

Wednesday, January 2, 1991, the Honorable commissioners Court met in a called session at 8:30 A. M., with the following members present:

- Carlin McDaniel Commissioner, Prct. # 1
- Lynn Smith Commissioner, Prct. # 2
- James Conn Commissioner, Prct. # 3
- Chester Cox, Sr. Commissioner, Prct. # 4
- Nadine Gary County Clerk

Meeting was called to order by Commissioner Chester Cox, acting Judge pro-tem. Commissioner Lynn Smith led the opening prayer.

Harold D. Smith addressed the court on behalf of his brother, the late Judge Royce Smith.

Commissioner Jimmy Conn made the motion to appoint Senior Commissioner Chester Cox as Judge pro-tem. Commissioner Lynn Smith seconded, and motion carried.

Nicholas Pattengale from Bronson was present concerning a franchise for collecting trash. There are already people collecting garbage in the county, and Commissioner McDaniel stated that probable within 12 months all county garbage will be going out of county. No action was taken.

Victor Cain with the State Health Department in Tyler, will be in the county January 10, at 10:00 A. M., to inspect land fills.

The Court said that as a matter of record, they have checked David Fuller's fence in Precinct 3.

Motion was made by Commissioner McDaniel to accept certificates of Continuing Education Credit Hours for James Conn and Chester Cox, Sr. Commissioner Conn seconded, and motion carried. This was from the University of Texas at Austin.

Motion was made by Commissioner McDaniel and seconded by Commissioner Conn, that anyone interested in being appointed to the office of County Judge submit names in writing to Dawn Procell by January 11. Motion carried.

Commissioner Conn made the motion these names by submitted by 4:00 P. M., January 11. Commissioner Smith seconded, and motion carried.

~~Judge Smith was on the Board of Directors of D E T C O G. Commissioner Cox will represent Sabine county at the meeting January 17.~~

Some agenda items for January 14 will be: Time Warrant, Precinct 2, County Grievance Committee, and appoint member of Board of Director for D E T C O G.

Motion was made by Commissioner Carlin McDaniel to waive the agenda and approve road hands payroll thru January 4th. Commissioner Jimmy Conn seconded, and motion carried.





Commissioner McDaniel made the motion that meeting adjourn.
Commissioner Conn seconded, and motion carried.

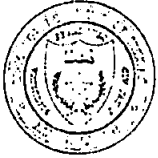
C. Carlin McDaniel
COMMISSIONER, PRCT. # 1

Lynn Smith
COMMISSIONER, PRCT. # 2

James Conn
COMMISSIONER, PRCT. # 3

Chuter D. Cooper
COMMISSIONER, PRCT. # 4

Nadine Hardy
COUNTY CLERK



LYNDON B. JOHNSON SCHOOL OF PUBLIC AFFAIRS
THE UNIVERSITY OF TEXAS AT AUSTIN

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CONTINUING EDUCATION CREDIT HOURS

The LBJ School of Public Affairs, The University of Texas at Austin recognizes

CHESTER D. COX, SR.

for satisfactory completion of the Course entitled Redistricting for Local Governments, sponsored by Bickerstaff, Heath & Smiley, conducted on May 16, 1990, thereby qualifying for 6.5 Continuing Education Credit Hour(s) which have been approved for attendance at this seminar in accordance with Section 81.0025 of the Texas Local Government Code.

Authorized Signature

Barry Bales
Barry Bales
Director
Conferences & Training



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CONTINUING EDUCATION CREDIT HOURS

The LBJ School of Public Affairs, The University of Texas at Austin recognizes

JAMES CONN

for satisfactory completion of the Course entitled Redistricting for Local Governments, sponsored by Bickerstaff, Heath & Smiley, conducted on May 16, 1990, thereby qualifying for 6.5 Continuing Education Credit Hour(s) which have been approved for attendance at this seminar in accordance with Section 81.0025 of the Texas Local Government Code.

Authorized Signature

Barry Bales
Barry Bales
Director
Conferences & Training



THE STATE OF TEXAS
County Attorney
County of Sabine
P. O. Box 1783
HEMPHILL, TEXAS 75948

ATTENTION:

COUNTY COMMISSIONERS

Question:

(Carlin)

1. What is the law regarding the use of county equipment and personnel on private property?

Answer:

1. Use of equipment and employees for private benefit, misconduct

--Matter of Carrillo (Sup. 1976) 542 S.W.2d 105

From:

(Att Gen op. Dated April 4, 1975- In regards to the Constitutionality of proposed House Bill 470 permitting counties to do private road work and earthmoving work for a contract price.)

As you well know, the power of the County Commissioners and Commissioners' Court is limited to what has been conferred upon it by the Constitution of the State of Texas and by any statutes, subject to the Constitution.

The money, and, therefore, the equipment and personnel of the county, is to be used for "public purposes only." (Art. 8, sect. 3, Constitution of the State of Texas.)

In Ex parte Conger, 357 S.W. 2d 740, the Supreme Court of the State of Texas, in considering the use of county equipment, stated: Work performed on privately owned property to furnish parking facilities for the use of members in attending services at their church is not for a public use or purpose, whether that work consists in scraping off weeds or paving the lot or excavating for a foundation.

The Court went on to add, "The matter does not turn on the extent of (or) character of the work, but rather for whose benefit it was performed."



THE STATE OF TEXAS
County Attorney

County of Sabine

P. O. Box 1783
HEMPHILL, TEXAS 75948

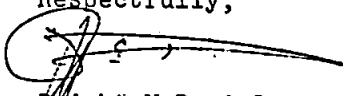
The test used by the Supreme Court in Ex parte Conger for determining what public use entails is: "the public generally must have an equal right in respect to the property and it must be in common and on the same terms no matter that only a few in number may avail themselves of it."

Also, in Godley v. Duval County, 361 S.W. 2d 629 (Tex. Civ. App. San Antonio 1962, no writ), the court of appeals held that any county taxpayer had the right to enjoin the improper use of county labor, equipment or materials. The Court held:

. . . County Commissioners are not authorized to permit the use of county labor, materials, or equipment for other than public use. . . regardless of the motives or whether a profit is made.

In Godley v. Duval County, the definition for what could be considered "public use" was taken from Ex parte Conger which was cited above.

Respectfully,


Dwight McDaniel
Acting County Attorney

DM/fm

I, NADINE GARY, County Clerk of Sabine County, Texas do hereby certify
that the foregoing instrument was filed _____ 199 at
_____ O'Clock _____ M. and duly recorded Jan. 9
1991 at 9:00 O'Clock A. M.

NADINE GARY

CLERK

Janice McDaniel

DEPUTY