

# 24<sup>th</sup> Annual Land Use Conference

## April 23-24, 2020 • Live Webcast

### Thursday Morning, Apr. 23, 2020

#### Presiding Officer:

**Ed Walts**, The University of Texas System - Austin, TX

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| 8:20 am                              | <b>Welcoming Remarks</b>   |
| 8:30 am<br>0.75 hr<br>0.25 hr ethics | <b>New Land-Use Cases Part 1</b><br><br>A reasonably quick survey of key Texas and federal cases affecting zoning, platting, taking, permitting, vesting, etc.<br><br>James L. Dougherty Jr., Attorney at Law - Houston, TX  |
| 9:15 am                              | <b>5-Minute Break</b>  |
| 9:20 am<br>0.50 hr<br>0.25 hr ethics | <b>Legislative Update</b><br><br>An overview of significant laws affecting real estate enacted by the 86th Texas legislature. Hear a discussion of the final report of the session, prepared by the real estate legislative affairs committee of the REPTL section of the State Bar of Texas.<br><br>Richard A. Crow, Schlanger Silver, LLP - Houston, TX  |
| 9:50 am                              | <b>5-Minute Break</b>  |
| 9:55 am<br>0.75 hr                   | <b>HB2439 Panel</b><br><br>Examine HB 2439, effective September 1, 2019, which requires a governmental entity to allow the use or installation of a building product or material used in construction that is or has been a part of a national model code published within the last 3 cycles and determine the background and reasons for the statute, implementation (or ways to adapt) by cities and whether it “works”.<br><br>Moderator:<br>Barbara A. Boulware-Wells, The Knight Law Firm, LLP - Austin, TX<br>Panelists:<br>Judge Platt, Platt Cheema Richmond PLLC - Dallas, TX<br>Stacy Snell, City Of New Braunfels - New Braunfels, TX<br>Susan Wright, Susan Wrights & Associates - San Antonio, TX |
| 10:40 am                             | <b>5-Minute Break</b>  |


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| 10:45 am<br>0.50 hr | <b>Incentive Zoning and Affordable Housing</b><br><br>An overview of incentive zoning and how this tool can be used to encourage affordable housing and other areas of public good.<br><br>Casey Burgess, Dallas City Attorney's Office - Dallas, TX                |
| 11:15 am            | <b>5-Minute Break</b>   |
| 11:20 am<br>0.50 hr | <b>Park Land Dedication</b><br><br>Explore the Dallas park land dedication experience including issues, ordinances, and coalitions.<br><br>Bertram Vandenberg, Dallas City Attorney's Office - Dallas, TX<br>Ryan O'Connor, Dallas Park and Recreation - Dallas, TX |
| 11:50 am            | <b>5-Minute Break</b>   |
| 11:55 am<br>0.50 hr | <b>Development Agreements from Both Sides</b><br><br>A review of development agreements from both the development side and the government side.<br><br>Robert James Miklos, Miklos Cinclair Law, PLLC - Farmers Branch, TX  |
| 12:25 pm            | <b>Break for Lunch—Presentation Resumes at 12:50 p.m.</b>   |

## Thursday Afternoon, Apr. 23, 2020

### Presiding Officer:

Hon. Penny Redington, Austin, TX

### Luncheon Presentation

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|                     | <b>Thank You to Our Luncheon Sponsor</b><br><br><b>Jackson Walker LLP</b><br><br>  |
| 12:50 pm<br>0.50 hr | <b>Protecting that Elusive Community Character: What Can We Still Do?</b><br><br>The planner's toolbox for shaping and protecting community character has undergone some dramatic shifts in recent years, especially in Texas, where the legislature has curtailed the use of once-standard approaches. What's the current status of some of our most effective placemaking tools? Who's doing a good job defining and protecting that elusive "community character"? Take a look at the current state of form-based codes, historic preservation, design review, and other placemaking tools to explore what's been effective, what's changed, and what's on the horizon in this new legal landscape.<br><br>Matthew Goebel, Clarion Associates - Denver, CO |

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| 1:20 pm            | <b>5-Minute Break</b>   |
| 1:25 pm<br>0.75 hr | <p><b>Financing and Special Districts Panel</b></p> <p>The pros and cons of using PIDs and MUDs to finance public infrastructure required for new development.</p> <p>Moderator:<br/>Dorothy Palumbo, Bojorquez Law Firm, PC - Austin, TX</p> <p>Panelists:<br/>R. R. "Tripp" Davenport III, FMSbonds, Inc. - Dallas, TX<br/>Julie Fort, Messer, Fort &amp; McDonald, PLLC - Frisco, TX<br/>Jason Hughes, Hilltop Securities - Dallas, TX<br/>Misty Ventura, Shupe Ventura, PLLC - Dallas, TX</p>                 |
| 2:10 pm            | <b>5-Minute Break</b>   |
| 2:15 pm<br>0.75 hr | <p><b>Hot Topics</b></p> <p>After the last legislative session, there are new zoning issues to discuss, including "do agreements about construction materials constitute contract zoning?"; issues that have not gone away, such as "what is Texas law on short-term rentals?"; regulations that still remain tough to enforce, like home-based businesses; and a few other land use issues of which practitioners should be aware.</p> <p>Terrence S. Welch, Brown &amp; Hofmeister, L.L.P. - Richardson, TX</p> |
| 3:00 pm            | <b>5-Minute Break</b>   |
| 3:05 pm<br>0.50 hr | <p><b>Mother May I?: Annexation after HB 347</b></p> <p>What's left of annexation other than playing in the MUD? HB 347 dramatically changed the landscape for annexation. The scope of authority to annex without a vote has been severely limited. Address what authority is left for annexation after the adoption of HB 347.</p> <p>Charles E. Zech, Denton, Navarro, Rocha, Bernal &amp; Zech, P.C. - Austin, TX</p>   |
| 3:35 pm            | <b>5-Minute Break</b>   |
| 3:40 pm<br>0.75 hr | <p><b>Environmental Issues Impacting Land Use and Development in 2020</b></p> <p>Review of new developments in environmental law, including the new-for-2020 WOTUS rule, MS4 permits, and renewable energy.</p> <p>John Mark McPherson, McPherson LawFirm, PC - Dallas, TX</p>  |
| 4:25 pm            | <b>5-Minute Break</b>   |

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| 4:30 pm<br>1.00 hr ethics | <p><b>Client Relations and Doing Business with Clients: How Far is Too Far?</b></p> <p>An overall examination of fiduciary duty, client relations, grievance avoidance and issues which arise when doing business with clients.</p> <p>Claude E. Ducloux, Attorney at Law - Austin, TX</p> |
| 5:30 pm                   | <b>Adjourn</b>   |

## Friday Morning, Apr. 24, 2020

### Presiding Officer:

**Christy Drake-Adams**, Texas Municipal League - Austin, TX

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| 8:30 am<br>0.50 hr | <p><b>Signs and Other Forms of Expression: Content Neutrality in the Post-Reed Era</b></p> <p>Local governments struggle to understand the ultimate outcome of regulating signs and other areas affected by <i>Reed v. Gilbert</i>. Many areas may in fact be unaffected or slightly so, but much legal development will continue to challenge both government and private sector practitioners.</p> <p>Julian Grant, Thomson Reuters - Georgetown, TX</p>   |
| 9:00 am            | <b>5-Minute Break</b>  |
| 9:05 am<br>0.50 hr | <p><b>Energy Exploration: Consideration in Land Use</b></p> <p>Increased oil, gas, and other energy exploration is a large driver of land use change. The fact that the surface estate and mineral estate can be owned individually and that the mineral estate is dominate can cause significant development issues to arise. Discuss some of the relevant issues such as the accommodation doctrine, mineral subdivisions, and issues to be discussed during negotiations.</p> <p>Jamie Lavergne Bryan, K&amp;L Gates LLP - Fort Worth, TX<br/>Rory Hatch, K&amp;L Gates LLP - Houston, TX</p> |
| 9:35 am            | <b>5-Minute Break</b>  |
| 9:40 am<br>0.50 hr | <p><b>Water/Wastewater CCNs (Certificates of Convenience and Necessity)</b></p> <p>Learn if these state-regulated service areas protect utility planning and budgeting, if they ensure service to landowners, and if they treat landowners fairly.</p> <p>Michael A. Gershon, Lloyd Gosselink, P.C. - Austin, TX</p>   |
| 10:10 am           | <b>5-Minute Break</b>  |

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| 10:15 am<br>0.75 hr | <p><b>Responding to <i>Knick</i></b></p> <p>Last summer, the U.S. Supreme Court issued its decision in <i>Knick v. Township of Scott, Pennsylvania</i>, overruling takings precedents stretching back to the late 1800s by holding that land use litigants no longer need to seek compensation under state takings law in order to ripen their federal takings claims. Review the practical impacts of <i>Knick</i> to Texas litigants, and address the factors that should be considered by land-use litigants in deciding whether to try a takings claim in state or federal court.</p> <p>Robert F. Brown, Brown &amp; Hofmeister, L.L.P. - Richardson, TX</p>  |
| 11:00 am            | <b>5-Minute Break</b>  |
| 11:05 am<br>0.75 hr | <p><b>Beyond Boundaries: Land Use in the ETJ</b></p> <p>How does the drastic reduction of annexation powers change regulation of land use in the ETJ? In the past, cities may have exercised regulatory power in their ETJs with the assumption that those areas would someday be within city limits and used annexation power to bring already developed areas into their city limits. If that is no longer true, should cities continue to exert regulatory power in their ETJ? Examine how this shifts the negotiation of 1445s between cities and counties.</p> <p>Matthew J. Festa, South Texas College of Law Houston - Houston, TX<br/>Daniele Skye Masson, City of Georgetown - Georgetown, TX</p> |
| 11:50 am            | <b>5-Minute Break</b>  |
| 11:55 am<br>0.75 hr | <p><b>Creating a Destination: Economic Development</b></p> <p>Place-making has become the norm, not the exception. Nevertheless, destination-focused economic development initiatives are not always effective in terms of initial defined outcomes. Explore the key principles and examples of ‘details matter’ elements for successful projects.</p> <p>Moderator:<br/>William S. Dahlstrom, Jackson Walker LLP - Dallas, TX<br/>Panelists:<br/>Karen M. Kennard, Greenberg Traurig, LLP - Austin, TX<br/>Tommy Ludwig, City of Waxahachie - Waxahachie, TX<br/>Scott Polikov, Gateway Planning &amp; GP Development - Dallas, TX</p>  |
| 12:40 pm            | <b>Break for Lunch—Presentation Resumes at 1:05 p.m.</b>   |

## Friday Afternoon, Apr. 24, 2020

### Presiding Officer:

**Joseph J. Gorfida Jr.**, Nichols, Jackson, Dillard, Hager & Smith L.L.P. - Dallas, TX

### Luncheon Presentation

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| 1:05 pm<br>0.50 hr | <p><b>New Land-Use Cases Part 2</b></p> <p>A reasonably quick survey of key Texas and federal cases affecting zoning, platting, taking, permitting, vesting, etc.</p> <p>James L. Dougherty Jr., Attorney at Law - Houston, TX</p> |
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| 1:35 pm                              | <b>5-Minute Break</b>   |
| 1:40 pm<br>0.75 hr                   | <p><b>HB3167: What Cities and Developers Need to Know About the New Platting Shot Clock</b></p> <p>In 2019 the Texas Legislature changed the rules for the plat approval timeline. Cities and developers need to understand the far-ranging impact that these new rules could have on the development process.</p> <p>Rob Killen, Killen, Griffin &amp; Farrimond - San Antonio, TX<br/>Melinda Ramos, City of Fort Worth - Fort Worth, TX</p>  |
| 2:25 pm                              | <b>5-Minute Break</b>   |
| 2:30 pm<br>0.75 hr<br>0.25 hr ethics | <p><b>Ask the Experts</b></p> <p>Get answers to your frequently—and sometimes infrequently—asked questions. <b>Please submit your questions in advance to <a href="mailto:ConferenceQA@utcle.org">ConferenceQA@utcle.org</a>.</b></p> <p>Moderator:<br/>Tommy Mann, Winstead PC - Dallas, TX<br/>Panelists:<br/>Paige A. Mims, City of Plano - Plano, TX<br/>Ryan D. Pittman, Abernathy, Roeder, Boyd &amp; Hullett, P.C. - McKinney, TX<br/>Brad R. Williams, Winstead PC - Dallas, TX</p> |
| 3:15 pm                              | <b>5-Minute Break</b>   |
| 3:20 pm<br>1.00 hr ethics            | <p><b>Fear the Walking Quorum: TOMA Penalties Return from the Dead</b></p> <p>Understanding changes to the Open Meetings Act’s criminal provisions regarding walking quorums, and the ethical implications for attorneys.</p> <p>Ross Fischer, Ross Fischer Law, PLLC - Dripping Springs, TX</p>  |
| 4:20 pm                              | <b>Adjourn</b>  |