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KERR COUNTY COMMISSIONERS COURT

Regular Session

Monday, December 13, 2010

9:00 a.m.

Commissioners' Courtroom

Kerr County Courthouse

Kerrville, Texas

19 90 days.

20 COMMISSIONER OEHLER: I'll second it.

21 MS. HYDE: I can bring it back to the Court and let
22 you red-pencil it.

23 COMMISSIONER LETZ: 90-day period between
24 retirement and rehiring; is that correct?

25 JUDGE TINLEY: We have a motion and a second to

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1 adopt as part of the Kerr County policy that there be a
2 90-day gap between retirement and rehire of Kerr County
3 employees under the T.C.D.R.S. plan. Question or discussion
4 on the motion? All in favor of the motion, signify by
5 raising your right hand.

6 (The motion carried by unanimous vote.)

7 JUDGE TINLEY: All opposed, same sign.

8 (No response.)

9 JUDGE TINLEY: The motion does carry.

10 MS. HYDE: Thank you, gentlemen.

11 JUDGE TINLEY: Let's go to Item 25; consider,

12 discuss, take appropriate action on resolution requesting

13 Kerr County not be included in the Southern Edwards Plateau

14 Habitat Conservation Plan. Commissioner Letz?

15 COMMISSIONER LETZ: I put this on the agenda, and
16 it's a -- one of those interesting things I got myself
17 involved with, which is probably a good thing for, I think,
18 Kerr County, and probably this Court. First thing is that
19 this is -- this whole issue is much like the power lines
20 going through Kerr County. It's not really an issue that we
21 are directly involved with. The applicant is Bexar County,
22 and the approval is by the Fish and Wildlife Service. Just
23 like with the power lines; the applicant was L.C.R.A. and the
24 approval is P.U.C. But it does impact Kerr County, and I
25 think that the -- that being said, I think we do have a -- a

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1 reason to make a public statement and inform Bexar County of
2 our position.

3 Most people know that I also serve as the co-chair
4 of the committee advising Bexar County, called the C.A.C.
5 And for some reason, because I'm co-chair of it, a lot of
6 people seem to have the impression that I'm in favor of it,
7 and it's not true. I mean, my view -- my job on that is --

8 and my agreement to accept that position was to work with
9 Bexar County and see if there was an application that could
10 be submitted by them that the Fish and Wildlife Service would
11 approve. And when Bexar County appointed me to this, they
12 did it largely because they wanted a rural county
13 commissioner to have a large input into this process. They
14 weren't trying to be -- they've been -- you know, the
15 allegation used to be, you know, back door and doing other
16 things. They clearly wanted me to do it, and they know my
17 position on this. And my position has been pretty consistent
18 all along, once I really got up to speed on what the habitat
19 conservation plan, is that, first, I don't see any reason for
20 this Commissioners Court to participate in the plan. It's
21 nothing that we need to do, in my mind. From the standpoint
22 of Kerr County, I don't see much reason for Kerr County to
23 participate in the plan.

24 The thing that I do object to was the way that it
25 was kind of, I guess, done by Bexar County; that it was kind

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1 of -- all of the counties or the area was put together, and

2 then for input to kind of, I guess, just lay it out there. I
3 think a better approach would have been if they would have
4 gone and let counties, cities, municipalities, individuals be
5 proactive and ask to be included, rather than be included up
6 front. And that's essentially what I've done in my
7 resolution. The resolution says -- and I'll read it in a
8 second, but the intent, hopefully what it came out and says,
9 is that we don't -- as a Commissioners Court, we don't want
10 to participate in the plan, and we don't want Kerr County in
11 the plan. However, if, at some future point in time, once
12 the plan is actually written, the entities, Kerr County or
13 individuals, want to participate in the plan, they should
14 submit that information to Bexar County, and Bexar County, as
15 the applicant, will make a decision at that time. Hopefully
16 that's what I -- what I said. But let me go ahead and read
17 the resolution, and then we can entertain any comments on it.

18 "Resolution of Kerr County Commissioners Court
19 setting forth its concerns and position on the proposed
20 Southern Edwards Plateau Habitat Conservation Plan, SEP-HCP.
21 Whereas, individual property rights are one of the
22 fundamental rights set forth in the Constitution of the
23 United States of America, and Kerr County Commissioners Court

24 has a history of standing up and protecting these property
25 rights and enabling individuals the right to use their

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1 property; and whereas, Bexar County is developing an
2 application to submit to the U.S. Fish and Wildlife Service
3 to establish a regional habitat conservation plan that may
4 include Kerr County; and whereas, the Kerr County
5 Commissioners Court acknowledges Bexar County may have the
6 need for such a plan, and appreciates Bexar County soliciting
7 input from residents of Kerr County;

8 "Whereas, the Endangered Species Act and applicable
9 state laws concerning listed and/or threatened species
10 currently exist and apply to property, wildlife, and habitat
11 in Kerr County; and whereas, the SEP-HCP may impact
12 landowners, wildlife, and endangered species and habitats in
13 Kerr County; whereas, Kerr County Commissioners Court does
14 not intend to apply for a habitat conservation plan covering
15 Kerr County, and does not believe there is a need for such a
16 plan at this time; and whereas, Kerr County Commissioners
17 Court understands that the SEP-HCP has not yet been written,

18 and therefore, the specifics of the plan are unknown; and
19 whereas, Kerr County Commissioners Court is the local
20 governmental entity that represents the residents of Kerr
21 County, and is submitting this resolution to provide input to
22 Bexar County to help guide in this decision. Now, therefore,
23 be it resolved, on the 13th day of December, 2010, Kerr
24 County Commissioners Court does not want to participate in
25 this plan and requests that Kerr County not be included in

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1 the SEP-HCP. Should Kerr County, its residents, or other
2 entities in Kerr County want to participate in the SEP, said
3 request by Kerr County, residents, or other entities should
4 be made by resolution or letter to Bexar County." And that's
5 it. Pretty --

6 COMMISSIONER BALDWIN: So you left it open there at
7 the "resolved" part of it, where if anybody wanted to
8 participate in the thing, they would do a resolution to get
9 back in, including the County.

10 COMMISSIONER LETZ: Yeah. If -- I can't imagine
11 the County wanting to do it, 'cause I don't see a need.

12 COMMISSIONER BALDWIN: I understand. That's what

13 that's saying.

14 COMMISSIONER LETZ: The reason is, there are
15 property owners that would like to use their property -- have
16 told me they'd like to have their property considered, or at
17 least be able to negotiate to have their land used for
18 mitigation purposes.

19 COMMISSIONER BALDWIN: Sure.

20 COMMISSIONER LETZ: I'm not going to -- I mean, I
21 hope they get a very good attorney if they do it, but that's
22 up to them.

23 COMMISSIONER OEHLER: Yeah.

24 COMMISSIONER LETZ: So I think, you know -- but,
25 you know, it's the property rights side on both sides, to me.

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1 If somebody wants to do it, well, then they should be allowed
2 to do it. If they don't want to do it, they should -- we
3 shouldn't be required to do it. We shouldn't be in the plan.
4 I don't want the area, or Kerr County included as a whole, to
5 have any obligation, and I -- you know, that's kind of where
6 I am on it. I've been pretty consistent on that. And Bexar

7 County's aware of my position. Fish and Wildlife Service is

8 aware, and I've said that at, you know, C.A.C. meetings.

9 COMMISSIONER OEHLER: And they're real happy about

10 it.

11 COMMISSIONER LETZ: Bexar County is not unhappy

12 about it. They fully understand it. The people that are --

13 I will say that Fish and Wildlife isn't real happy about it,

14 but, you know, that's not my concern. I'm -- you know, I

15 appreciate the fact that Bexar County has come out to -- and

16 I'm not the only one from the rural areas. Kerr County

17 actually has two representatives on the -- it's called the

18 C.A.C., and there's several from Kendall County. You know,

19 Bexar County could have done this very quietly, secretively,

20 and -- and done a plan; very well could have snuck through

21 the cracks, but they didn't. And I appreciate the fact that

22 they didn't do that, and also appreciate the fact that they

23 have been, you know, very honest with me, and I've been

24 honest with them, that I represent Kerr County and I'm going

25 to do what I think is best for Kerr County. At the same

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1 time, I have no problem with trying to come up with a plan

2 that may help Bexar County. And it's that simple.

3 I mean, to me, they're not -- the relationship of
4 the two jobs that I have are not contradictory. My priority
5 if there is a conflict would come to Kerr County, obviously.

6 COMMISSIONER BALDWIN: So, I see two places here
7 where it says the Commissioners -- Kerr County Commissioners
8 Court does not intend to apply for a habitat conservation
9 plan covering Kerr County. And then down lower, it says that
10 the Commissioners Court does not want to participate in this
11 plan. I mean, that's pretty black and white and plain to me.

12 COMMISSIONER LETZ: Yeah.

13 COMMISSIONER BALDWIN: I'll second those motions
14 all day long.

15 COMMISSIONER LETZ: I'll submit the resolution as a
16 motion.

17 JUDGE TINLEY: And we have a second?

18 COMMISSIONER BALDWIN: I will.

19 JUDGE TINLEY: We have a motion and a second for
20 adoption of the resolution as read into the record. Do we
21 have questions, comments with regard to the motion?

22 COMMISSIONER LETZ: Another comment is that I hope

23 other counties around do the same thing. I think -- 'cause I
24 think it needs to be a proactive effort if someone wants to
25 participate in this plan. I don't think it should be driven

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1 by Bexar County.

2 COMMISSIONER BALDWIN: I agree.

3 COMMISSIONER LETZ: And that's hopefully what I've
4 said here.

5 COMMISSIONER OEHLER: I think you did.

6 COMMISSIONER BALDWIN: Or it wouldn't be driven by
7 Kerr County either, by this Commissioners Court.

8 COMMISSIONER LETZ: Yeah. If we --

9 COMMISSIONER BALDWIN: People don't feel like that
10 we required them to go and participate.

11 COMMISSIONER LETZ: Generally, these habitat
12 conservation plans -- and there are quite a few of them.

13 Williamson County, Travis County, Hays County, Comal County
14 all have them; they're done. The applicant is frequently the

15 county or the city. If this Court felt we needed one in Kerr

16 County, then we would do one for Kerr County. But we -- you

17 know, I don't, and I don't suspect the rest of this Court

18 thinks there's really a need for it. The -- and I guess in a
19 two-second summary, the purpose of the plan, it provides a
20 quicker mechanism to get a takings permit under the
21 Endangered Species Act. That's what the purpose of it is,
22 but there's some strings that come in or may come in, and it
23 kind of depends how the plan is written. I think that
24 everyone in the public and this Court, once the draft plan is
25 written, should really look at it. It -- you know, because

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1 it's -- the fact that we're doing this doesn't guarantee Kerr
2 County's not going to be included. It's a Bexar County
3 Commissioners Court decision. But it's -- the Endangered
4 Species Act is there. The habitat conservation plan doesn't
5 change anything about it. It's still -- you're obligated to
6 abide by it. But it just doesn't have a real -- doesn't help
7 Kerr County. There's no need for it in Kerr County, so
8 there's no reason for us to be part of it.

9 COMMISSIONER OEHLER: Do they ever declare humans
10 in the Endangered Species Act?

11 COMMISSIONER LETZ: It could get there. I thought

12 it was interesting that some of the presentation by the
13 Ingram FFA talked about the black-capped vireo, and the
14 numbers they had, there's a whole bunch more of those
15 black-capped vireos than they showed on their chart. They've
16 been pretty frequent --

17 COMMISSIONER OEHLER: You have a bunch on your
18 place?

19 COMMISSIONER LETZ: I believe I'm not going to
20 comment on that.

21 JUDGE TINLEY: Particularly on the open record,
22 right?

23 COMMISSIONER LETZ: That's right.

24 JUDGE TINLEY: Any other question or comments? All
25 in favor of the motion, signify by raising your right hand.

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1 (The motion carried by unanimous vote.)

2 JUDGE TINLEY: All opposed, same sign.

3 (No response.)

4 JUDGE TINLEY: The motion does carry. Be
5 interesting to see how your co-chairmanship of that committee
6 is now perceived, whether or not -- by virtue of the Court's

7 action, whether or not your services are desired in the
8 future --

9 COMMISSIONER LETZ: Well, I will --

10 JUDGE TINLEY: -- as a chairman on that committee.

11 COMMISSIONER LETZ: I will say that my co-chair had
12 absolutely no problem with the resolution. And the
13 representative from Bexar County that is assigned to this --
14 he's not a member, but the person that was assigned by the
15 Commissioners Court had no problem with the resolution. He
16 thinks they're both appropriate. Both of them bring -- it's
17 an appropriate thing for Kerr County to do, if that's what we
18 choose to do.

19 COMMISSIONER OEHLER: Glad they feel that way.

20 JUDGE TINLEY: Let's go to Item 27; to consider,
21 discuss, take appropriate action on updated field agreement,
22 that being the trapper contract. I put this on the agenda
23 because it came in somewhat after the fact. I don't know
24 that -- I assume everybody's had the chance to look at it to
25 the degree they feel like they need to. Like I say, it came

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