

COMMISSIONERS COURT MINUTES
110 S. Main St. 2nd Floor, Lockhart, Texas
Regular Meeting November 9, 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 9:03 a.m. All members of the Court were present.

2015.11.09.01 **Invocation.** Lockhart Ministerial Alliance.

Rob Clopton with First United Methodist Church opened the meeting with prayer.

2015.11.09.02 **Pledge of Allegiance to the Flags.**

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

2015.11.09.03 **Announcements.** Items or comments from Court Members or Staff.

Commissioner Muñoz announced the Education Foundation event last week was a success. He attended the Austin Homebuilder's Association and mentioned he lost the wager he had on the outcome of Lockhart High School's football game with the San Marcos Mayor. He then asked the court when the approved budget will be published. Commissioner Moses attended Prairie Lea's Fall Festival reporting a great turn out. The Independent Cattle Association is putting on a presentation of the feral hog project tomorrow night at Chisolm Trail. He announced a variety of events occurring in Luling on Wednesday, November 11, 2015 for Veterans Day. He also congratulated several Luling ISD athletic organizations. Commissioner Madrigal congratulated the Education Foundation on their event and asked others to thank a Veteran this upcoming Veterans Day. He asked those with flood damages to report it to their designated commissioner. Commissioner Roland surveyed flood damages in his precinct. Commissioner Muñoz announced events occurring on Wednesday, November 11, 2015 for Veterans Day. Martin Ritchey spoke of current cleanup efforts from the recent flood and thanked the building department and the Martindale Baptist Church. Judge Schawe mentioned areas of flood damage and asked for patience.

2015.11.09.04 **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).

Harry Van-Velthoven issued a complaint of poor road maintenance. He shared concerns for CR 151, 152, 153, and 155. He requested information about funding and does not believe there should not be a Unit Road Department.

Byron C. Friedrich invited the public to EPIC's (Environmental Protection in the Interest of Caldwell County) first annual banquet this Saturday, November 14th at the American Legion Hall. He encouraged the court to stay strong against entering into any Host Agreement.

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Tom S. Schaefer stated the landfill is a highly regulated industry which is overlooked by the government; mainly the EPA (Environment Protection Agency). He asked why the court is fighting something that has already been approved by the government. He requested the court publish the amount of funds allocated thus far in legal fees.

Robert D. Kohler said the EPA (Environment Protection Agency) is not involved with the proposed landfill. He stated if the landfill existed during this past flooding, the water would have entered site 21 and polluted streams. He asked the court to refrain from going along with Green Group.

2015.11.09.05

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 the county invoices in the amount of \$176,753.87

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

(ALL OTHER AGENDA ITEMS)

2015.11.09.06

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

Martin Ritchey reviewed the KBDI index and recommended leaving the burn ban off.

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

2015.11.09.07

Discussion/Action to consider creating a permanent, paid part-time warrant deputy position for Constable, Precinct 1. **Cost: \$10,000 annually. Speaker: Commissioner Munoz. Backup: 1**

Commissioner Muñoz explained the importance of having a part-time warrant deputy. Commissioner Roland clarified other precincts can also participate in hiring a part-time warrant deputy. Commissioner Moses stated this proposed deputy position can serve all precincts. Commissioner Muñoz said the position will be paid out of the money collected from warrants and will not be on the payroll. Civil Attorney, Jordan Powell stated this position needs to have a set salary or hourly pay and should not be paid per warrant. County Auditor, Debra French asked the court how they plan on tracking the success of this position. She stated the funds to pay for this position would need to come out of the reserves and mentioned other outstanding items that are unpaid. Jordan Powell asked if the Justice of the Peace offices could track the warrants served. Judge Schawe explained the process on collecting warrant fees. Constable of Precinct 1, Victor "Smitty" Terrell, explained the purpose and importance of this position. Debra French asked for clarification if the position will be listed as an employee or a sub-contractor. Jordan Powell stated the position will need to be listed as an employee. To be considered as part time, this position cannot work more than 30 hours each week.

Motion made by Commissioner Muñoz, second by Commissioner Moses to approve a part-time warrant deputy position for Precinct 1 not to exceed \$10,000 in payroll expenses and appointing Steve Holmann to the position. All Voting "Aye".

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Judge Schawe added to the motion to include employee benefits.
Commissioner Muñoz added to his motion to pay \$6,000 for this position out of reserves.

2015.11.09.09

Discussion/Action to identify potential projects in Caldwell County for STP MM funding for CAMPO Board Approval. **Cost: TBD. Speakers: Commissioner Munoz/Michael Aulick. Backup: 1**

Transportation consultant, Michael Aulick said he has been discussing eligible projects with TXDOT, Federal Highways and CAMPO. Eligible projects would be studies and upgrades of low water crossings. Funds are limited to major highways. SH 130 Concession Funds are providing \$1 million on alignment studies for FM 150 extension and Yarrington Road extension Hays County to 130. CAMPO suggested \$225,000 be spent on the Luling relief route congestion study and \$300,000 each be used for the Yarrington Road and FM 150 extensions. He stated he is trying to get reassurance from TXDOT and Federal Highways to get approval that these projects are eligible. He should have more information in about two weeks. Commissioner Muñoz spoke with CAMPO and is working on getting help with the county's required 20% match in funds. Judge Schawe received clarification that eligible road improvements must be considered as a major collector above in the functional classification system.

No action taken.

2015.11.09.10

Discussion/Action authorizing the purchase of a Swift Water Action Boat. **Cost: \$18,000. Speakers: Judge Schawe/Martin Ritchey. Backup: None.**

Martin Ritchey spoke with the County Auditor in regards to surplus funds in the amount of \$17,407.18 unspent in a maintenance budget. He requested the funds be reallocated towards the purchase of a swift water boat and supporting equipment. Martin Ritchey explained the importance of this purchase. Commissioner Moses received clarification the boat will be stored at a local fire station. Martin Ritchey said a boat class will be given to help support training of fire fighters. Currently there are 40 rescue swimmers and swift water technicians in the county. The Emergency Management Department will direct the response of the boat and provide maintenance when needed.

Motion made by Commissioner Muñoz, second by Commissioner Roland to allot \$17,407.18 for the purchase of a Swift Water Action Boat and related accessories. All Voting "Aye".

2015.11.09.11

Discussion/Action authorizing the County Judge to execute a Remote Birth Access contract renewal with the Department of State Health Services. **Cost: TBD. Speakers: Judge Schawe/Jordan Powell. Backup: 1**

Civil Attorney, Jordan Powell explained this contract is with the Vital Statistics Unit and allows the County Clerk's Office to release vital records. County Clerk, Carol Holcomb clarified with this contract, residents not born in Caldwell County may still purchase a short form birth certificate at the County Clerk's Office.

Motion made by Commissioner Madrigal, second by Commissioner Roland to authorize the County Judge to execute a Remote Birth Access contract renewal with the Department of State Health Services.. All Voting "Aye".

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2015.11.09.12

Discussion/Action regarding sales tax owed to State Comptroller and method of payment to State Comptroller. **Cost: \$137,580.92. Speakers: Judge Schawe. Backup: 1**

Judge Schawe explained the county was overpaid in the amount of \$137,580.92. County Auditor, Debra French stated the county had received sales tax revenue in previous years from the Texas Comptroller's Office and they have now been granted a refund by the State. Debra French and County Treasurer, Lori Rangel suggested paying the total amount in one payment to avoid interest fees.

Motion made by Commissioner Muñoz, second by Commissioner Moses regarding sales tax owed to State Comptroller a one-time payment of \$137,580.92. All Voting "Aye".

Debra French added these funds will come out of reserves and stated to Commissioner Madrigal the interest fee is thought to be 2%.

2015.11.09.13

Discussion/Action regarding engagement letter with Rutledge Crain & Company, PC. **Cost: Not to exceed \$22,950 for the audit of the Basic Financial Statements. Speakers: Judge Schawe. Backup: 1**

County Auditor, Debra French explained this is a required annual financial audit that occurs in January. The cost last year was approximately \$15,000.

Motion made by Commissioner Muñoz, second by Commissioner Madrigal regarding engagement letter with Rutledge Crain & Company, PC not to exceed \$22,950 for the audit of the Basic Financial Statements. All Voting "Aye".

2015.11.09.14

Discussion/Action regarding the October 30, 2015 flood event in Caldwell County, including but not limited to: detailing areas damaged by the flood; updates on correspondence with other entities; re-bidding for debris monitoring and removal efforts; amending current debris monitoring and removal contracts; procedures for removing debris; and providing assistance to the City of Martindale. **Cost: TBD. Speaker: Judge Schawe/Martin Ritchey/Jordan Powell. Backup: None**

Martin Ritchey asked the court to decide on a debris plan in regards to the recent flooding. He recommended following the same plan as last time. Judge Schawe received clarification that the county has not been declared for disaster relief at this time. Martin Ritchey explained the process to be declared and is unsure whether the County will qualify. He recommended hiring a monitoring firm and a waste hauler while documenting everything picked up and disposed. Texas Division of Emergency Management will be conducting a survey of flood damage next week. Civil Attorney, Jordan Powell spoke with several different entities that are 90% sure the County will not have to re-bid. The County still has open contracts with the monitoring firm and hauler used from May's flooding. She asked the court to decide on the amount of assistance provided to Martindale and to consider authorizing Council to amend current contracts extending their length. She requested the court decide on giving Martin Ritchey approval to send a flyer instructing citizens on debris removal. Martin Ritchey stated the county will either be liable for 100% or approximately 25% of total cost. Commissioner Madrigal said the park cleanup will have to wait until the county's status from FEMA is confirmed.

Motion made by Commissioner Madrigal, second by Commissioner Muñoz to separate debris, enter into contract with Martindale and authorize to look at amending contracts. All Voting "Aye".

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2015.11.09.15

Discussion/Action concerning proposed host agreement 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)]. Cost: None. Speaker: Judge Schawe/Eric Magee. Backup: None.**

Attorney, Eric Magee stated the court does not need to have an executive session and asked the court for guidance on how to proceed with a Host Agreement. He described the updated changes made to the Host agreement and requested clarification on several items that conflicted with one another. Judge Schawe requested a decision be made to avoid incurring more legal fees. Commissioner Muñoz recommended moving forward with the contested case hearing to insure accuracy in the permit application.

Motion made by Commissioner Muñoz, second by Commissioner Roland to stop the Host Agreement process and to continue with the contested case hearing. All voting "Aye" except for Commissioner Moses voting "No". Judge "Abstained".

2015.11.09.16

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. **[Executive Session is requested pursuant to Texas Government Code, Title 5, Subchapter D, Section 551.071 (Consultation with Attorney)]. Cost: None. Speaker: Judge Schawe/Eric Magee. Backup: None.**

Attorney, Eric Magee stated there are no updates to give at this time. Judge Schawe asked about current billing information and requested estimated future legal charges.

No action taken.

At 11:05 a.m. Judge Schawe called for a recess until 1:30 p.m.

Judge Schawe announced back in order at 1:31 p.m.

2015.11.09.17

Discussion/Action at 1:30 PM to consider options for the improvement of Schuelke Road (CR222) **Cost: TBD. Speaker: Commissioner Munoz/Michael Aulick. Backup: None.**

Persons present to discuss item were: Commissioner Muñoz, Commissioner Moses, Commissioner Madrigal, Commissioner Roland, Judge Schawe, Jones and Carter representative, Andrea Ranft, Unit Road Director, Dwight Jeffrey, TXDOT representatives, Rogelio Garcia, James Chamberlin and Roy Dill, and transportation consultant, Michael Aulick.

Andrea Ranft discussed updates to the package regarding Schuelke Road improvements. She stated there was an update to the amount and had received environmental clearance for this project on October 30, 2015. She pointed out several items including estimates, quantities and culverts. She stated TXDOT's rolling average affects how a project's cost is estimated and can change monthly. Commissioner Muñoz received clarification that this plan is 90% complete. Andrea Ranft went over the current schedule stating we are about a week off. A 60 day delay is being discussed to avoid overlapping other projects. Approximate start date would be April, 2016. Michael Aulick explained they have the authorization already to proceed with advertising and open bids. Judge Schawe requested information about funding and Andrea Ranft acknowledged stating we are currently under the original estimate. Michael Aulick said in regards to item 8, he has not received TXDOT's approval letter for construction.

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No action taken.

2015.11.09.08

Discussion/Action to award a contract for construction of the following three county roads: Old Fentress Road (CR217), Westwood Road (CR 215), and Cherryville Parkway (CR110) per the Invitation to Bid authorized by the Court on August 28, 2015, and the bids received by September 28, 2015. **Cost: TBD. Speakers: Judge Schawe/Michael Aulick. Backup: 1**

Judge Schawe requested tabling this item until the next Commissioner's Court meeting.

Motion made by Commissioner Muñoz, second by Commissioner Moses to table this item until next meeting. All Voting "Aye".

2015.11.09.18

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

Meeting Adjourned at 2:03 p.m.

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 November 9, 2015.

Carol Holcomb

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

