

**SEPTEMBER 23, 2019**

**WISE COUNTY COMMISSIONERS' COURT MEETING**

On this the 23<sup>rd</sup> day of September, A.D., 2019 at 9:00 A.M. came on to be had a Special Meeting of the Commissioners' Court of Wise County, Texas held in the County Court at Law Court Room (3<sup>rd</sup>) Floor in County Courthouse of said County in the town of Decatur with the following members present and presiding:

J.D. Clark	County Judge
Danny White	Commissioner, Precinct No. 1
Kevin Burns	Commissioner, Precinct No. 2
Harry Lamance	Commissioner, Precinct No. 3
Gaylord Kennedy	Commissioner, Precinct No. 4

Sherry Lemon, County Clerk and Ex-Officio Clerk of Commissioners' Court when and where the following proceedings were had, to-wit:

All attachments referred to in the minutes of the Wise County Commissioners' Court are designated original or copy and are provided at the time of action by the Court unless otherwise indicated by provider.

County Judge Clark votes aye on all agenda items unless otherwise indicated.

- 1) Clark called the meeting to order at 9:00 AM. All court members were present.
- 2) Pledge of Allegiance
- 3) Moment of Silence
- 4) Community Forum: None
- 5) County Correspondence:

Clark received notes of thanks from Wise Hope for county contribution, and, from the 4-H poultry junior leader for use of buildings at fairground.

Clark reminded the court of the annual Ag Extension interpretive lunch today at 11:30 AM.

- 6) Motion made by White seconded by Burns and unanimously adopted by the Court to approve the following final plats, as presented, including letters of general conformance from Kimley-Horn and Associates, Inc.:
  - Tres Vista, Phase I final plat with construction plans review located in Precinct No. 1. (See attachment)

Page Two, September 23, 2019 Mtg...

- Grassland Estates, Phase I, Block B, Lot 4-R1 final plat located in Precinct No. 2. (See attachment)
- Panorama Estates, Block 1, Lots 1-3 located in Precinct No. 3. (See attachment)

7) Motion made by Burns seconded by White and unanimously adopted by the Court to approve the recommendation of Kerry Mellema with bond as a reserve constable deputy for Precinct No. 3 Constable Charles Applewhite.

County Auditor Ann McCuiston told the court that her office is working on getting cost on a blanket bond for a certain number of positions so individual bonds will not be required in the future. McCuiston stated that only elected officials have to have separate bonds.

Mellema addressed the court about his appointment.

Clark confirmed that as more reserve constable deputies are added they will be covered under the blanket bond.

8) Burns commented about a group meeting in Bridgeport to look at recreational benefits on Turkey Creek between Hwy 380 and the Trinity River. Burns commented about an issue with flood control that starts around the rock crushers on FM 101 N. Burns discussed flooding and upstream dams. Burns stated that there are National Resource Conservation Service (NRCS) funds. Burns confirmed that the court could submit a letter or resolution from the Court in support of this. Burns told the court that a recreational green space is being considered and discussed other recreational attractions.

Motion made by Burns seconded by Kennedy and unanimously adopted by the Court to direct staff to prepare a resolution to request an economic feasibility study for flood control on Turkey Creek in Bridgeport.

9) White commented that at last court he had to shut a road down because of a bridge issue. White commented that TxDOT is not going to replace the bridge for seven (7) years and, the structure does not need to be reopened. White told the court that the county has discussed this with TxDOT regarding the bridge replacement program.

County Engineer Chad Davis told the court that the original AFA was signed in 2009 and TxDOT is not letting construction on this particular bridge project until 2026. Davis read correspondence from TxDOT BRINSAP program personnel Mark Birdwell. Davis stated this AFA would go away but the county is still in the bridge replacement program.

Motion made by White seconded by Burns and unanimously adopted by the Court to remove this AFA for bridge replacement on CR 2112 at Catlett Creek 0902-20-101 and authorize Clark to sign the agreement pending Commissioners Court Attorney Thomas Aaberg approval and ask if it can be utilized to an in-kind to this bridge.

- 10) No action taken by the court regarding the bridge replacement program with TxDOT.
- 11) Donations: None
- 12) Bids:

Asset Control Officer Diana Allen stated that White requests to purchase a mower out of capital funds after October 1, 2019 with a total cost under \$50,000.00. (No attachment)

Motion made by Lamance seconded by White and unanimously adopted by the Court to purchase a chip spreader via Buyboard for \$286,458.00 to be purchased using Precinct No. 3 capital expenditure funds. (No attachment)

Motion made by Kennedy seconded by Lamance and unanimously adopted by the Court to accept the change in cost to the bid for scrap metal (Bridgeport Iron and Metal) to \$90.00/ton delivered and \$80/ton pick-up. Allen commented this is due to a drastic change in the market. (No attachment)

Motion made by Burns seconded by White and unanimously adopted by the Court to authorize Asset Control Officer Diana Allen to advertise for Requests for Qualifications for a Construction Manager At Risk for the Wise County Courts building. (No attachment)

- 13) Consent Agenda Item:
  - a) Minutes: September 9, 2019 (three public hearings and one Regular Meeting) (No attachment)
  - b) Department Head Reports:
    - Order Establishing Salaries and Budgets for County Auditor and Assistants and District Court Reporter (See attachment)
    - Auditor's Report (See attachment)
  - c) Budget Amendments: FY19-14 for various line items (No attachment)
  - d) Capital Expenditure Plan:
    - White's purchase of mower (above)
    - Clark and Special Projects Manager Glenn Hughes requested to use up to \$28,000.00 to \$30,000.00 from Buildings and Ground capital expenditures for a 30x40 metal building at the fairgrounds for a maintenance shop/equipment storage (estimated cost \$26,000.00).
    - Lamance's chip spreader (above)
  - e) Claims/Payroll:
    - Texas Association of Watershed Sponsors annual membership for \$250.00. (No attachment)

- Claim and walk-to-court registers (See attachment)
- f) Utility Requests/Right-of-Way: None
- g) Contracts/Interlocal Agreements:  
(Original Contracts and Interlocal Agreements are filed in the Asset Control Office by Diana Allen.)
- Renewals (List only): Tyler Odyssey Agreement (See attached list)
  - Fully Executed (list): Animal Control for Cities of Aurora and Chico (See attachments); Centurylink Phones for WCSO (See attachment); NCTCOG 911 GIS and Communication Agreements (See attachment)
  - City of Denton solid waste landfill.(verbal from Allen) (No attachment)
  - Snow, Garrett, Williams CPA for Wise County Tax Office outside auditor services (See attachments)
  - NetProtec LLC for Wise County Elections (See attachment)
  - SAFE Software for Public Works (See attachment)
  - Southern Software for Wise County Sheriff's Office (See attachments)
  - Radiant Solutions AFIX for Wise County Sheriff's Office (See attachment)
  - Snow Garrett Williams CPA for Wise County outside auditor services (See attachment)
  - TAC Retiree Medical Program (See attachments)
  - MOU Texas A&M Agrilife Extension Service (See attachment)
  - Cybergrants Community Grant Program for emergency management (Wal-Mart) (See attachment)
  - City of Chico 911 Addressing agreement (No attachment)
  - Denton County Inmate Housing (No attachment)
  - CivicPlus (No attachment)
  - Weatherford College Wise County Sheriff's Office Agreement (No attachment)

Clark discussed cost of landfill tonnage. Public Works Director Joey Highfill discussed the three year cost guarantee for the Interlocal Agreement with the city of Denton for landfill usage.

Motion made by Burns seconded by Kennedy and unanimously adopted by the Court to approve all items listed under agenda item 13, as presented.

14) Project Agreement for Road Repair:

Kennedy discussed his wish to stockpile some chip rock and base on property owned by Boonsville/Balsora VFD across from the fire department. Commissioners Court Attorney Thomas Aaberg told Kennedy that it needs to be done through contract with the VFD. Aaberg and Kennedy will discuss this further. No action taken by the court.

15) Right-of-Way Improvement:

Motion made by Burns seconded by Kennedy and unanimously adopted by the Court to approve the following right-of-way improvement request:

Precinct No. 2 Commissioner Burns' property. Burns wishes to widen the road but cannot with his personal equipment because of the trees. Burns is giving up 10' of space and cannot do it with his personal equipment. Burns told the court that no other labor will be used other than his own and he will replace the fence. Burns stated the property is at the corner of CR 3141 and 3170 (1/8 mile) in Precinct No. 2. (No attachment)

16) Burn Ban: None

17) Committee Reports: None

18) Court recessed at 9:37 AM and immediately entered into Executive Session with County Legal Counsel for private consultation under Texas Government Code 551.071: discussion and legal updates of pending litigations.

Executive session adjourned at 10:54 AM and immediately reconvened in Open Session.

19) Clark stated the pending litigation discussed in executive session was regarding a suit filed against the county for some roads that the county has long held to be private roads that were never properly done by the developer to become county roads. Clark asked White to name the roads. Lone Tree Lane, Pond View Drive, and Pond View Court located in Prairie View Estates, Phase II (Precinct No. 1). Clark stated that Katherine Mastropiero filed suit against the county stating the roads were county roads. Clark stated the case appealed to the 2<sup>nd</sup> Court of Appeals panel of three judges. Clark stated the judges issued opinion that frankly speaking is a "terrible opinion" and misses the mark on a lot of understanding on county processes and how roads are accepted from a developer into the county system of maintenance. Clark stated the opinion maintains that the roads should be county roads.

Aaberg stated that Wise County appealed the case to the 2<sup>nd</sup> Court of Appeals purely on a jurisdictional issue. Clark stated that the 2<sup>nd</sup> Court of Appeals did a finding that these are county roads. Clark stated the county has begrudgingly and reluctantly discussed the opinion and conclusions of the court of appeals. Clark stated this is the ruling the county has been handed. Clark stated the county's best bet is to add those named roads to the county road map and Precinct No. 1 schedule of maintenance for the commissioner to maintain as he sees fit. White repeated the road names.

Kennedy asked when this development was created? White told Kennedy it was done in 2001. Clark reviewed this history of the development. Clark stated the plat was done and came to court. Clark stated the roads were dedicated for public access because they're public access roads. Clark stated the next step is that the developer takes out a two year maintenance bond and then the roads will come back to court for consideration of acceptance.

Clark stated the court (at that time) determined the roads were to county standard. Clark continued the two year maintenance bond never happened. Clark stated the Court of Appeals, though, says that the court's action at that time of saying the roads are at county standard and approve the plat took the roads in. Clark stated county commissioners are required to maintain an all-weather road. Clark stated this is up to each commissioner based on budget, schedules, and timelines of what work a commissioner is able to do to a word. Clark stated the Court of Appeals is saying the roads need to go on the county road map and be county maintained.

White told Clark he agrees with Clark and thinks it was a misstep regarding the maintenance bond. White discussed developer responsibility of returning to the court for acceptance of road maintenance. Clark stated that in 2008 the county had Kimley-Horn and Associates, Inc. look at this issue regarding road maintenance.

County Attorney James Stainton told the court the opinion is based on the jurisdiction of the roads in question. Stainton supports Clark's recommendations regarding this opinion as a way to move forward. Clark told the court that any future appellate proceedings would go before the Texas Supreme Court and the ramifications of those actions. Clark requested formal action by the court for acceptance of these three named roads into the county road maintenance system.

Stainton recommended the county consider creation of an order to memorialize the actions of the court today. (No attachment)

Stainton provided a certified copy of the Prairie View Phase II plat recorded in Wise County Clerk Plat/Map Cabinet C, Sleeves 161-162 on August 28, 2000, said plat is not scanned into this meeting due to document size. (See plat kept in this meeting file.)

Motion made by White seconded by Burns and unanimously adopted by the Court to accept Pond View Drive, Pond View Court, and Lone Tree Lane into the county maintenance system for Precinct No. 1 and add those roads to the county road map per the 2<sup>nd</sup> Court of Appeals opinion.

Stainton discussed meeting with Attorney Bob Bass regarding this area of law. Stainton told the court that it is very good how the court handles road maintenance. Clark stated that a common misunderstanding through this whole process is that many people think that public access roads are the same as county maintained roads. Kennedy discussed the Wise County Development Rules and Regulations. Stainton told the court that he is going to work on an order memorializing the court's action today and will circulate the order.

20) Clark announced the next meeting as Monday, October 14, 2019.

21) Court adjourned at 11:08 AM, there being no further action to be taken by the court.

Minutes approved this 28<sup>th</sup> day of October, 2019, as printed.

J.D. Clark, County Judge, Wise County

Danny White, Commr. Pct. No. 1

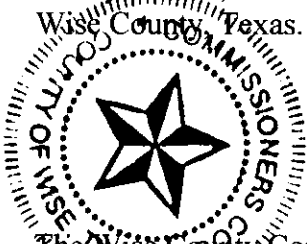
Harry Lamance, Commr. Pct. No. 3

Absent Kevin Burns, Commr. Pct. No. 2

Absent Gaylord Kennedy, Commr. Pct. No. 4

ATTEST:

Sherry Lemon by Amanda Knox, Chief Deputy  
Sherry Lemon, County Clerk and Ex-Officio Clerk of Commissioners' Court,  
Wise County, Texas.



The Wise County Commissioners' Court adopted revised **Rules of Procedures, Conduct & Decorum** at Meetings of Wise County Commissioners' Court on March 25, 2019.