

County Legislation Meeting Notes: 06/21/2022

Attendees:

Annalisa Peace, GEAA
Nathan Glavy, GEAA
Anna Michelle Molina, Bulverde Neighborhood Association
Elizabeth Bowerman, CCCA
Jack Olivier, PHCE
Susan Beavin, Helotes Creek
Denise LeAnn Dever, Kendall County
Jim Doyle, CCA
Roxanne Deane, Comal League of Women Voters
Brian Zabcik, Save Barton Creek Association
Virginia Parker, San Marcos River Foundation
Jerrie Champlin, League of Woman Voters
Britt Coleman, Bexar Audubon Society
Barbara Witte Howell, River Road Neighborhood Association

Updates:

Annalisa spoke with Comal County Commissioner, Kevin Webb, who wants to talk about what Comal County residents want for legislation (Update: Annalisa is meeting with Commissioner Webb on July 1).

Annalisa offered to draft up a resolution (draft from 2009) and send it out to the target audience to send a resolution list out to the legislation team. Topics from the old resolution were fire suppression, wastewater treatment, vegetation buffers, impact fees, open space/impose a limit on impervious cover)

- Impervious Cover Pushback may occur from the builders
- Brian suggested incorporating water quality with impervious cover (IC) legislation. Brian: IC mainly causes problems for runoff pollution & flooding. What about a policy to require and/or incentivize onsite flood mitigation and green infrastructure / low-impact development features on developments with high IC?

Annalisa proposed meeting with each county commissioner; Comal high priority. Have a set person to meet with them to propose agenda.

- GEAA or CCCA take focus and conduct these meetings.
- GEAA proposed getting Doug Miller (Chairman of Guadalupe RFPG) to advocate for improvements.

Annalisa and Britt will work together to get Bexar County on board.

Virginia from San Marcos River Foundation: Hays County is still trying to get through Open Park/Spaces process; not sure if they are putting the focus on the upcoming legislative process. SBCA and SMRF teaming up for Hays.

GEAA proposed developing a survey and sending it out to list to prioritize talking points/list; Comal County focus and utilize local member groups to send out the survey as well. (GEAA will send out 10 days to seek approval)

- Explain the point of the survey and what this would be utilized for.
- Denise can help with Kendall County and will ask Commissioner Elkins for results of past Kendall County polling on this issue. Annalisa will share with the group (see below).

Brian suggested looking into proactive commissioners' court that is looking into development? He will send out the LID policy for Harris County.

Annalisa proposed the next meeting by July 12 at 4PM.

From the ZOOM Chat:

From Brian Zabcik to Everyone 04:07 PM

Meaning lots of opposition to IC limits?

From Brian Zabcik to Everyone 04:12 PM

IC mainly causes problems for runoff pollution & flooding. What about a policy to require and / or incentivize onsite flood mitigation and green infrastructure / low impact development features on developments with high IC?

From Anna Michelle Molina to Everyone 04:48 PM

Bulverde, 22 years - In the period between 1996 and 1999, 5 separate municipalities were incorporated and combined in the Bulverde area to form the current City of Bulverde. This process required 22 separate elections.

Communication received from Kendall County Commissioner Richard Elkins:

The documents to follow contain resolution and my testimony which included the survey questions and results.

Resolution and Survey questions will need to be revised based on actual proposed legislation and additional support information required to respond to potential objections brought forth. I will search for a word version of the resolution.

I have had several discussions with the potential new members of Kendall County Commissioners Court to gain their insight and measure their support level.

Many of the adjoining counties will have new Judges and commissioners. Will need to have them sign an additional supporting resolution after they are elected and take oath of office Jan 1, 2023.

As soon as things settle down some, I will reconnect with the group. Have a great evening, Richard

Attached:

- Information on Kendall County Polling
- Kendall County resolution supporting HB 3883 (2021)
- Op-ed from Milan Michalec

HB 3883 by Representative Biedermann

Relating to development regulations for certain unincorporated areas located within the Hill Country Priority Groundwater Management Area; authorizing a fee; authorizing a civil penalty; creating a criminal offense.

Good afternoon Mr. Chairman Representative Deshotel and Land & Resource Committee Members. Thank you for your service.

April 6, 2021

My name is Richard Elkins and I live at 834 Hwy 46E in Boerne TX.

I am also the Commissioner of Pct. 2 in Kendall County. I, and all the other members of Kendall County Commissioners Court are **FOR HB 3883**.

Why do the Texas Hill Country Citizens need HB 3883?

Let me say first. Kendall County Commissioners Court, the Municipalities and the citizens are not against growth.

Kendall County Commissioners Court proactively seeks responsible economic growth that improves Kendall Counties citizen's financial integrity and quality of life. We encourage commercial development and subdivision development opportunities consistent with Community Livability practices. All while continuing to promote the Hill Country as an excellent and desirable place to locate a business and build home communities that do not adversely impact the safety, health or welfare of those citizens in that Community, surrounding adjacent properties and our natural resources.

Commissioners court is very involved with Economic development in Kendall County. A member of the Court is on the Boerne Kendall County Economic Development Corp., Chamber of Commerce, Area Transportation and Economic committees, Alamo Area Council of Governments and Metropolitan Planning Organization.

We, members of Commissioners Court work close with leaders of the community, Cow Creek Groundwater Conservation District and the public on any proposed community developments of the home industry to ensure those who desire to come and live in Kendall County can enjoy our quality of life.

What has Happened?

The Texas Hill Country region is experiencing rapid population growth in its unincorporated areas and municipalities, which has created numerous safety, infrastructure and financial challenges for Kendall County citizens. During the past five years, Kendall county has seen a population growth of more than 30 percent. Currently, there are large expanses of open areas in the unincorporated areas of Kendall County being targeted by land deveolpers.

Unbridled growth impacts the ability of Kendall County citizens to continue to provide and maintain the necessary infrastructure, schools, first responder services (Law Enforcement, Fire & EMS) and other services to protect health, safety and welfare of an existing and growing population. By the way, current growth rate now threatens to exceed our capabilities. Even thou, many of our services are still performed by volunteers.

What did Kendall county look like 10 years ago?

Historic farms and ranches and small rural communities.

Today?

The Land Rush began in 2010. Rapid and practically unbridled growth that has led to unbearable traffic of a big city, near extinction of historic farms and ranches and has created unlikely neighborhoods where existing farms, ranches and small rural communities now nudge up against large urban like subdivisions and commercial and industrial complexes.

Future growth must respect the unique local conditions and not sacrifice those institutions and natural resources that sustain and contribute to an enviable high quality of life.

Also, water is a natural resource of limited availability in the Kendall County area. Kendall County is now designated a “Primary Ground Water Management Area”. In Kendall County more ground water is being consumed than is being replenished by natural means. Wells go dry regularly and must be drilled deeper to find a new source of water. Commissioners Court works very close with Cow Creek Groundwater Conservation District. High density subdivision development would not only place increased demands on water sources, but also increase the

risk of contamination of rivers, streams, lakes and the Trinity, Edwards and Cow Creek Aquifers to the detriment of public health, safety and welfare.

So what did we do? We really went to work.

During the past several months, all members of Commissioners Court, Kendall County citizens, and Representative Biedermann and his staff worked hard and we developed HB 3883.

But prior to submitting HB 3883

A Kendall County Public Bill validation survey was developed and made available to our citizens.

The Kendall County Public Survey Results

The Survey was a random sample of the approximately 33000 Kendall county adults.

The survey accuracy goal:

✓ A target sampling confidence level of 99% with a margin of error of 4.5 percent was met.

➤ 802 survey responses were required. There were 910 survey responses.

1. Clarifying the authority of Kendall County Commissioners Court to manage subdivision development in unincorporated areas.

____ YES

____ NO

93.6% Yes

2. Providing authority for Kendall County Commissioners Court to require set-backs between incompatible land uses.

____ YES

____ NO

93.6% Yes

3. Providing specific authority for Kendall County Commissioners Court to regulate population density as determined by minimum or average lot sizes within a designated area.

____ YES

____ NO

91.6% Yes

4. I am in favor of regulating the number of homes per acre in the unincorporated area of Kendall County.

____ YES

____ NO

93.5% Yes

5. Providing authority for Kendall County Commissioners Court to assess impact fees to help counties fund the changes in infrastructure due to development.
☐ YES ☐ NO **86.5% Yes**

6. Providing Kendall County Commissioners Court greater authority to regulate the “Dark Sky” rules and statute.
☐ YES ☐ NO **92.1% Yes**

7. Providing Kendall County Commissioners Court to require all future developments to provide a primary and secondary different source of water to ensure a sustainable water supply is provided during drought conditions. I.e. Primary and secondary sources cannot be from the same Aquifer.
☐ YES ☐ NO **96.4% Yes**

Why is this question so important?

The Texas hill Country is in an extraordinary situation with a lack of rain for many years. This causes a continued serious drought and excess depletion of our local ground water aquifer due to the continued experience of very little rain and extreme population growth.

8. The additional Regulatory requested authority granted would not become effective until approved by a majority of the Kendall County residents voting in an election.
☐ YES ☐ NO **84.6% Yes**

HB 3883 was validated by the citizens and was submitted by Representative Biedermann.

The 8 question average of (Yes) votes is 91.5 % – 4.5% margin of error = 87 %

Extrapolated 87% x 33000 KC adults = 28,710 would have voted For HB 3883

Expectations when HB 3883 is Passed

Outcomes (+)

- + Regulatory tools will be available to ensure win/win collaborative economic development plans with Land developers.

Land developers are seeking and purchasing land to develop high density “City Like” subdivisions with 4 to 6 homes per acre. The water for these developments will be coming primarily from outside the county, but from the same Aquifer in Kendall county, mixed with surface water and Aquifer water. Wastewater treatment plants servicing these Communities will come from a local development wastewater facility or from a larger regional facility.

- + Regulatory tools that provide the ability to manage and preserve the natural resources “water”, scenic beauty, native wildlife, quality of life as well as the local historical and cultural heritage of this unique Texas Hill Country region.

- + Ability to prevent the following nightmare by giving regulatory authority to set a minimum of 10 feet side and rear set back lines for all residential buildings for fire prevention, protection and fire-fighting purposes.

Imagine; placing a 500 home urban style community, homes spaced 10 feet apart, 10 to 15 miles down a narrow rural road with numerous 90 degree turns, 20 minutes from the closes volunteer fire department, with 1 maybe 2 volunteers available, at night and a call comes in. Can you imagine the outcome?

- + Ability to further address Texas Hill Country flash floods and traffic issues caused by developments.

The County Commissioners will be able to establish an infrastructure cost recovery fee “similar to a municipality Impact fee” for necessary improvements to serve only the new development.

- + Ability of Kendall County citizens to choose than stipulates the additional regulatory authority granted by the Legislature to Commissioners Court.

The outcome will be additional quality of life balanced community projects, like the following, that enhance and protect our natural resources and our Quality of Life.

Some are:

- + Cordillera Ranch, Master planned Community of 8,700 acres with 1,350 home sites.

+ George's Ranch, Master planned Community of 1,142 acres with 850 home sites.

HB 3883 provides the citizens of the Texas Hill Country the regulations required.

Representative Deshotel and members of the Committee, on behalf of all the citizens of Kendall county, please vote in favor of HB 3883 and take any additional action necessary to provide us with the ability to control our Quality of Life.

Handouts are provided with additional detail of current and proposed Kendall County subdivisions.

Thank you for your time.

STATE OF TEXAS
COUNTY OF KENDALL

KENDALL COUNTY RESOLUTION NO. 11-09-2020

WHEREAS, the Texas Hill Country region is experiencing rapid population growth in its unincorporated areas and municipalities, which has created numerous safety, infrastructure, and financial challenges for Kendall County; and

WHEREAS, the cost to Kendall County to provide and maintain necessary infrastructure and provide services to protect the health, safety, and welfare for a growing population threatens to exceed its capabilities; and

WHEREAS, increased development in Kendall County has greatly increased traffic on county roads, resulting in unsafe traffic volumes and deterioration of the county road system; and

WHEREAS, the Texas Hill Country is prone to major flooding, and the public health and safety hazard due to flooding in Kendall County has been aggravated by development; and

WHEREAS, water is a natural resource of limited availability in the Hill Country area and development not only places increased demands on water sources, but also increases the risk of contamination of rivers, streams, lakes, and aquifers to the detriment of the public health, safety, and welfare; and

WHEREAS, unmanaged growth in Kendall County has created situations where existing farms, ranches, and residential communities have become neighbors with non-compatible commercial and industrial land use that negatively impacts the public health, safety, and welfare; and

WHEREAS, the Texas Hill Country is nationally recognized as a major tourist, recreational, and retirement destination, and protection of the economic viability of Kendall County is essential to its future;

NOW, THEREFORE, BE IT RESOLVED that the Commissioners Court of Kendall County, Texas hereby:

Recommends that the Texas Legislature pass legislation that will help Kendall County and other counties in the Texas Hill Country, by local option, manage these challenges by:

1. Clarifying the authority of Hill Country counties to manage subdivision development in unincorporated areas;
2. Providing authority for Hill Country counties to require set-backs between incompatible land uses;
3. Providing specific authority for Hill Country counties to regulate population density as determined by minimum or average lot sizes within a designated area; and
4. Providing authority for Hill Country counties to assess impact fees to help counties fund the changes in infrastructure due to development.

APPROVED on this 9th day of November 2020.



Darrel L. Lux, County Judge



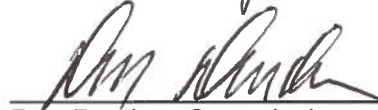
Christina Bergmann, Commissioner, Precinct 1



Richard W. Elkins, Commissioner, Precinct 2



Richard Chapman, Commissioner, Precinct 3



Don Durden, Commissioner, Precinct 4

Attest:



Darlene Herrin, County Clerk

Hill Country Weekly

April 14, 2022

Decisions to benefit the Hill Country stymied by Austin politicians

By Milan J. Michalec

Special to the Hill Country Weekly

The Regular Session of the 87th Texas Legislature adjourned on the final day of May, 2021. In this 140-day period, 4,671 bills were introduced in the House. Of that number, 587 were passed, but House Bill (H.B.) 3883 was not on the list.

If it doesn't sound familiar, this legislation was the attempt by the Kendall County Court to gain local control over development beyond the city limits of Boerne in the county.

It was led by Precinct 2 Commissioner Richard Elkins, where rapid population growth was straining resources like water and roads along the State Highway 46 corridor east of Boerne to Bergheim.

At the public hearing for the bill, a group of seven citizens and elected officials testified in person before the House Committee on Land & Resource Management. They were joined by 16 others who were on a Zoom call and all were "FOR" the bill.

In fact, a total of 141 citizens submitted written public comments on H.B. 3883 through the House website and all were "FOR" it.

Only one person gave personal testimony "Against" the bill—a spokesman for the Texas Association of Builders (TAB).

As a result, even after the introduction of a substitute bill, it stalled in committee. This killed the bill ending about four years of close work exclusively with District 73 Representative Kyle Biedermann and his staff

However, this was not the first attempt to go directly to the Legislature asking for additional tools to manage high growth impacts in Kendall County, especially in Precinct 2.

That was initiated by Commissioner Gene Miertschin, in 2007. His efforts included both Senator Jeff Wentworth and Representative Nathan Macias. The result was the killing of H.B. 3596 by Macias during the 80th Legislature.

Just like the most recent attempt to seek more development control at the county level, this bill also failed to get enough votes to move out of a committee.

Over the past 14 years it has become very clear the Texas Legislature intends to continue to maintain the position to severely constrain the application of local authority.

As a matter of policy, this body has shown it will not provide any new powers that could be used to better manage growth related issues such as housing density or water regulation.

Sandwiched in between these two legislative efforts was a strong academic voice advocating for reasonable changes to the policy of limited local control.

Championed by the Hill Country Alliance (HCA), in partnership with University of Texas at Austin, a Hill Country Design Team was formed in 2015.

In this effort, the University of Texas at Austin School of Architecture thoroughly documented a detailed collaborative strategy along with HCA's draft vision for the Texas Hill Country.

The goal: "to use fresh eyes and planning expertise to provide new ideas and strategies for HCA to consider as they work toward a better future for this special region."

The result was the publication of: *Toward a Regional Plan for the Texas Hill Country*, The University of Texas at Austin, Community and Regional Planning, 2015. (Here is a link if you wish to read - click [here.](#))

The plan noted previous unsuccessful attempts to gain land use regulatory controls in the Legislature.

It also stated the obvious to the citizens of Kendall County: "If counties were able to regulate land use, it would enable them to use their resources more efficiently by enhancing planning for the provision of infrastructure such as roads, utilities, and emergency services."

A basis for all of these efforts can be traced to 2001. Written under the Hill Country Roundtable Project, a wide range of stakeholders discussed regional growth and development and stressed a need act for the future in *Time to Act: The Future of the Texas Hill Country*, 2001. (Here is a link if you wish to read - click [here.](#))

A key point raised all those years ago was that county government needed additional powers.

Specifically, "The Hill Country counties must have the opportunities and the tools to protect the unique economic, environmental and social character of their communities."

Today, despite all these efforts, our elected representatives in Austin continue to hold us back.

For tomorrow, we must continue to look to our local leaders so they may keep the local control initiative a priority if we are to truly preserve the uniqueness of the Hill Country.

Michalec is Director District 2 and President, Cow Creek Groundwater Conservation District