

**TERM MINUTES
OF THE
COMAL COUNTY COMMISSIONERS COURT MEETING
JULY 27, 2017**

STATE OF TEXAS §
 §
COUNTY OF COMAL §

ON THIS THE 27TH DAY OF JULY, A.D., 2017, THE COMMISSIONERS COURT OF COMAL COUNTY, TEXAS, MET IN REGULAR SESSION AT 8:30 A.M. IN THE COMMISSIONERS COURTROOM LOCATED AT 100 MAIN PLAZA, NEW BRAUNFELS, TEXAS.

MEMBERS PRESENT WERE:

Sherman Krause,	County Judge
Donna M. Eccleston,	Commissioner, Pct. #1
Scott Haag,	Commissioner, Pct. #2
Kevin W. Webb,	Commissioner, Pct. #3
Jen Crownover,	Commissioner, Pct. #4
Bobbie Koepf,	County Clerk

THE FOLLOWING PROCEEDINGS WERE DISCUSSED, CONSIDERED AND ACTED UPON:

NOTE: Commissioners Court reserves the right to hearing any of the below described Agenda Items that qualify for an Executive Session in an Executive Session by publicly announcing the applicable section number of the Open Meetings Act (Chapter 551 of the Texas Government Code) that justifies Executive Session treatment.

ACTION AGENDA ITEM #1

JULY 27, 2017

Approve Claims.

Commissioner Eccleston made a motion; seconded by Commissioner Haag to approve the County Claims as presented by Jessie Rahe, Interim County Auditor. The claims totaling \$4,649,437.22 comprised of regular claims for \$1,852,047.34 and electronic fund transfers (EFT's) for \$2,797,389.88. All voting "AYE," the motion carried.

ATTACHMENT # 1

ACTION AGENDA ITEM #2

JULY 27, 2017

Discuss and consider acceptance of donation from Mrs. Mary Jekel, New Braunfels, in the amount of \$50.00 to be deposited Sheriff's Office line item 017.2341 (Crime Prevention).

Mark Reynolds, County Sheriff, explained Mrs. Jekel received a letter from the Sheriff's Association of Texas and contacted Sheriff Reynolds wanting to help on a more personal level. She sent a check and he requested it be used for Crime Prevention.

Commissioner Crowover made a motion, seconded by Commissioner Haag to approve Action Agenda Item 2. All voting "AYE", the motion carries.

ACTION AGENDA ITEM #3

JULY 27, 2017

Discuss and consider approval of Comal County Regional Habitat Conservation Plan Participation Agreement between Comal County and CEMEX Construction Materials South, LLC for approximately 761.0 acres, being all of a called 751.146-acre tract of land (Tract 1) as described in Vol. 993, Pg. 819, and all of a called 10.01-acre tract of land as described in Document No. 201206033897 of the Official Public Records of Comal County, Texas. (Precinct 2)

Tom Hornseth, County Engineer, stated this is a continuation of the implementation of the Comal County Regional Habitat Conservation Plan. This is the second permit the County is proposing to issue. He added the County spent quite a few years putting the Plan together with the United States Fish and Wildlife Service (USFWS) and he went through the Plan (see Attachment # 2).

Mr. Hornseth said the permit allows the County to offer to the public the capability to apply with the endangered species act when it involves disturbing habitat or disrupting endangered species. He added the permit is primarily for the Golden Cheek Warbler. The USFWS has approved this proposed permit and he recommended approving the participation agreement with Cemex.

Commissioner Haag stated there were employees from Cemex present and he appreciated them being there. He added hopefully in the near future the County will find some property and be able to have a Land Bank here in the County.

Commissioner Haag made a motion, seconded by Commissioner Eccleston to approve Action Agenda Item 3. Discussion ensued.

Judge Krause addressed Mr. Hornseth for clarification; Comal County Regional Habitat Conservation Plan requires a permitting process if someone is going to take a

Golden Cheek Warbler habitat that they would have to go through the process with Comal County since the County has the permit with USFWS. Mr. Hornseth replied they are not required to go through the County, the County is an alternative. Judge Krause asked if the County did not have that Regional Habitat Conservation Plan that does not take away the permit process; it just means they would have to go through USFWS. Mr. Hornseth said correct. Discussion ended.

All voting "AYE", the motion carries.

ATTACHMENT # 2

ACTION AGENDA ITEM #4

JULY 27, 2017

Public hearing for the Vacate and Replat of Lot 1030R, Mystic Shores, Unit Six, establishing Lots 1030RA, 1030RB, and 1030RC. (Precinct 4)

Tom Hornseth, County Engineer, explained this is a commercial tract of land in Mystic Shores at the corner of Star Grass and 306. The owner of the land is proposing to subdivide it into pieces as shown (Attachment # 3). He explained it is a complex arrangement; commercial planning and detention facilities and other storm water facilities being proposed. Judge Krause opened the public hearing.

Keith Weidner stated he owns the property next to this. He said all the storm water runs across his ranch. Fifteen years ago before there was any development he never had to put a flood gap there; since Buddy's opened up and then the pharmacy all the water sheds across his property and nothing slows it down. He has ditches and has pictures to provide to Mr. Hornseth of how much topsoil he has lost. At his expense he's been adding riff raff and bull rock just to slow the velocity of the water down. He said when there was a material yard put in next door to him; he went to the manager of the property because his stock tanks filled up with white caliche dust and he thought it would kill his fish.

Mr. Weidner said before it was just a grassy hillside and there was never a water issue; never had a flood gap there. He put one in because his fence kept getting washed out. He stated he wants to ensure this stops; he's losing too much dirt and is worried about his livestock and the wildlife. He added this is something Mr. Hornseth needs to go see.

Judge Krause asked if there was anyone else who wanted to speak. Seeing no one, he closed the public hearing.

ATTACHMENT # 3

Discuss and consider final plat approval of the Vacate and Replat of Lot 1030R, Mystic Shores, Unit Six, establishing Lots 1030RA, 1030RB, and 1030RC, accept Construction Bond #1229447 as surety for storm water drainage improvements, and accept 0.14-acre dedication of right-of-way to the public along FM 306. (Precinct 4)

Tom Hornseth, County Engineer, showed the proposed plat again. He addressed Mr. Weidner's comments and explained there are storm water drainage improvements proposed with this development. He said they have done a careful review of the engineering work that was done to show that the quantity 100 year peak discharge from the property remains unchanged with the addition of the detention facilities. He said rules are being enforced but as far as water quality issues, the County does not have any authority to regulate water quality but it could be taken up with other agencies (TCEQ or EPA). He concluded all County requirements have been met.

Judge Krause confirmed the reason this is configured this way is to account for the detention facilities. He asked Mr. Hornseth; short of water quality did he feel confident the detention facilities will meet County requirements. Mr. Hornseth said yes. He added the County is holding a surety to ensure the improvements are built properly. If this is approved, construction will be monitored and the request to release the surety won't be made until satisfaction that the facilities have been built according to design has been met.

Commissioner Haag questioned where Mr. Weidner's property is in relationship to the replat. Mr. Hornseth pointed out Mr. Weidner's property, the field he was discussing, and the direction of the drainage and location of the stock tank. Commissioner Haag questioned where Mr. Weidner was talking about the corrosion. Mr. Hornseth pointed out a couple of different areas it might be and added it may be on other places on the property; Mr. Weidner does have a large tract that is adjacent to other portions of development. Judge Krause asked Mr. Weidner about the referral to a store or some development already put in and asked what it is. Mr. Weidner said there is a Buddy's (convenience store) and across the street is a medical center. Mr. Weidner said all of the water sheds across the parking lot and it shows on the map where the impression is; he now has a really fine ditch across the middle of that field. He said in some spots it's four feet deep and he can't run a tractor across it. He said

there never was a ditch there until the development came in; he used to plow the field but now he has permanent grasses planted trying to save topsoil.

Judge Krause confirmed Mr. Hornseth mentioned "County rules" and what do our rules require as far as runoff onto a neighboring property. Mr. Hornseth replied these rules only come in to play when a tract is being subdivided; that's another issue because runoff is not monitored for potential impact from development activities on an existing tract. The developer or the property owner that is dividing the property is required to identify what the intended full build out of the property is and what the impact will be when a property is being subdivided. The County regulations require the 100 year peak discharge quantity wise has to be the same pre-development verses post-development. Judge Krause confirmed pre-development means the way it is right now. Mr. Hornseth said under these circumstances, yes.

Commissioner Eccleston stated one of the things the County encounters a lot of times is that a tract like this is not subdivided and so there is no mitigating factor put on those properties no matter the number of buildings. Mr. Hornseth said that is correct and reiterated the County regulations only come in to play when there is subdivision activity.

Judge Krause asked if the detention facilities being proposed will potentially improve the conditions over what they are now. Mr. Hornseth said there probably are some benefits as far as water quality. When the detention ponds are built the purpose is to restrict the quantity to the pre-development level but they do provide some sedimentation activity in the pond. He said there could be some reduction in velocity and release which could be beneficial; the County's authority is limited to the quantity issue not quality. Judge Krause stated he was referring to the release rate. Mr. Hornseth replied according to the design and engineering that was done on this project the release rate will be the same as it was prior to completion; it has to show zero impact. He said if this were being developed commercially without subdividing; none of these requirements would come in to play and the County would not regulate or require detention like this.

Commissioner Webb asked what recourse the developer has if the Court does not allow this to be subdivided. Tillman Roots, Assistant Criminal District Attorney, stated it can be discussed in Executive Session. Commissioner Crownover said it is a question worth exploring. Judge Krause asked her if she wants to go into Executive

Session to discuss this. Commissioner Crowover replied she thinks the more information the Court has is better. Commissioner Webb agreed.

Judge Krause stated no action will be taken on Action Agenda Item 5 until after advice is sought from the County attorney.

ATTACHMENT # 3

ACTION AGENDA ITEM #6

JULY 27, 2017

Discuss and consider final plat approval of the Vacate and Replat of Lot 144, Cascada at Canyon Lake, Unit 3, establishing Lot 144R. (Precinct 4)

Tom Hornseth, County Engineer, explained this existing tract was laid out and has a building setback pursuant to drainage regulations. The drainage regulations have two primary components; one is not allowing the peak discharge for the property to increase and the second is if there is an inundation area the building setback needs to be in place around that inundation area. He said when the original development was put together the developer proposed an inundation area. The property owner has hired an engineer to evaluate exactly where the 100 year inundation area lies on this property. He said he agrees this is a better representation of the inundation area. He added the property owner has chosen to do a vacate and replat to reconfigure the building setback inundation area on their property and he recommended approval.

Commissioner Crowover made a motion, seconded by Commissioner Webb to approve Action Agenda Item 6. All voting "AYE", the motion carries.

ATTACHMENT # 4

ACTION AGENDA ITEM #7

JULY 27, 2017

Discuss and consider approval of the Amendment to Plat of A REPLAT AND EXTENSION OF CYPRESS COVE, SECTION NINE, combining Lots 695 and 696, establishing Lot 695R. (Precinct 4)

Tom Hornseth, County Engineer, stated this is a typical amendment to plat and recommended approval. Commissioner Crowover made a motion, seconded by Commissioner Webb to approve Action Agenda Item 7. All voting "AYE", the motion carries.

ATTACHMENT # 5

ACTION AGENDA ITEM #8

JULY 27, 2017

Discuss and consider approval of the Amending Plat of Canyon Lake Shores, Unit No. 1, amending the common line between dashed line parcels adjacent to Lots 71AP and 72AP. (Precinct 4)

Tom Hornseth, County Engineer, explained an amending plat was done on these lots 71AP and 72AP not too long ago. The owner of the land also wanted to reconfigure the dash lines (Attachment #6) shown on the plat.

Mr. Hornseth demonstrated a new subdivision plat viewer the GIS group is working on. He stated there is now an option to view the actual recorded plat and they are in the process of adding all of the various revisions. He showed the plat for this item and explained the dash lines were put in by the developer when he created the subdivision. All the various roads and lots were laid out and then they put the dash lines that don't actually appear to be parts of the lots but they indicate that the property owner has access from the lot all the way back to the United States Government line on Canyon Lake; this would be the flowage easement. There was a lawsuit that said yes; in fact the property owners when they bought the tract also own this tract.

Mr. Hornseth said since there are no lot numbers on the tracts there is no way to track it other than the way it was put on the agenda today "amending the dash lines adjacent to these two other tracts". Judge Krause confirmed this would clarify the property owner's property does include the area included by the dash lines. Mr. Hornseth replied the assumption being made is they are representing that they are the actual owners of these tracts identified by these tract lines and they wish to move that line. He recommended approval.

Commissioner Crownover made a motion, seconded by Commissioner Webb to approve Action Agenda Item 8. All voting "AYE", the motion carries.

ATTACHMENT # 6

ACTION AGENDA ITEM #9

JULY 27, 2017

Discuss and consider approval of Treasurer's Monthly Report for June 2017.

Commissioner Webb made a motion, seconded by Commissioner Haag to approve Action Agenda Item 9. All voting "AYE", the motion carries.

ATTACHMENT # 7

ACTION AGENDA ITEM #10

JULY 27, 2017

Discuss and consider approval of refunds (over \$2,500.00) of ad valorem tax overpayments or erroneous payments and authorize the Comal County Tax Assessor - Collector to remit refund payments.

Judge Krause stated this is a typical refund requiring Court approval. Commissioner Eccleston made a motion, seconded by Commissioner Haag to approve Action Agenda Item 10. All voting "AYE", the motion carries.

ATTACHMENT # 8

ACTION AGENDA ITEM #11

JULY 27, 2017

DISCUSS AND CONSIDER APPROVAL OF RESOLUTION NO. 2017-20 APPROVING THE FORM AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT FOR THE COMAL COUNTY, TEXAS SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2017 (THE CROSSINGS PUBLIC IMPROVEMENT DISTRICT).

Duane Westerman, Samco Capital Markets, said this is the next step in the process with the Public Improvement District (PID) called The Crossings. This is to approve the distribution of the preliminary official statement so they can move forward with the sale of bonds to fund the infrastructure in that district. It is subject to final sign off by the Interim County Auditor and Norton Rose and Fulbright and Samco to clear up final things that need to be clarified.

Commissioner Webb questioned it says in there a couple of times these are non-recourse; what happens if people don't pay their bills. Mr. Westerman said these are paid from assessments that are due on the parcels of land in the district. There are various reserve funds and funds along the way but it is based on the assessments. He added the County itself is never liable from the general funds to pay any of the debt that's incurred by the PID.

Commissioner Webb asked what impact this will have if something didn't go well on the bond reading. Mr. Westerman said because of the special revenues it does not have any legal bearing on the authority or on the credit rating approval of the County itself.

Commissioner Webb made a motion, seconded by Commissioner Haag to approve Action Agenda Item 11. Discussion ensued.

Commissioner Webb said it's a Public Improvement District and the County has done this for a couple of reasons. He stated publicly after this process he doesn't know

if he would be excited about working on another one in Precinct 3 because of the amount of work it has taken to get this done. He said the reason the County has been involved is because it does give them some say in what happens in the developments to begin with; demanding certain things you can't demand in the County as far as lot sizes, amenities, the amount of trees folks can cut down. It does give anybody in the public access to these amenities that have been built in this subdivision. He added in the end he thinks it will be worthwhile; it's no reflection on the folks at Southstar, it's just a long process. Discussion ended.

The votes were cast as follows:

AYES: Commissioner Eccleston, Commissioner Haag, Commissioner Webb, Commissioner Crownover

ABSTAIN: Judge Krause

The motion carries.

ATTACHMENT # 9

ACTION AGENDA ITEM #12

JULY 27, 2017

Discuss and consider approval of Agreement for the Crossings Public Improvement District Administration Services with PIDWorks, Inc. for RFP 2017-3301 Public Improvement District Administration and authorize Purchasing Director to execute all related documents.

Ramona Womack, Purchasing Director, stated in May a Request for Proposal (RFP) was released for the Public Improvement District Administration. On June 29, Commissioners Court selected PIDWorks and authorized her to begin negotiating the contract. She said a contract has been successfully negotiated; the original proposal was \$21,000 annually plus a \$6,000 fee for a Public Improvement manual and additional fees for additional services. She added they negotiated the contract to \$19,000 annually and the \$6,000 remains for the administrator to prepare the Public Improvement District manual. In addition there are some fees that are not included in the basic services for \$19,000; the bond issuance support and the continuing disclosure. Those fees were capped in the contract at a not-to-exceed amount of \$1,000. She recommended approval.

Commissioner Webb made the motion, seconded by Commissioner Haag to approve Action Agenda Item 12. Discussion ensued.

Commissioner Webb asked who pays for the administration. Mrs. Womack replied the fees will be paid for from funds available to the district from the special assessments levied on the property within the district. Commissioner Webb added so the lot owners themselves pay for the administration. Commissioner Crownover said assessments are a finite amount per lot and asked how many years is the anticipated payout over. Mrs. Womack said she could not answer at this time. Commissioner Crownover asked if the \$19,000 per year will taper off as the assessments are paid in full. Mrs. Womack said she believed in the negotiations it increases a little bit. Commissioner Webb confirmed the assessments coming in will always be enough to pay for the administration over the period of up to 30 years. Discussion ended.

The votes were cast as follows:

AYES: Commissioner Eccleston, Commissioner Haag, Commissioner Webb,
Commissioner Crownover

ABSTAIN: Judge Krause

The motion carries.

ATTACHMENT # 10

ACTION AGENDA ITEM #13

JULY 27, 2017

Discuss and consider approval of Second Amendment to Master Services Agreement by and between Securus Technologies Inc. and Comal County, Texas, and authorize County Judge to sign.

Major John Bell stated this is the renewal for the inmate phone service provider. Commissioner Eccleston made a motion, seconded by Commissioner Webb to approve Action Agenda Item 13. All voting "AYE", the motion carries.

ATTACHMENT # 11

ACTION AGENDA ITEM #14

JULY 27, 2017

Discuss and consider approval of Comal County Purchasing Electronic Bidding/Proposal Policy.

Ramona Womack, Purchasing Director, stated the Local Government Code requires there is an Electronic Bid Acceptance Policy which outlines the way the electronic bids will be secure during the time they are in our possession until they are opened. She said she has worked with Mike Lee, Director Information Technology, and

he has contacted Texas Purchasing Group. She said they were satisfied those bids will be encrypted securely until the due date to open. She added even then they won't be released; they will have to be unlocked to be able to view them.

Commissioner Eccleston made a motion, seconded by Commissioner Haag to approve Action Agenda Item 14. All voting "AYE", the motion carries.

ATTACHMENT # 12

ACTION AGENDA ITEM #15

JULY 27, 2017

Discuss and consider appointing Jeri Fischer-Porter to the Comal County Historical Commission Board of Directors.

Karen Boyd, Chairman Comal County Historical Commission (CCHC), introduced Jeri Fischer-Porter. She said Jeri would like to be considered to be on the CCHC and was very instrumental for the Fischer Historic District project.

Commissioner Crownover made a motion, seconded by Commissioner Webb to approve Action Agenda Item 15. All voting "AYE", the motion carries.

EXECUTIVE SESSIONS:

In accordance with Chapter 551 of the Texas Government Code, Subchapter D, Commissioners Court may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

- (A) Deliberate and consider the purchase, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code.**
- (B) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code.**
- (C) Deliberate pending/ contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code.**

Judge Krause stated going into Executive Session at 9:18 a.m. to discuss Action Agenda Item 5 under paragraph C. He requested Legal Council and the County Engineer.

Judge Krause stated coming out of Executive Session at 9:37 a.m. and no action will be taken on anything discussed in Executive Session. He added Action Agenda Item 5 will be put on next week's agenda for consideration and with nothing further to come before the Court; Court is adjourned.

Court adjourned at 9:37 a.m. on Thursday, July 27, 2017.

STATE OF TEXAS §
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I, Bobbie Koepp, attest that the foregoing is a true and accurate accounting of the Commissioners Court's authorized proceedings for the Term of July 28, 2017, Regular Meeting.

Date: August 1, 2017



Bobbie Koepp

**Bobbie Koepp, County Clerk
Clerk of Commissioners Court
Comal County, Texas**

Term Minutes prepared in accordance to Texas Government Code Annotated § 551.021

- (a) A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body.*
- (b) The minutes must:*
 - 1. State the subject of each deliberation; and*
 - 2. Indicate each vote, order, decision, or other action taken.*