

Public Comment by Michele G. Gangnes, Esq. for The League of Independent Voters of Texas re Bastrop Commissioners Court Agenda Item 1, August 10, 2026

Judge Klaus and Commissioners:

My name is Michele Gangnes, and I am a retired public finance attorney with decades of experience in the national and global public markets. I am not the only one who thinks we are in an economic data center “bubble” that will eventually burst.

I have resided in the Blue community of Lee County for 28 years. I offer these comments on behalf of the Bastrop-based League of Independent Voters of Texas (LIV), of which I am a co-founder. (I have also worked across county lines for almost 30 years as a board member of local nonprofits advocating for aquifer protection, property rights and environmental protection in central Texas, including Lee and Bastrop counties.)

I urge you to act today to temporarily **table** the important but flawed draft resolution before you as Agenda item 1. I have these takeaways for you:

- The resolution seems rushed and carelessly drafted, but the subject matter is too important to not get it right.
- As usual with this Court, the public is scrambling to have a voice in their own fate, and you are rushing this resolution on them.
- You should table this resolution because you need to do better for your constituents.
- Barring a delay to reconsider the resolution as a whole, please address the concerns of Bastrop County resident and attorney, Nick Lealos, with whose comments on passages to be removed from the resolution I concur.

As currently drafted, the August 10 resolution reads like a capitulation: “Woe is us, there’s nothing we can do but rely on tax abatements.” Maybe past history with this Court colors my judgment.

But it is true actions speak louder than words. I have monitored how the County has addressed industrialization and believe the County may be disingenuous when it laments that its only “leverage is effectively restricted to post-permitting tax incentive negotiations”.

The Court needs to demonstrate its support for the concerns of residents who will be impacted by the planned Pacifico and EdgeConneX projects, as well as the Amazon and rumored Elon Musk land acquisitions in the Cedar Creek area. **The draft Resolution for August 10 instead represents another missed opportunity by the Court to do so.**

The seeming ease with which the Commissioners Court set the *precedent* of four EdgeConneX 75% tax abatement agreements in 2024, with virtually no effort to inform county residents in advance, and followed *two years later* by three EdgeConneX “dog and pony shows” with County approval but no input, represents a glaring abdication of County accountability and transparency in the opinion of LIV members who advocate for open government.

The Court could have been in the forefront of Texas counties in 2024 when EdgeConneX first arrived, by anticipating affected residents’ frustration when the data center stampede and other hyper-industrialization happened across Texas and in Bastrop County. The County could have been among those counties who actually produced formal, well-conceived statements to appeal to state legislators for what *their constituents* need to face the current “emergency”.

Instead, the County aligned earlier this year with the Elon Musk empire to recommend a Musk facility for corporate welfare under the Texas Enterprise Zone program, the price of which recommendation was to let the State of Texas know Bastrop County is “open for business” and ready for more hyper-industrialization and local corporate welfare. (See, ORDER NO. 2026-09).

Based on the county’s response, or lack thereof, to a Public Information Request filed last spring by LIV, I suggest the County is showing every sign of believing, if not embracing, property tax abatements as the price the County pays developers for a seat at their table. To say the County has been sending mixed messages is an understatement.

Unfortunately, the near-absolute dearth of any physical records provided to LIV concerning the County’s *process for evaluating tax abatement applications*, demonstrated that the County granted the original EdgeConneX abatement agreements with virtually no documented analysis of a deficient abatement application.

More importantly, there was apparently no effort to exact quid pro quos from EdgeConneX, with formal agreements to address any of the “ immediate and long-term environmental concerns to the ecology and residents of Bastrop County” raised by the County in today’s draft resolution.

If the County is serious about actually exercising the new regulatory tools it is requesting from the state, you should *at least* take time to consider a better recital of what you may be trying to say in support of your constituents, with the overlay of adding the changes urged by Bastrop County resident and attorney, Mr. Nick Lealos.

Mr. Lealos has made persuasive arguments to you based on a recent Austin County resolution that relied upon *existing authority* that the county has, not upon general zoning authority it doesn't have, including:

- Authority to require an independent evaluation of battery storage facilities (which very likely includes a hyperscale data center such as Pacifico proposes because they require so much power and almost certainly depend on battery backup even with a captive power plant);
- Authority to inspect and review plans; and
- Authority to take necessary actions to enforce laws relating to public safety

His suggested policy urges you to use existing statutory mechanisms to ensure fire safety, using statutory power found in three different state laws relating to public safety, local government, and energy. Those have not been challenged in court and would minimize the risk of litigation to the County.

I agree with him the County should avoid language that essentially capitulates to a perceived, but probably unfounded, lack of authority that may expose the County to unnecessary future litigation if the County were to later act as Mr. Lealos and I both suggest, or with any other authority.

Most importantly, the County's draft resolution may demoralize and discourage the County's constituents in unintended ways and impede a united front with them at the Legislature. They and not the County are the voters whose voices need to be heard.

In any event, the County should ***avoid not invite liability*** and ***should not tie its hands to take available affirmative action that the draft resolution negates.*** Please remove the language Mr. Lealos recommends and give adequate consideration to the authority you do have, rather than sit back and hope for the best from the Legislature sometime next year.

To amplify Mr. Lealos's suggestions, I repeat how important it is for the Court to realize that hyperscale data centers are likely to fit the description of a BESS under state law. You need to take note of that and act accordingly. Also, please note the following points:

1. Using Governor Abbott's recent "pause" approach, the County could direct the Fire Marshall to freeze all plan reviews and safety sign-offs for data centers, battery sites, and power plants pending either a countywide hazard study aimed at those facilities or updates to any existing hazard mitigation plan.
2. It appears a pause for floodplain and site development could be used if the Pacifico tract is in a floodplain, which would allow a "pause" in any permitting for floodplain

and site development until regional stormwater and drainage impact studies are performed.

3. If the data center or BESS developer is dividing a parcel, creating an industrial park, or building internal access roads, Bastrop County can delay approving driveway/access permits and platting approvals until road axle-load capacity studies are conducted (see commentary on *mandatory* subdivision following these points).
4. While a county cannot unconstitutionally strip a landowner's right to enter a public road, the County can require a Heavy Haul & Road Damage Review before issuing driveway/curb-cut permits to ensure heavy transformers and battery racks won't destroy county bridges or pavement.
5. Data centers with hundreds of construction workers or permanent staff require OSSF/septic permits from the County Environmental Health Department, which permits can be paused for capacity and groundwater impact reviews. Bastrop County can pause OSSF permit reviews until capacity and groundwater impact reviews are complete.

In addition to Mr. Lealos's suggestions, and with respect to 3. above, I urge consideration of amending the County's Tax Abatement Policy *immediately* to require, as a condition to applying for any tax abatement, that the developer of a data center with a co-located power source *agree to a legal subdivision* if the two facilities would otherwise be located on a single parcel of land, rather than, for example, allow a ground lease for one or more facilities. A ground lease would likely be more difficult, or at least less efficient and/or costly for the County to enforce its abatement agreement in the event of one or more defaults by any party(ies) to the abatement.

I also would point out that, because no applicant for tax abatement has a legal right to compel abatement, and it is further subject to whatever Tax Abatement Policy (aka guidelines and criteria) is in effect when an abatement, if any, is granted. **That would mean any pending application is already subject to the July 27 policy, as amended up to and including the date any abatement agreement is executed.**

Thank you for your consideration and commitment to do the best job possible for your constituents.

Michele G. Gangnes
1290 County Road B
Lexington TX 78947