Relating to the proposed host agreement submitted by 130 Environmental Park, LLC. **Speaker: Commissioner Munoz.**

Workshop began at: 10:47 a.m.

Attorney, Eric Magee expressed to the Court that they now have the ability to move forward with discussion regarding legal terms of the proposed host agreement. Commissioner Madrigal stated the host agreement is not to benefit the citizens of Caldwell County. Judge Schawe asked if EPICC or anyone else has gone to Green Group to discuss issues pertaining to the host agreement but was left without answer. He then made several suggestions including a half million to one million advance for the first year. He requested the host fee change from \$1.00 per ton to \$1.50 per ton. He would like to see the landfill elevation be brought down from 175 feet to 150 feet. The buffer zone he would like to see moved from 250 feet to possibly 400 feet. He requested all sources be within the State of Texas and also asked for clarification on the hours of operation as well as if tires would be accepted at the community pavilion. Judge Schawe requested a host fee adjustment from a 2% cap to 4%. He asked for an increase in insurance from 3 million to 5 million as well as scholarships for the schools. He requested knowing if anyone from Green Group Holdings has been charged or convicted of bad acts within the last three years as well as any felony violations within the last five years pertaining to federal environmental laws. He also wanted clarification on the reimbursement and property protection programs. In reference to the capture and selling of landfill gas, he requested at least 12% revenue to the County. He also mentioned wanting funds for both Luling and Lockhart libraries. He stated the County is a mess and would like to see an ad campaign to educate citizens of Caldwell County. He asked to get more information on a grant writer as well as environmental inspections. Commissioner Roland stated that was an extensive list of requests but that none are for the safety and health for the citizens near the proposed landfill. He said Green Group Holdings will not follow through with anything promised and he will not sign away the rights of the citizens he's trying to protect. Commissioner Moses stated he is not for the landfill but says it is coming to Caldwell

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County and the court should try to make use out of it. He made his own recommendations to the host agreement including requesting two new brush trucks per year for the Volunteer Fire Departments within the County making it a total of 22 new trucks. He also requested the Sheriff's office get two new patrol vehicles each year for the next 20 years. He would like the City of Luling to receive the same 12.5 cents that Lockhart is to receive along with \$30,000 to go towards the library in Luling. Commissioner Moses also asked that the libraries for Luling ISD, Lockhart ISD and Prarie Lea ISD also receive \$5,000. For these three districts, he has also requested two \$2500 scholarships for the next 30 years. The Court further discussed the current proposed host agreement. Commissioner Madrigal mentioned there are other cities involved besides Lockhart and Luling. Commissioner Muñoz requested that the County receive three million dollars at commencement followed by two million dollars for the duration of the contract. Under excluded waste, he asked to add liquid waste to that list. Attorney, Eric Magee reminded the Court of deadlines and obligations that they must follow.

2015.09.28.16

Discussion/Action concerning proposed host agreement and litigation between Caldwell County and 130 Environmental Park, LLC. **[Executive Session is requested for professional legal advice concerning legal ramifications in the proposed host agreement pursuant to Texas Government Code, Title 5, Subchapter D, Section 551.071 (Consultation with Attorney)].** Speaker: **Commissioner Munoz. Backup: 1.**

Executive Session beginning at 11:36 a.m.

Persons present in the executive session were: Commissioner Muñoz, Commissioner Moses, Commissioner Madrigal, Commissioner Roland, Judge Schawe, Attorney Eric Magee, District Attorney Fred Weber and Civil Attorney, Jordan Powell.

Executive Session ended at 12:33 p.m.

Judge Schawe announces back in session at 12:33 p.m.

No action was taken in closed court.

Judge Schawe asked the Commissioners for input on whether to continue with negotiations of a host agreement. Commissioner Muñoz requested legal counsel to work up a new host agreement with the discussed items and present before Court to discuss further.

Motion made by Commissioner Muñoz, second by Commissioner Moses to allow legal counsel to join with the District Attorney to come up with a proposed agreement and bring back to the Court for discussion and approval. All voting "Aye" except for Commissioner Roland voting "No".

2015.09.28.17

Consultation with legal counsel concerning status of the contested case hearing regarding 130 Environmental Park, SOAH Docket No. 582-15-2082; TCEQ Docket No.2015-0069-MSW. Possible discussion and or action may follow in open court. **[Executive Session is requested pursuant to Texas Government Code, Title 5, Subchapter D, Section 551.071 (Consultation with Attorney)].**

No action taken.

2015.09.28.18

Adjournment. Motion made by Commissioner Muñoz, second by Commissioner Moses to adjourn. All voting "Aye"

Meeting adjourned at 12:43 p.m

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I, CAROL HOLCOMB, COUNTY CLERK AND EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Caldwell County Commissioners' Court on September 28, 2015.

Carol Holcomb

CAROL HOLCOMB, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
CALDWELL COUNTY, TEXAS

