

May 19, 2026 Commissioners Court Meeting Transcript

Archived Meeting Video & Agenda:

<https://media.avcaptureall.cloud/meeting/7b8013cd-c539-40bf-9dff-503cb9ec3dee>

Discussion begins at 44 Minute mark

Judge Franklin: Item #5, Consider and take necessary action to approve the resolution approving the formation of and participation in the Smith County Van Zandt County Sub-Regional Planning Commission pursuant to Texas Local Government Code Chapter 391.

We, uh, actually put this off, um, a week. Uh, maybe should have put it off longer not sure but we, uh, I think everybody's been kinda busy talking and, and I know uh, we've heard from a whole lot of constituents. Any, uh, before I really go into a lot of details, are there, uh, any comments from the court on this?

Commissioner Drewry: Yes.

Judge Franklin: Okay.

Commissioner Drewry: I'd like to start. Um, I brought this proposal for a Chapter 391 Sub-Regional Planning Commission with Van Zandt County, because our citizens have asked us to lead to be good stewards of what we've been given instead of leaving our families and farmers to clean up the mess later. This is not a new layer of government. It's not a tax. It's not an HOA or regulatory body. It's a voluntary planning tool authorized by the Texas Legislature that simply allows two neighboring counties to study shared issues together and formally ask state agencies to coordinate with us. Right now, Smith County and our region are seeing growth, growing, interest from large scale energy and infrastructure projects, solar farms, battery storage facilities, data centers, transmission lines, and water export proposals. These developments carry real risks to our prime farmland, our water resources, public safety and our rural way of life. Van Zandt County is already experiencing some of these pressures firsthand.

A 391 Commission gives us the ability to study these issues together before Austin locks in a decision. Right now, state agencies have no obligation to seriously listen to a single county. This tool creates a formal requirement for them to work with us. It moves Smith County from reacting too late to having a real voice, while plans are still being made. This court has said on occasion that Austin is taking away local control. Well, today we have a chance to reclaim some of it. A Chapter 391 Sub-Regional Planning Commission is one of the few tools left that actually strengthens local control, it keeps decision making power right here with elected

county officials while giving us a formal unified voice when dealing with state agencies like ERCOT, PUC and Texas Water Development Board. This is not Austin imposing something on us. This is Smith County choosing to work with our neighbor Van Zandt County to protect our own interests. Importantly, State Representative Daniel Alders, who represents Smith County, has already spoken and supported this effort and has said he would be glad to serve as a non-voting ex officio member. His involvement will help ensure that Smith County's concerns are clearly heard in Austin. This is exactly what local control should look like : counties working together with our own legislator involved to address issues that directly affect our citizens, our land, and our future.

This one of the strongest proactive tools currently available to rural counties in Texas facing these exact pressures. It doesn't create new regulations or taxes. It simply gives us a lawful, organized way to be heard earlier in the process, instead of being forced into expensive legal battles at the last minute after the projects have already been approved by the state. This is about protecting our families, our farmland, and our future. Forming a 391 Commission is a responsible, taxpayer-first, local government decision. I respectfully ask for the Commissioner's Court to support it today.

Commissioner Herod: So, the fact that I tabled it last week was met by some as sheer non-support, my point in tabling it was that we needed more time to iron out the details. We keep saying no additional taxes. We talk about no impact to the people. It's certainly going to need to be funded. I wanted to iron out some of the additional details of what that'll look like. As we look at other counties, some of which have been, uh, quick in their formation, they found themselves entangled in lawsuits. Real or frivolous, it still costs time and money. So ensuring that our relationship with ETCOG was not a conflict, and that was a question that I somewhat figured would be an easy question to ask and receive an answer, as we already are a member there, and it's your tax dollars that pay for that membership and they have formed a 391 Commission. Not meant to be a derailer, to keep us out, but just to make sure we're not stepping into something without knowing all the details. Also, looking at teaming up with Van Zandt County. When I go to a dance, I like to know my dance partner and I like to know if they can two-step, three-step, waltz. Right now, Van Zandt County is involved in some pretty difficult voting runoffs: the judge, the district attorney that drafted the bylaws in which were initially presented to us and our Civil DA has only reviewed slightly, to my knowledge, at this point due to conflicts and travel and, he's still digging in to make sure there's nothing there and they'll be added on to as I understand, there are working set of bylaws as I understand it now. But as I look at Van Zandt County and the potential of joining them and understanding that they are in those runoffs, the judge, the district attorney, and two of the commissioners. So the majority of the court as well as the person who drafted it, I just wanted to make sure that we're getting answers and we feel comfortable because I was elected by you all, Smith

County, to represent y'all. And anytime I partner with other counties, I am somewhat diluting your voice. And there are times there are reasons that necessitate that. And I am not saying this is or isn't at this point; The vote will tell that. But, wanting to make sure now Rains County has entered into the fray, and that's a possibility. And there is strength in numbers, and we've got to look at that.

I am probably the largest landowner on the court. I don't know that for certain. We don't go around talking about it. It would impact me greatly. I don't pretend that if someone were to come in and put a solar farm next to me, that it would not impact me. I don't even like the word "solar farm." They're trying to make it sound all nice and neat. There would be an impact. It would impact my quality of life, and it would impact me financially. That means I am all about protecting our property. I am also about allowing people to make the decisions that they wish with their property, so, it is a delicate piece, and I do not want overregulation. There was some pieces about the 391 that I wanted to continue to study and understand. As I understood it last week, if I were just assuming, if I were a board member, if I were one of these officials that were on it, how would I be protected from any of this litigation that could possibly occur? Does my insurance through Smith County? And does my political bond cover me, or would the 391 need to provide that? As I understand it, initially you are personally liable. And as I look at other counties, they have been brought forth with lawsuits. So just ensuring that we dot our i's and cross our t's. It sounds very simple to say that, but anytime we're stepping forward, I want to make sure that we're doing it so in the correct path. I thank Commissioner Drewry for bringing this forward. I would have liked to have been able to address these things prior and I still feel like there's a couple of questions that need to be answered. And hopefully, we can do that today so that we can bring some formality to this vote and a decision. But anytime we table something, I think it's got to be approached, it's got to be recognized as that's an opportunity to share and understand and educate. It's not necessarily as negative as I felt last week's was made out to be. I wanted more time to understand it. I wanted more time to research, and I wanted to hear from both sides, as, as I have heard, I received quite a few emails, approximately 33 emails yesterday in favor. (52:58) Many copy and pasted that sharing the information that I get. I understand. I heard from a lot of individuals that feel that it infringes on their property rights, that it's an additional layer of government. So so hearing Commissioner Drewry speak to this is not additional layer. I think that's some things that we can say in a sentence, but we need to speak out more about. And as we have subject matter expert in these areas, letting them speak. I do not pretend to be an expert in everything. I am detail oriented and I tend to get results, so that is a focus for me. As we look at this, making sure that the players that will be impacted are ready, that they believe in what's going to be accomplished. And little questions like as you go into a 391 commission is subject to open meetings act. Are we prepared? What's that going to look like? Are the meetings going to be moving back and forth if Rains county jumps in? Or there's going to be

a repository for the videos? Have we talked to Don Warren? And are we going to be housing those? Or are they going to be, have to be on a individual separate website entirely? And I believe these are some questions that the answers may be out here, but they're questions I had and I wanted to get answered before we took it to a final vote, hence, the reason I asked to table it till this week. So I put a few questions out there. The ETCOG question continues to kind of sit out there as far as our relationship with them and the taxpayer dollars we use to fund that? Have we brought any clarity to that equation?

Judge Neal Franklin: That's, that's the thing that I still, I still want and is some questions that you ask: Can we, can we, are we each liable if we're on that committee? And maybe our attorney can answer. One of the things that I do know talking and asking questions is, uh, we found out our attorney would not be our attorney for the nine, 391 Commission. It would no longer be our attorney. We couldn't turn to him for legal advice and things. And so I don't know who would be giving us that legal advice at that point. So uh, that's just, that's just one of them. So any of those questions that you've asked, uh, I, I agree on. I'll go ahead and, and say I threw down some notes as well.

Thoughts on the 391. The basis of this issue is property rights. It goes back to "my land and I'll do whatever I want on that land", and that's reason a lot of people get moved to the county. That's they, they want it, they don't want me to tell them what kind of house they got to build, they don't want me to tell them how many houses they can put on their property and those kind of things. So, I don't want to do it. Well now with the water conservation, yes, it is your land, and yes, you can drill a water well. But now we're sharing the same aquifer. And so now if you decide and you are not going to be a good neighbor, as a responsible neighbor, and you decide you are going to take a bunch out and sell it to another market, Uh now we got to figure out we got to add in a piece of governance and regulations to address that. So, we're working really hard on the water end to establish a multiple county groundwater conservation district right now. This is being done with multiple County Judges in northeast Texas. We're all joining together to do that along with the State Reps, and we actually have a meeting again tomorrow. We're going to make this GCD (Groundwater Conservation District) a reality because we want to protect that. We also, as a court, filed suit our joint litigation to stop the permitting of what they, of the group that came in to Anderson and Henderson County, which slowed it down, but they've still got a battle on their hands. So, along with many other counties across the state, we're facing other challenges. It's been mentioned: data centers, battery storage, solar farms, et cetera. I've got I've heard concerns from many residents and constituents over the last, it's been longer than just the last couple of weeks. It's been for months, and I have concerns on that. I've shared my concerns, and my goal is making sure any development in this arena is done according to our terms or not at all. That's that would be my stance. We have seen others like Hill County; Hill County jumped out there

and placed a moratorium on data centers, and legal opinion is that they don't have the right to do so. And they're facing lawsuits right now. They're being sued. Anderson County just in the news this week just established, in their way of attempting to coerce, I guess that's, not coerce, I shouldn't say that word, to influence the state, is they've established a public petition where everybody signs, and they're going to address the state legislature with that. So we're faced with making a decision today to form another 391 Commission in addition to ETCOG, which we're already a member. And, that's the, that's the one question, and you brought it up Commissioner Herod about ETCOG. And, and, or is this redundant along with ETCOG? Because Van Zandt County and... I am, this is what we need to talk about, that's the reason I am bringing it up. Is it because Van Zandt County and Smith County are already members of that. As soon as the water issue came around, um ETCOG formed a water committee or commission, whatever I can't remember what it's called, but I was included on it. And, then what branched off that was the judges and us speaking towards uh the GCD and, and moving towards that. And so that was a good thing. So, that's, that's kind of my question is, uh, can uh ETCOG accomplish the same thing as this? Cause we don't want to replicate if it can.

And that's what we need all the answers. And I've attempted to get some answers. I asked Thomas to look up the statutory piece that they can do the same similar things. So, and my other questions were comfortable with contract similar things that you had mentioned, Commissioner Herod, and um, and will there end up being costs and all the little details and things. But I do want constituents all to know no matter what happens today or if we put it off, so we can research more or whatever we do, Um, you must know that we all hear you and we were concerned with the same thing you are. I want them to, to it's, it's coming and anything that does come, we want them to be on our terms. So, all right.

Christina Drewry, Comm Pct 1: Can I address the ETCOG thing?

Judge Neal Franklin: Sure.

Christina Drewry, Comm Pct 1: Okay, so ETCOG covers 14 counties and they're made to work with the region. A 391, the Texas Legislature set that up specifically so we could work with our neighbors, so that we can have better activity at a local level instead of the broad reach of ETCOG. And, so we have the statute to set this up, and it requires those state agencies to work with us. ETCOG is not; they're not required to work with ETCOG at all.

So that's why this is in place. That's the history of the 391. They wanted to give counties more local control and work locally with Van Zandt County, whereas, you know, Texarkana is far out there. They're not really concerned about this stuff right now. So, we're working with, we need

to work with our neighbor counties. So, it just, it just brings it to a smaller group, and you can work on local specific issues, and you have that legal requirement for the state agencies to work with us that ETCOG does not have.

Judge Neal Franklin: Okay I, That was one of my questions. Is, I wanted to know if ETCOG has that ability to require the state agencies work? That I did not know that, and I was attempting to find that out. Um, but I can tell you, uh, recently there's a, I mean it's a broad swath that people are interested in this. And so it's, it's not, it's not just that neighbor. I mean Rains County is already in there and Anderson County has already been calling me, hey what about this 391? You know, so, others are interested in it too. I don't think it's just, you know, going to be just the neighbor. So, I think it's a broad swath. All right.

Commissioner Herod: One thing, additionally, as we look at the ability to work with the state agencies, some of the initial response I got back: Van Zandt County has been attempting to do this for a while, and there has been some stagnation, and they haven't been able to get the quick response that they hoped so as, as we move forward, as we form together, we must feel confident that we can influence and get those answers. And typically, that's going to come down to getting them to respond. So, do, do we, have any idea as to why they have struggled to get those timely responses in the past when there is essentially a requirement that they do so?

Christina Drewry, Comm Pct 1: So the 391 commission is set up because they are, um, the agencies must coordinate with those that 391 Commissions. Single counties don't have the opportunity like you do when you join together. That is the whole purpose of a 391. So it does give us a seat at the table with ERCOT, um PUC, any of those state agencies. It gives us the ability to conduct joint studies on local impacts fire safety, um, the effect on our aquifers, loss of prime farmland.

We have a statutory right to demand that these state agencies coordinate with us to the greatest extent feasible. And it's a formal platform where our citizen advocates and the fire marshal, people have a real seat at the table to know about these projects and work with the entities, I'm sorry, the members that are on the commission. So, it gives more transparency, more citizen involvement. And, that's the difference in a county singularly trying to work with ERCOT and PUC. We come together with this 391 commission, and then we bring a voice. We get to work with them.

Judge Neal Franklin: What about the funding? We need to know where is the funding going to come from.

Christina Drewry, Comm Pct 1: Like for studies, you know, there is a lot of discussion of the funding of it. The ERCOT's providing those studies. Any, any money that would be spent through the commission is going to have to come back to their counties to ask for it. There is no budget set up for a 391 Commission. We're supposed to use the tools that we have available. It was never intended to cost the taxpayer any money.

J. Scott Herod, Comm Pct 3: I, just as I think through that, there's going to be expenses associated with it. And for those sitting out there, many that are here today know how Commissioner's Court works and many at home probably do too, but you may be asking yourself, why are they just now talking about some of these details? Well, we can't talk to each other about this stuff until we're here so, some of these questions, obviously it'd be nice for us to go and have these conversations, but we can only speak to one member of the court on any particular subject. And then it happens here. So, this conversation now kind of harping back to the dollars, there's going to be cost associated. And seeing that some of the 391s have immediately been met with litigation, would if that were the case if, would we come back to the two counties and look to put funding in place to protect and to conduct the meetings because we can't use county employees, as I read it. It appears we can use county facilities and equipment, but things like the repository of videos, just some of its mundane. I get it, and some of it's not very expensive, but there is a cost associated with everything.

Christina Drewry, Comm Pct 1

But with the commission, they're not making decisions in a way that impacts the taxpayer. They have to come back, those members, have to come back to the county, and so it would be up to the county to decide what they, they need to put into it. But I don't, I mean - legal or no legal, the issue with me is we're here to protect our citizen. We have numerous lawsuits from across the county that we don't bat an eye at, and we're talking about worrying about litigation in the future that doesn't exist with a 391 that doesn't make decisions. We're simply asking for planning and studying. You can't get sued over planning and studying.

Commissioner John Moore: Yeah, you can.

Judge Neal Franklin: Is there liability? And I will say that about the lawsuits that we currently have. I don't think we went out knowingly that there's potential liability. I mean, like if we really thought it was going to happen, we didn't knowingly jump into anything like that so, Thomas, I mean Mr. Wilson, Mr. Wilson, what do you say about like the personal liability? If, if this is passed, then we'll be placing two elected officials on this on the next agenda item. I want to, I want to know before I say a name that's going to go on there, uh, then that they potentially will be safe, uh, from lawsuits and it's not personal liability, as Commissioner Herod had mentioned.

So, as any good lawyer would tell you, the answer always depends. There is always a potential for legal action when you create an entity. It doesn't, I mean, any individual can file a lawsuit. That doesn't mean that lawsuit is going to be successful, but there is going to be a challenge to fighting that lawsuit and, uh, either, the entity or the individual would have to, uh, decide how to respond to that lawsuit. Uh, there is a conflict-of-interest provision that does not allow our office to provide legal services to the commission once that commission is created. With regards to personal liability, we do have officers and directors' coverage under our current TAC policy, but without knowing specific information, I would have to, uh, I am not able to answer that question right now. Uh, without getting more information from our current TAC coverage and how they would handle that claim, and again, uh, likely, what we have seen in the past is that they would potentially submit a reservation of rights letter, regardless of the, uh, the claim that would come out. Uh, so, it really all depends on what the nature of the action is and, uh, how, um, the action, the legal action came about. So, I, I can't give you a direct answer. I can get you some information on our coverage and how your or any member's participation in the um, in the commission would affect our coverage. So, I can get that information to y'all.

Judge Neal Franklin: And the fact that, this 391 Commission is different than ETCOG because you can force a state agency to work with you and be responsive to you. I've definitely seen in the past that we didn't always get quick answers from our state agencies. So if you can do a little research on that, I know Commissioner Drewry addressed it a while ago, and I just, would like to see, you know, the statute that makes them different there.

I can get that information to you.

Judge Neal Franklin: Other thoughts?

John Moore, Comm Pct 2: One of my favorite Ronald Reagan quotes is, "The worst thing that you can hear is: 'I am with the government and I am here to help.'" This, to me, is about property rights. I think all of these things that have been mentioned, whether it's our water, or our power grid or any of that. All of those things are important, but there as I've mentioned last week or week before whenever it was, there's a reason all these folks from Austin came up here and were happy to give it to us. They don't want to deal with it, but you know what's happening? They're having to deal with it. There was a story that came out. Was it this morning about the agriculture commissioner? So, this is finally coming to a head at the place where it should and that's in Austin. They make the laws. A broad brush to try to include everything at this level of government is not the right way to go. And, I am the one that mentioned the HOA analogy earlier. When my wife and I were looking at a place to move to

back 25 years ago. We looked at a lot of gated communities, because at that time, I was still playing golf, and it had swimming pools and fishing lakes and all that, and we were thinking about retirement. But every one of those that I went to, there was a fee for this and a fee for that. And, then there was this big, long list of what we could not do: can't have your grass over this high, has to be this kind of grass. You can't have a clothesline. You can't have a vegetable garden. Can't have a trailer parked in your driveway, if you need to haul your lawn. All of these things, and I was going to give them money to tell me what I could not do. That's where this is headed. You either want more government or you want less government, and I mentioned this earlier. My grandfather had a saying; he said it a lot: "What most men need," meaning everybody, "is a good letting alone." We chose to move out to the country. On acreage and grow hay and grow vegetables. And we have a clothesline and we have solar panels. And you know why we have solar panels because twelve, thirteen years ago our grid, we lived out, out in the county obviously, it wasn't reliable. So, I put it in so that we had reliable power. Now that we have all these other things coming in, why would we not want more reliable power? Now, whether solar farms are the answer, I don't know. I personally think we all ought to have our own little power supply on our property, just like we have plumbing and electrical wiring. That's another discussion. But this is not the level of government where this needs to take place. We have a right if we buy property to use it as we see fit, whether it's cattle or whether it's growing hay or whatever. So, Austin needs to take ownership of this. We don't.

Christina Drewry, Comm Pct 1: I want to respond to Commissioner Moore. A 391 Commission doesn't stop projects. It doesn't, and it's not like an HOA. It has zero power, zero power over private property rights. It doesn't have any fees. There is no rules associated with a 391, so it's simply not accurate to say it's like an HOA.

John Moore, Comm Pct 2: Then, why do it? If it has none of those things...

Christina Drewry, Comm Pct 1: How else are you going to plan for these? Would you rather be reactive when we have a 4000-acre solar farm that gets hit by hail? And they do leak. They do leak.

John Moore, Comm Pct 2: What, what do you, what do you know about solar panels?

Christina Drewry, Comm Pct 1: I'm learning a lot about solar.

John Moore, Comm Pct 2: What's your, what's your, what's your personal experience with them?

Christina Drewry, Comm Pct 1: Commissioner Moore.

John Moore, Comm Pct 2: Commissioner Drewry.

Christina Drewry, Comm Pct 1: It's about our people. We're trying to protect our people from threats that do exist.

John Moore, Comm Pct 2: So then stop claiming there's a threat. There's no threat. I want to address this; there's no threat from hail hitting a solar panel. There's nothing in it that's going to come out and come get you. Why, don't you do your homework about how they're made before you try to scare people to death?

Christina Drewry, Comm Pct 1: They contain documented heavy metals like cadmium and lead.

John Moore, Comm Pct 2: So does, your so does your car,

Christina Drewry, Comm Pct 1: And when they're damaged, it leaks into the soil.

John Moore, Comm Pct 2: No

Christina Drewry, Comm Pct 1: Yes.

J. Scott Herod, Comm Pct 3: Okay, so one of the points being at the state level, I do not, like the fact that the goal posts are different for counties of certain sizes. It has taken this where we all are having this argument right here, this conversation and discussing it. Whereas people in Tarrant County, Dallas County, Harris County, Bexar County, they're not having to have these conversations. So, at the state level we do need some help. Mrs. Austin is correct. When we achieve a population of two hundred fifty thousand by the census, and we did work last year hard. I worked with Thomas Wilson, some additional members of his staff, to see if there was any possibility and what that would look like to adopt a 250,000 plus population. And we were met with bad news each time, inability each time. But the fact that that number exists and it will help our neighbors too, I think it's important to point out once we achieve that milestone, our neighbors can then, take advantage of that milestone that we achieve. In the meantime, there has been one project that I am aware of looked at in Smith County for a battery storage. That's it. I've got my ear to the ground, I am listening. We are so close to 250,000 that I think right now, four years out, that any of the large companies looking, know that we could potentially file litigation, do some things to hold them and try to achieve that

population. I recognize that some of our neighbor counties are not being so lucky in that fight. My precinct, Precinct 3, is larger than Gregg County. The precinct itself - it neighbors six other counties, And I recognize that some of my Smith County citizens, their homes are near other counties that are having to experience these fights. That's one of the main reasons I've continued to look and find ways to see if this is good for us to participate in. I've brought up before, I have some reservations about the dance partners. I've made it very clear, I see some very good positives in this. If we can move forward with it, understanding that a lot of it's going to have to be figured out and evolved as we go, then people could say "Scott you are getting in the weeds too much. We don't have to worry about that yet and if we come across something that we can't overcome, then we have an out clause", then perhaps I wouldn't be digging in the weeds as I've been doing. And I've spoke to a lot of y'all. Um, I've tried to return every phone call, every email that's come my way. Uh, apparently I missed one. Um, but in saying so, I want to make sure if we go down this path, this is the right path and I don't know that a week necessarily is the derailer that it's being made out to be. I see a lot of positives, and I want to protect our property, but I want to do so by allowing people to continue to do with their property as they want. So, I am trying to manage my selfish desires of not wanting these type facilities next door to me, not interfere with the constitutional decision I've made here. So, I believe we've, we're leaving some questions on the table that are not being answered at this time.

Judge Neal Franklin: And, and I understand. I just want to point this out. I understand where y'all are coming from. I've owned land before, now I live in one of those HOAs, and they tell me exactly what I can and cannot do. And so, the folks out there, I know you are grasping when you see things happening, when you read about things, and you are like, oh, my gosh, this could come to a neighborhood near me, and you don't you don't want it. Well I, I want to follow up with, we, in fact, I've spoken with our economic development people here. They know where I stand. They know that I stand to where we want to control this. We're not going to be willy nilly and just let, let whoever come in. We don't want to do that. Getting that point, we got to figure out okay is this something that will be valuable? I know from, from speaking to a lot of people. Uh, I know Commissioner Drewry mentioned that there's zero really, they can only do certain things. They can study and they can advise and do those kind of things with this committee. And I know from people reading things and looking, is you do feel like we got to grasp on whatever we can grab a hold of to come forward and say, "Hey, we need help." But I can tell you this: that the judges that are all talking about this groundwater conservation district. We have studied it. We've learned about it. We've had experts come and speak to our groups of people. We, we've got some guys, especially in the state, that have really gotten involved in it, and so we're working on those issues. I don't think if, if, if something wasn't formed here, and I am not saying I am against forming it; I am just

saying if something wasn't formed here, I don't think you would get a different, um, I guess action from us. We're going to be moving towards protection no matter what.

Christina Drewry, Comm Pct 1: And Judge, what you just spoke about the is it a "water board" or "water commission" that you're working on?

Judge Neal Franklin: Yep, yes. Anyway, and it's a group of judges that have all, it's kind of morphed from that. It's a big group of judges that are interested in this.

Christina Drewry, Comm Pct 1: And you can study and you can plan?

Judge Neal Franklin: Yep.

Christina Drewry, Comm Pct 1: This is the same thing.

Judge Neal Franklin: Yeah.

Christina Drewry, Comm Pct 1: But it's local, so we can be hyper focused about our area.

Judge Neal Franklin: Well, and this is.

Christina Drewry, Comm Pct 1: This is not any different. Do we need experts to come in and advise?

Judge Neal Franklin: Well, and so if it's not any different, do we need another layer? That's the other question. Do we need another one when we're, I listen to constituents, I hear their concerns today and I take that just like on the groundwater. We have listened to a lot of people. I'm just, these are questions I'm just asking, is that's what we need to talk about? Just like Commissioner Herod said earlier, we don't get to visit beforehand. It would be fantastic if we could walk down the hall and talk to each other and work on all these projects together because we could probably come to a consensus and make a lot more things happen. But that's the way we're built. So.

J. Scott Herod, Comm Pct 3: Commissioner Drewry, if we were to move forward with a vote today, and assuming the vote were, yes, what, what curbs do we have to protect us, if perhaps this isn't all it was meant to be, or it isn't as strong, or it isn't accomplishing, or it's costing more, et cetera, et cetera. Do we do we have an out clause so to speak or anything? Or is that

still part of what's being ironed out as we continue to make the bylaws? I just want to understand.

Christina Drewry, Comm Pct 1: I think the bylaws that Thomas, uh, Mr. Wilson has talked to several counties that already have 391 Commissions, and they, he's used some examples of their bylaws. There's different things that we can do. Um, it's a tool in the toolbox. You don't have to pull it out all the time, but to create it gives us something in place that should we need it, we have that ability to go to ERCOT. It's not the end all be all by no means. We're not going to stop any projects. People need to know that and not put all their hope and faith into it, but we can be smarter about decisions. We can show the public what is coming because right now, Austin is making those decisions; they're coming. They're coming and they don't have to notify us of anything. But, wouldn't it be nice to be able to work with ERCOT or Public Utility Commission to ask for fire suppression systems or put a border around the solar farms to create a barrier so that the fire doesn't spread into the neighbor's property and burn it down? I think those kind of things are important so that we could go talk to those state agencies and ask them, as neighboring counties, to work on this and please strengthen that protection for public safety,

Judge Neal Franklin: Yeah, and I think all those things have come up in my discussions with people too. We would love to see if anything, I mean, this is, you know if something comes in, if it's the right location, if it's, you know, all those things. If somebody picks up and leaves, they run out of money, and they just say, we're high tailing. We don't want them leaving that there. So, we would, I would be in favor of bonds where they would guarantee us to be able to decommission whatever's been put in place. So, so all those things we're already, we're already, talking about and discussing. But I know Commissioner Carraway, I think is....

No, I've listened to everything that's been said and, um, I think there are a lot of strong points that we have to take into consideration with what we are trying to do with this 391. When all is said and done, when we get past the feelings and get to the facts, Then we have to look at the functional aspect of it. What are we really putting in place that's going to help us accomplish the objective that represents all of the people? You have property right owners that have their rights, and then we're talking about people that have the right to be protected. So, I think we have to have something in place that covers every aspect of that. And I'm just not sure exactly what we what we've put in place or what is in place to address it. I think Commissioner Drewry has a lot of, lot of, lot of issues that people are concerned about but I think a lot of people concerned about property rights as well. And I think we have to do a good job of saying exactly what this is going to consist of as a whole. And, and I think Commissioner Drewry's trying to get us to understand where we are but what I am looking at, what is our obligation to 391, and where does it actually go? I believe we

need that in a way to address issues with local government, but there is a lot of challenges with it, and I just don't think right now we have all the answers.

Judge Neal Franklin: Another thing that I kind of touched on a while ago is one thing I would like Mr. Wilson to, to, if you'll take this note real quick, if you'll look into the other 391s that have, that are in place, and how well the state agencies communicated with them. I just, um, I struggle. We have Tom Trimble from Oncor here, and he always answers his phone; it's wonderful. But when we, when I call other state agencies, it's not always quite that quickly and good. He's not a state agency, but, but he's still part of the grid, uh, anyway. But, um, so, that's what I'd like to find out : what the success rate is there because it's just uh it's kind of hard for me to fathom somebody jumping and responding. Even though it's legislatively says they should.

Judge, can I ask uh Commissioner Drewry, what, what is, what is your overall hope for this?

Christina Drewry, Comm Pct 1: That when we have these developments come in that we're smart about it. That we ask for help to give us advice, To talk to these state agencies - that we don't have that ability to do right now. And help protect our citizens by petitioning the ERCOT or PUC to protect us. What works best for Smith County? It's not saying no to any project. This is just being smart about those decisions to protect our citizens. That's all it is. It's a tool to make wise decisions. Speak with experts. Have the citizens be able to come in and look at these projects. Whereas right now, they have absolutely no idea anything about any of the projects that are coming in without someone digging deep and bringing that information to a town hall, which doesn't happen all the time. You have to rely on some really strong-willed citizens to do that. We have a duty to protect and make smart decisions. Help our taxpayer as much as we can. So, I'm, I would want a 391 so, we could petition to have some planning and studies and present that to the public. So, they're not scared. They have the answers. They have a developer that comes in. If they were going to do a data center, the right way to do that is a closed loop system and have a micro nuclear power generator. So, if the developer comes in and they're able to talk about that, boy it sure does lower the stress in, in our, um, in our city and in our county when they understand what's going on. They don't have to do that right now - a development does not. They get their permit and they go build, and then all the neighbors are up in arms wondering what is going on. And when something bad happens, there's nothing there for them. They're gonna have to hire their own attorney. So, I'd rather be ahead of it and know what's coming in and plan for it and educate the public before we look at reacting to a problem.

J. Scott Herod, Comm Pct 3: Well, I got a thirty-minute lesson yesterday from an electrical engineer on "Don't let them sell you on the idea that closed loop is good". There is going to be people throughout that are going to obviously push back, and any vote we make, regardless how simple it may seem, there is someone that opposes that. And I've come to figure that out in sixteen months. I've got a shop full of tools that I may only use once, but when I need it, I need it. I am liking foundationally the 391. I am wanting to make sure, administratively, clerically, that we understand what we're obligating ourselves to. So having the tool, I get it. I got them. Whether we end up using it, whether we don't, whether we use it all the time, whether it becomes our Phillips head - these are good things to have. We've got other things coming down the pipe, and as I said before, Smith County, we've been fortunate. You've got five people up here that I believe, at the end of the day, you've got five very different personalities and five people that go about it differently day to day. But we have one common thing: we want to protect Smith County. We want to make Smith County the best place to live. So I would. Say unless someone else has something they'd like to add, Commissioner Drewry, I'll let you decide whether you'd like to take it to a vote or whether you'd like to table it. And then we'll go from there.

Judge Neal Franklin: I just, my issue right now, I am jumping back in is I don't know if we've got all our questions answered. So, uh, and I know the crowd is here, and they're all wanting to wanting to know what we're going to do. But, um just all the questions you asked earlier. Mr. Herod, we don't have all those answers, and so I think we still have Mr. Wilson pushing forward. So...

I want to clarify; I want to make sure that I am on the same page as everybody here. You are asking me to research on 1.) What the difference is between a 391 commission and our local East Texas Council of Governments?

Judge Neal Franklin: Yes.

And then also: Are there other 391 Commissions who have communicated with state entities and how that response has been provided to them?

And then also: With regards to liability coverage, uh, for our, for or liability in general, for members of the 391 Commission.

And I will note that the 391 Commission and ETCOG are actually derived from the same statutory provision, which is 391.

That was a provision that was enacted initially back in 1965 as the Texas Regional Planning Act of 1965. And then in 1987, it changed over to a 391, Section 391 of the local government code. So, they are derived from the same statutory provision.

Judge Neal Franklin: Okay, but specifically do they have the, is, does ETCOG - as a 391 Commission - do they have the ability to talk directly to the state agencies?

Christina Drewry, Comm Pct 1: Are they required?

I'm sorry. Is ETCOG required to or is the state required to communicate with them?

Yes, is the state required to?

So, so, the 391, Section 391 or Chapter 391 applies to both ETCOG and planning commissions. So, they would have that same statutory, uh, guidance for communicating "to the extent feasible" as I believe what the language is.

Judge Neal Franklin: Well, that, that's a little different than the discussion earlier, so we probably need to, uh, dig in deep and make sure on that.

Christina Drewry, Comm Pct 1: So how about I make a motion to table this until June the 2nd?

Christina Drewry, Comm Pct 1: Can I get a second on that?

Judge Neal Franklin: I would second that. Do we, all in favor? Aye. Aye. Any opposed? All right, hearing none. We will table that, which takes us, past uh, that's to June the second.

Christina Drewry, Comm Pct 1: That will give you two weeks.

Judge Neal Franklin: Okay.

Christina Drewry, Comm Pct 1: I know Thomas has a, uh, full plate at all times. He's going to need some extra time to get some answers.

Judge Neal Franklin: And, thank you all for being here today, and thank you for your contribution earlier. All the speakers, we appreciate that. We expect.