

COMMISSIONERS COURT MINUTES
110 S. Main St. 2nd Floor, Lockhart, Texas
Regular Meeting January 23, 2017 9:00 a.m.



KEN SCHAWÉ	County Judge	HOPPY HADEN	Commissioner Pct. 1
CAROL HOLCOMB	County Clerk	EDDIE MOSES	Commissioner Pct. 2
		ED THERIOT	Commissioner Pct. 3
		JOE IVAN ROLAND	Commissioner Pct. 4

Call Meeting to Order.

Judge Schawe calls the meeting to order at 9:00 a.m.

Invocation. Lockhart Ministerial Alliance.

Pastor Greene opens the meeting in prayer.

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 leads the court in the pledge to both flags.

Announcements. Items or comments from Court members or staff.

Commissioner Haden went to the Luling Stock Show Saturday and spoke at a 4H meeting and at the first meeting in a three part series of AG meetings. He attended a CAMPO meeting along with Commissioner Theriot. The Chamber Banquet is coming up, and Banquet tickets are at the Chamber Office. **Commissioner Moses** thanks everyone who went in on the buyers' pool for the Luling Stock Show, they raised about \$75,000. He went to a Martin Luther King Birthday Celebration on the 14th in Luling at the William Taylor Methodist Church. He gives a shout out to Coach Mike Barnett for being nominated for and selected as Coach of the Year through USTFCCA (U.S. Track & Field and Cross Country Coaches Association). There will be a celebration for Luling's Track & Field Team next month. **Commissioner Theriot** gives an update from a TxDOT meeting Wednesday in Uhlrad with Judge Ben Brady and Commissioner Roland. He has a meeting this afternoon with Hays County colleagues. In regards to the issues on the river, Senator Zaffirini's office has completed its final draft of W.O.R.D. legislation. **Commissioner Roland** went to Uhlrad with Commissioner Theriot and reports that they are continuing to work with TxDot to try and fix unsafe roads. He also attended a Martin Luther King walk last Monday where Lockhart ISD's Athletic Director, Sheila Henderson, spoke. He is selling tickets for the Black History Month Banquet on the 18th of February for \$15 a ticket. **Judge Schawe** attended a meeting where he learned TxDot has billions of dollars for area roads to disperse over a ten year period. Highway 21 didn't get approved for the safety money because wrecks/deaths only rated 12.5% of the overall criteria for the funding.

COMMISSIONERS COURT MINUTES
Regular Meeting on January 23, 2017

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.

Patton King owns Lazy K Ranch across from where the dump is proposed. He is opposed to agenda item 15 and asks the court to consider all the families and individuals who would be negatively affected by the proposed dump.

David Brent, Luling Texas resident, gives the court a handout that shows the decline in Corrections Officers since 2012 and he discusses their leaving being due to a five-year-plan for raises not being carried out.

Rick Veas, Lytton Springs resident, is against negotiating the host agreement. However, if the County is going to negotiate he gives a list of things to do to ensure the county's best interest.

Roger Williams, resident of Lockhart, speaks against negotiating with Green Group based on environmental and economic factors.

Frank Sughrue lives in Lockhart and is opposed to negotiating with Green Group. He asks the court to consider what the county is actually selling and how they will hold Green Group to any contract signed if they've already required three extensions on a plat. What precedent is being set?

Leslie Holder is a Lytton Springs resident and is opposed to the host agreement. She stresses not to rush signing an agreement, but to make sure all the details are understood, researched, and do not just benefit Green Group, but also Caldwell County.

Robert Kohler has a farm near the proposed dump site and is against negotiation. He says that the scientific facts and alternate facts have been laid out, and asks the commissioners if what they want their legacy to be is a mound of trash.

Gary Newton is General Counsel for Texas Disposal Systems and is against negotiating the host agreement. TDS feels the county would be giving preferential treatment to another waste management company. A government using its power to benefit one private company over another is against the US Constitution's Commerce Laws.

Neto Madrigal Caldwell County resident reminds the court that since 2013 the conclusion has been that the majority does not want the dump. The court voted against the negotiation in the past so why is it back on the agenda? Also, why not wait for the results of the trial in Austin? He asks the court to think of the impact on the County.

Lou MacNaughton is a Caldwell County resident. She is against revisiting this contract. A lot of money, including County tax dollars, has already been used to fight this contract. She gives details from the two-week trial in Austin regarding expert testimony and Green Group admissions. She emphasizes that the dump not a foregone conclusion.

Marisa Perales is the attorney for EPICC. She emphasizes that the court's previous instruction was to end negotiation and focus energy on litigation. Now that the two week trial is over it makes no sense not to wait for the judge's conclusions. She goes over the County's lack of authority in the current contract and says Green Group suing TCEQ shows their lack of respect for County authority. She urges waiting for judgement and staying in the hearing.

COMMISSIONERS COURT MINUTES
Regular Meeting on January 23, 2017

CONSENT AGENDA. (The following consent items may be acted upon in one motion).

1. **Approve payment of County invoices in the amount of \$514,988.47.**
2. **Accept and approve the Continuing Education Certification for County Clerk, Carol Holcomb for the 2016 required hours.**
3. **Accept and approve the Continuing Education Certification for Commissioner Precinct Two, Edward Moses for the 2016 required hours.**
4. **Accept and approve the Registered Election Official (REO) Certification for Pamela Ohlendorf, Elections Administrator.**
5. **Accept and approve the December 2016 Tax Collection Report submitted by Mary LaPoint, Chief Appraiser, Caldwell County Appraisal District.**

Judge Schawe amends item one's amount; an invoice was added and approved late from Michael Aulik for \$3,625.00 making the total \$518,613.47. Motion made by Commissioner Moses, second by Commissioner Haden to approved the consent agenda. All voting "Aye".

ACTION AGENDA ITEMS

6. **Discussion/Action** regarding Light Up Lockhart.
Cost: TBD; Speaker: Judge Schawe/Mayor White; Backup: None.

Lockhart Mayor Lew White explains to the court the history, the purpose, and the future plans of Light up Lockhart. They are requesting use of the Courthouse lawn for a fundraising endeavor. Commissioner Roland and Civil Attorney Jordan Powell discuss whether or not it's a conflict of interest for him to vote on the motion if he wants to purchase a sign. She asks for further discussion. Mayor White also invites everyone to the swearing in of the new Lockhart Police Chief, Ernest Pedraza. Mayor White, the court, and Jordan Powell discuss donations to Light up Lockhart and the County's budget and agree to come back with those numbers in the future. Motion made by Commissioner Theriot, second by Commissioner Roland to approve the use of the Courthouse lawn for the instillation of the signs. All voting "Aye".

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

Martin Ritchey advises leaving the burn ban off, but says it might be necessary to reenact it before the next meeting. He and the court discuss outdoor burning regulations. Motion made by Commissioner Roland, second by Commissioner Moses to leave the burn ban off. All voting "Aye".

8. **Discussion/Action** to approve the submission of the Emergency Management Performance Grant and allowing the County Judge to sign all necessary documents. **Cost: None; Speaker: Judge Schawe; Backup: None.**

Martin Ritchey explains how the grant works. Motion made by Commissioner Haden, second by Commissioner Theriot to approve the submission of the Emergency Management Performance Grant. All voting "Aye".

COMMISSIONERS COURT MINUTES
Regular Meeting on January 23, 2017

9. **Discussion/Action** regarding the re-formation of the Subdivision Committee.
Cost: None; Speaker: Commissioner Theriot/Commissioner Roland; Backup: None.

Each Commissioner lists their nominations for the Subdivision Committee. Commissioner Roland lists Frank Sughrue and Byron Friedrich as well as Commissioner Moses' Precinct 2 choices of Trey Bailey and Alicia Thornton. Commissioner Theriot lists Linda Hinkle and himself. Commissioner Haden lists Oscar Fogle and himself. Jordan Powell repeatedly advises against three Commissioners being on or communicating about the Subdivision Committee because any meeting with three elected officials would have to be run in open meeting format. The court further discusses recommended Committee members and potentially tabling the topic or holding a Special Meeting. Motion made Commissioner Roland, second by Commissioner Theriot to table. All voting "Aye".

10. **Discussion/Action** regarding the Human Resources Director's position.
Cost: TBD; Speaker: Commissioner Moses; Backup: None.

Commissioner Moses and Commissioner Haden discuss the new Human Resources position being clerical rather than directorial. Commissioner Haden states that the posting was changed to Human Resources Coordinator. Judge Schawe says there will be a workshop on the subject February 3rd at 9:30 a.m. No action was taken.

11. **Discussion/Action** to create a Workshop consisting of Commissioners, County Judge, Auditor and Treasurer to discuss Bi-weekly pay schedule, payroll responsibility and automated time keeping system.
Cost: TBD; Speaker: Commissioner Haden; Backup: None.

The reasons for a workshop are discussed along with when it will take place. Motion made by Commissioner Haden, second by Commissioner Moses to set the Workshop for Tuesday the 31st at 1:30 p.m. All voting "Aye".

12. **Discussion/Action** regarding establishing an RFP for automated time keeping systems.
Cost: TBD; Speaker: Commissioner Haden; Backup: None.

Commissioners Haden and Moses agree that an RFP should be written once there is clarification of time clock needs and an established pay period. Motion made by Commissioner Haden, second by Commissioner Moses that following the Pay Schedule Workshop, that the same committee create an RFP for automated time keeping. All voting "Aye".

13. **Discussion/Action** to appoint Judge Schawe as Caldwell County's Alternate Member of the Technical Advisory Committee of the Capital Area Metropolitan Planning Organization (CAMPO).

Motion made by Commissioner Theriot, second by Commissioner Roland that Judge Schawe be put as alternate member. All voting "Aye".

COMMISSIONERS COURT MINUTES
Regular Meeting on January 23, 2017

14. **Cost: None; Speaker: Judge Schawe; Backup: 1. Discussion/Action** to appoint Vance Rodgers as the City of Lockhart's Alternate Member of the Technical Advisory Committee of the Capital Area Metropolitan Planning Organization (CAMPO).
Cost: None; Speaker: Judge Schawe; Backup: 1.

So moved by Commissioner Theriot, second by Commissioner Roland to appoint Vance Rodgers as the City of Lockhart's Alternate Member of the Technical Advisory Committee of the Capital Area Metropolitan Planning Organization. All voting "Aye".

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)]. Possible action may follow in open court.
Cost: None; Speaker: Commissioner Haden; Backup: None.

The court discusses what should be talked about in court verses the executive session. The attorney representing the County, Eric Magee with Allison, Bass, & Magee, LLP, updates the court on the status of the case. The last direction given to him by the court was on the 9th of November 2015 to stop the host agreement process and move forward with the contested case. He says that over the two week trial period a lot of discoveries were made. Presentations were given by all parties and the SOAH Judge's PFD (proposal for decision) deadline is around January 27th. After that decision comes out legal strategy for the next step will have to be determined. Commissioners Haden and Theriot talk about their views of the contract and the case. Motion made by Commissioner Haden to initiate discussion on the host agreement to address issues Commissioners have with the agreement, second by Commissioner Theriot. Eric Magee asks for clarification on the motion. Commissioner Haden changes his motion, second by Commissioner Theriot to have a workshop on a date that is acceptable to everyone to discuss the terms of the host agreement as it's written and any terms the commissioners would like to see added or taken out. The court discusses with Attorney Eric Magee the opportunity for communication with all parties involved during the workshop and possible action following the workshop. Commissioner Roland says the workshop is not needed because the county should not enter into an agreement. Commissioner Haden, Commissioner Moses, and Commissioner Theriot vote in favor of the motion. Commissioner Roland votes against. Judge Schawe abstains. Motion Passed.

16. **Executive Session** pursuant to Texas Government Code, Title 5, Subchapter D, Section 551.071 (Consultation with Attorney): 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. **Cost: None; Speaker: Commissioner Haden; Backup: None.**

Eric Magee recommends combining items 16 and 17 into one Executive Session. Commissioners Haden, Moses, Theriot, and Roland go into Executive Session along with Judge Schawe, Jordan Powell, and Eric Magee at 11:20 a.m. The Executive Session ends at 12:13 p.m. No action is taken on item 16.

COMMISSIONERS COURT MINUTES
Regular Meeting on January 23, 2017

17. **Executive Session** pursuant to Texas Government Code, Title 5, Subchapter D, Section 552.071 (Consultation with Attorney): Consultation with legal counsel regarding all pending and/or contemplated litigation involving Caldwell County. Possible action may follow in open court.
Cost: None; Speaker: Commissioner Haden; Backup: None.

No action is taken on item 17.

Adjournment.

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

I, CAROL HOLCOMB, COUNTY CLERK AND EX OFFICIO 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 January 23, 2017.

Carol Holcomb

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

