



MINUTES

Aransas County Commissioners Court

9:00 AM – Monday, May 23, 2022

The Aransas County Commissioners Court met in **Regular Session** on Monday, May 23, 2022, at 9:00 AM, in the Aransas County Courthouse, 2840 Hwy 35 N, Rockport, Texas.

Present: **C. H. "Burt" Mills, Jr.**, County Judge
Jack Chaney, Commissioner Precinct 1-1A
Leslie Casterline, Commissioner, Precinct 2
Pat Rousseau, Commissioner, Precinct 3
Wendy Laubach, Commissioner, Precinct 4

Absent:

I. Call to Order & Pledges

The meeting convened at 9:00 AM, followed by pledges to the American and Texas flags.

II. The Invocation was given by County Surveyor Jerry Brundrett.

III. Roll Call was taken. **A Quorum was declared**, and the following proceedings were had and done, to wit:

IV. Citizens to be Heard – **Jack Wright** addressed the Court first, followed by **Jon Heffron**. They both had concerns about the Aransas County Navigation District, and each submitted the following transcripts for the record:

(Jack Wright)

Good morning Judge Mills and Commissioners. Most of you know me and know and have for some time. The possible exception is Ms. Laubach and you may know me from your niece Meagan, one of my son and daughter in law's best friends. I am speaking today as a private citizen and not as a member of the Aransas Community Values Fund. I joined that group after starting this journey looking into the Navigation District. To make my point clear, I am also the Chairman of the Aransas County Appraisal District Board and I am not here in that capacity either. I take public participation seriously and believe that our governmental entities should do so as well.

I attended the January 3rd meeting of the Nav District to listen and to point out that the meeting was not properly noticed as required by the Texas Open Meetings Act. Because I addressed them under the Citizens to Be Heard section, they could not answer me other than Commissioner Vlasek who asked me if I was an Attorney. I am not.

When I attended the next meeting, Commissioner Vlasek addressed me and said they had visited with their attorney and he said they did not have an issue with the Open Meetings Act. Mr. Benadum then spoke up and said, "From what I'm told, the notices are compliant." FROM WHAT I'VE BEEN TOLD?

Chairman Dieckow prevented me from speaking. The notices are not compliant with any meeting held on a Monday simply because the second posting is outside the County Clerk's office, always posted on a Thursday or Friday afternoon. Since the posting is not "available to the general public at least 72 hours in advance" they are not compliant and have not been since the Court moved to this temporary location as they are behind locked doors. I decided that if they were that flippant about the Law, what else might be evident.

I did an exhaustive study of their website, specifically the Archives where information exists as far back as the 50's. Surprisingly, nothing exists after May 9th 2021. I reported my findings to them at the March 7th meeting in the Citizens to be Heard item as follows verbatim:

ACND Website facts

Under the Tab "Financial" the 2019 Audit report and 2020 Audit report are listed. The 2019 Audit was not reviewed by the District until November 2nd according to the minutes. There is no record of the 2020 Audit being reviewed or accepted. That is because there are absolutely no reports of any kind beyond May 17th, 2021. Why is that?

The budget is discussed in only 1 meeting in 2021 and that was April 19th to add \$100m to the budget for Little Bay. And that is the 2021 Budget. No other mention of the budget exists in 2021 reports. No copy of the budget exists anywhere on the website, including previous years. As far as the evidence is concerned, you did not approve a 2022 tax rate. Why is that?

There is an entry for Treasurers Report to be approved in Agendas up to the last filing in **May**, 9 months ago. Typically this is the bank statement, but no copy of a Treasurers Report exists anywhere on the district website. Why is that?

Under the Tab "Tax Rates", the tax rate listed is for 2020. We are 2 tax years past 2020. Why is that?

Under the Financial Tab, a sub-tab "2021 Tax rate" exists. There are 4 entries under that tab: 2021 Calculation Worksheets, 2021 Tax Rate Calculation Worksheets, De Minimis Rate and Introducing a New TNT. The first 3 came from County Tax Assessor Collector, Anna Marshall. They are merely definitions, a "how to" not actual worksheets used in the calculation of taxes. The 4th came from The Texas Comptroller's Office and again is only a page of definitions. Nothing to reflect action real or considered. There is no 2021 tax rate listed anywhere. Why is that?

Aransas County Navigation responses to FOIA request I made on March 7, 2022; received March 22, 2022. The questions are enumerated; the answers follow.

1. Certificates of Compliance, Training Certificates, or other evidence that all 5 Commissioners and the Harbor Master have completed training in the Texas Open Meetings Act as required by law.

The district provided me with 5 certificates of training, one for each Commissioner. Two of the 5 were completed after the request was made, indicating they had not had training until my request. Martin Deleon was one of the two and March 7 was his first meeting as an appointed commissioner so that is somewhat understandable. But it is

the job of the Chairman or the Harbor Master to make sure he has the training before taking office or immediately after being sworn in. Commissioner Casterline has served since 2014 apparently without ever having taking Texas Open Meetings Act training. A certificate on the Harbor Master was not provided indicating he has not been trained in the requirements of the Texas Open Meetings Act.

- 2. Copies of the approved Budgets from 2020, 2021 and 2022 and the minutes where the Budgets were formally approved. Printed copies of the last 2 years (2020 and 2021) and the first 2 months of this year's monthly Financial Statements of the District; to include Balance Sheets, Income Statements, Sources and Uses of Funds and Comparison of Actual to approved Budget. Copies of Treasurers Reports for each months in the last 2 years and first 2 months of this year.*

*The District provided me with the 2020, 2021 and 2022 budgets. All 3 were marked **PROPOSED**. Minutes of the meetings where the Budgets were approved were provided, but there is a logistical problem. For example, the Agenda of March 15, 2021 shows item #8 CONSIDER AND POSSIBLE ACTION TO APPROVE THE 2020 ACND AMENDED BUDGET/BARRETT. The District provided a copy of the 2020 Budget and its amended version. The District did NOT provide any minutes where the budgets were subsequently discussed. They did NOT provide any evidence, minutes, agenda or otherwise that they discussed actual numbers compared to budget numbers at any time in the 2 years concluded and have not had actual to budget discussions in the first 2 months of 2022.*

The District did NOT provide any internal financial statements that would reflect the prudent study of the operations of the District by the Commissioners. Instead, they provided the Audit. As anyone with a financial background knows, the Audit is NOT a financial statement in and of itself and it is not a replacement for monthly review and study by the Commissioners of their financial operations.

The District did not provide monthly balance sheets, income statements and Sources and Uses of Funds reports as requested. When the elected officials of a public entity do not study and take ownership of their financial condition on an ongoing basis, they are in dereliction of their duties. There is no excuse for not reviewing the actuals to budget every month. The following paragraph is an excerpt to the Aransas County Appraisal District's financial audit.

"Budgetary comparison schedules - Demonstrating compliance with the adopted budget is an important component of a government's accountability to the public. Many governments revise their original government's budgets throughout the year for a variety of reasons. Under the new reporting model, governments will continue to provide budgetary comparison information in their annual reports. An important change, however, is a requirement to add the government's original budget to the current comparison of the final budget and actual results." The District does not perform this important and required function.

*The District did provide 2019, 2020 and 2021 reports **related** to budgets. They appear to have been produced internally. The first column of numbers is labeled Budget. The second column is labeled Amended Budget. There are no dates other than the year. The 2021 report in this grouping is stamped DRAFT multiple times on each page. We are 83 days into the next fiscal year and the District has not produced a set of reports*

that would show the income, expense and net position of the District. **No wonder the Financial Audit is not complete until the 11th month of the following year on average.** There is no evidence provided that the Commissioners discussed these numbers other than having adopted the budget. As far as the evidence provided herein and provided on their website, they passed the Budget and then stuck it in a drawer. The District did not provide monthly Balance Sheets as requested to show the net position of the District. As of this date, the District has not produced a year-end balance sheet or income statement other than a DRAFT.

The District did provide monthly copies of the Treasurer's Reports for each month comparing current month, prior month and same month prior year. The Treasurer's reports show the District has an average cash position of nearly \$9 million dollars. However, the reports do not show actual cash vs investments as is required by GASB rules, State Law and the District's own investment policy. The Treasurer's reports do not show whether or not they are in compliance with their investment policy. Entities entrusted with public funds must show the institution(s) where the funds are on deposit and that they meet the definition of eligible funds. They must also show that their depository institution has Securities pledged to cover any amount over the FDIC insurance amount which is presently \$250,000. Failure to comply with this legal requirement potentially puts the District's funds ie. the Taxpayer's funds at risk. Investments in pool funds must meet the definition of eligible funds, but as investments, they are not covered by insurance or securities. The reports provided made no distinction as to the type of funds or the institution(s) that hold them.

3. The name of the firm or individual(s) responsible for preparing the Interim Balance Sheet, Income Statements, Sources and Uses of Funds Statements and Actual Budget comparisons and the work papers associated with the preparation of the above.

The District did NOT provide the name or source of the requested financial reports because the evidence shows they do not have them prepared in the ordinary course of business. They did provide the names of 2 individuals who were evidently responsible for making the copies that were provided to me.

4. Copies of minutes or other evidence where the Budget was discussed including but not limited to the comparison of Actuals to Budget. This includes workshops leading up to and including the minutes(s) where the 2020, 2021 and 2022 budgets were formally adopted.

The District provided minutes of August 15, 2019 where a Budget Workshop was held.

The District provided Agenda and Minutes of March 15, 2021 where the Amended 2020 Budget was Discussed and approved?? Yet no copy of the Am ended Budget was included in the responses.

The District provided Agenda and Minutes of September 8, 2020 where the 2021 Budget was discussed and approved.

The District provided Minutes of the meeting of August 16th 2021 where Commissioner Vlasek moved to schedule the Public Hearing to Receive Public Comments on the proposed 2022 budget for Monday August 30, 2021 and for Tuesday, September 7th 2021 to Adopt the proposed Budget. The District did NOT provide Minutes or Agenda to show if or when the 2022 Budget was adopted.

Summary: The District provided 119 pages of reports in response to the FOIA request. The readers of this analysis of these reports should be alarmed. The District does not, in the ordinary course of business, produce reports that its tax paying public can have any confidence that their funds are in good hands. Keep in mind that none of these reports provided exist on their website or the archives of the website. Transparency simply does not exist.

The reader of this analysis should be deeply concerned.

(Jon Heffron)

Good morning Commissioners - my name is Jon Heffron and I reside in Precinct 3 of Aransas County.

There are many questions and concerns in the community about the Aransas County Navigation District's operations.

There is very little financial transparency surrounding the Nav District operations. The District's webpage contains virtually no information about its finances, including its budget, revenues, expenses, and the like.

In contrast, the County's and the City's websites provide very comprehensive and current financial information to the public.

It would not be difficult for the District to remedy this situation if it wanted to be transparent.

Right now, a citizen would have to make a public information request to obtain this information. Citizens should not be forced to obtain government financial information in this manner.

This is precisely what Jack Wright had to do. As Jack just informed the court, much of the information he requested was not produced, which can only mean it does not exist. The results of his request are alarming to say the least.

There are also significant questions about the scope of the District's activities, which appear to many in the community to exceed its statutory authority (e.g., the operation of the Rockport Beach, festival grounds, and the like).

Further, there are numerous examples of how the District has been somewhat heavy handed in its dealings with lessees and non-profits who operate the various events and gatherings that are so important to our community.

More recently, the District has attempted to claim a new authority to regulate drainage in the community and has publicly stated that it wants to establish a permitting process for all public drainage projects that might result in any storm water runoff flowing into any District waters. The District and City's dispute over the Concho Street drainage project comes to mind. How much in taxpayer money has been spent by both sides of this dispute and to what end?

The District seeks to defend itself by claiming it is the only entity in the community concerned about the local environment and water quality. This Court knows that there is little truth to this claim.

The rumor in the community is that the District has engaged a consultant or consultants to improve its image and further its agenda. Is there any truth to this rumor? If so, how much in taxpayer money has been, or will be, spent on this? Is this sort of expense proper or is it political in nature, coming within a matter of months before an election of three of the five District Commissioners?

The Commissioners' Court has very broad oversight authority of the Nav District as provided for in Chapter 62 of the Water Code, including the following:

- *Require each District Commissioner to provide a true account of his or her activities.*
- *Require the District to submit an annual report to the Commissioners' Court on or before January 1 of each year, starting with the report that should have been made at the beginning of 2022.*
- *Require the District Treasurer to provide the Commissioners' Court a correct report of all matters relating to the financial condition of the District on at least a monthly basis.*
- *Make sure that when the Commissioners' Court sets the levy and assessment of taxes that the amount of the levy complies in all respects with the Water Code.*

I urge the Commissioner's Court and staff to conduct an investigation of the matters and questions raised today, study them in detail, and take appropriate action.

Thank you for your consideration.

V. Presentations – There were none.

VI. Items for Deliberation and/or Action

Consent Agenda:

1. Minutes from the May 9, 2022 Regular Meeting
2. Donation of \$70.00 from Dorothy Vazquez for supplies for Aransas County Animal Control
3. Donation of \$25 from Susan Bishop for supplies for Aransas County Animal Control
4. Memorandum of Understanding with the Children's Coalition of Aransas County to work toward the shared mission of creating, supporting, educating, and improving care and resources for children and families in Aransas County and the surrounding area and authorize the County Judge to execute the Memorandum of Understanding.

Motion by Commissioner Casterline to approve the Consent Items; seconded by Commissioner Chaney.

Vote: Motion carried 4-1 with Commissioner Laubach dissenting; it was so ordered.
(note: Commissioner Laubach stated she had no objections to items 1-3)

County Reports:

5. Burn Ban Order

Motion by Commissioner Casterline to approve extending Burn Ban **Order #O-12-2022**, an Order of the County of Aransas, Texas, prohibiting outdoor burning for a period of up to 30 additional days; seconded by Commissioner Laubach.

Vote: Motion carried 5-0; it was so ordered.

6. Proclamation #P-06-2022

Motion by Commissioner Rousseau to accept Proclamation #P-06-2022, recognizing the month of June as Elderly Abuse Awareness Month in Aransas County, Texas seconded by Commissioner Casterline.

Vote: Motion carried 5-0; it was so ordered.

7. Texas Maritime Museum Report

Motion by Commissioner Rousseau to approve 1st Quarter 2022 report for the Texas Maritime Museum; seconded by Commissioner Chaney.

Vote: Motion carried 5-0; it was so ordered.

County Roads and Floodplain:

8. Request for Variance

Motion by Commissioner Laubach to TABLE a Request for Variance on County subdivision regulations on minimum lot size requirements to replat 118, 120 & 122 Canvas Back Lane from three (3) lots into two (2) lots; seconded by Commissioner Chaney.

Vote: Motion to table carried 5-0; it was so ordered.
(note: drainage easement issue)

County Sheriff:

9. Annual Profile Report

Motion by Commissioner Casterline to approve the 2021 Annual Profile Report as required by the *Code of Criminal Procedure 2.131-2.138*; seconded by Commissioner Rousseau.

Vote: Motion carried 5-0; it was so ordered.

10. Proposal to House Williamson County Inmates

Motion by Commissioner Casterline to approve a proposal to house inmates from Williamson County, under the same terms as Nueces County. Proposal will also require approval from the Commissioners Court of Williamson County; seconded by Commissioner Chaney.

Vote: Motion carried 5-0; it was so ordered.

Contracts, Agreements, Grants and Leases:

11. Berg-Oliver Proposal

Motion by Commissioner Casterline to approve authorizing County Judge to sign Proposal from Berg- Oliver Associates, Inc., to provide twice-a-year Invasive Plant Spraying at Pathways Venues for Connie Hagar Tract, Tule East, Tule West, Tule Ditch, Tule Creek and Linda Castro Birding Tract, at a total cost of \$21,600.00 to be funded from the Pathways Venue - Projects Fund; seconded by Commissioner Laubach.

Vote: Motion carried 5-0; it was so ordered.

12. Sourcewell Interlocal Agreement

Motion by Commissioner Casterline to approve entering into an Interlocal Agreement with Sourcewell, a Minnesota based service cooperative, to enable Aransas County to utilize Sourcewell's cooperative purchasing contracts in order to obtain equipment and supplies at pre-negotiated costs as authorized under Section 271.101 et seq. of the Local Government Code; seconded by Commissioner Chaney.

Vote: Motion carried 5-0; it was so ordered.

13. Bahia Bay Drainage Construction Funds

Motion by Commissioner Casterline to approve authorizing staff to request construction bids for the Bahia Bay Drainage and Outfall Project using American Rescue Plan Funds, and authorizing the County Judge to sign all necessary documents; seconded by Commissioner Rousseau.

Vote: Motion carried 5-0; it was so ordered.

14. Grant Administrator for Airport Field Generator Project

Motion by Commissioner Chaney to approve a request to assign Task Order DR-4332-197 for GrantWorks to serve as Grant Administrator for the Airport Field Generator Project; seconded by Commissioner Laubach.

Vote: Motion carried 5-0; it was so ordered.

15. Clean Coast Texas Project

Motion by Commissioner Casterline to approve an Agreement between Aransas County, Texas, and Texas State University for Implementation of the Clean Coast Texas Project through September 1, 2024, which may result in water quality improvement in Aransas County at no cost to Aransas County; seconded by Commissioner Chaney.

Vote: Motion to Table carried 5-0; it was so ordered.

16. Regional Pool Alliance (RPA)

Judge Mills read the agenda item, which included multiple options outlining ways by which the Commissioners Court could choose to continue and/or discontinue all or part

of its relationship with Regional Pool Alliance on the remaining projects and insurance claims related to Hurricane Harvey, then turned the floor over to Assistant County Attorney, Jen O'Steen, to lead discussion on the item. In addition to Ms. O'Steen, Auditor Jacky Cockerham and Facilities Director Rene Butler were on hand to answer the Court's questions as were RPA representative, Kathleen Hicks, and Damien Pittman of FPS Recovery Services.

After a lengthy discussion, Ms. Hicks was asked to return to next Commissioners Court with detailed information and projected completion dates, by project, for all of the remaining work and claims. Ms. Hicks agreed to do that.

No Action on this item at this time.

Planning & Budget Office:

17. Treasurer's Report

Motion by Commissioner Casterline to approve the April 2022 County Treasurer's Report; seconded by Commissioner Chaney.

Vote: Motion carried 5-0; it was so ordered.

18. Prosperity Bank Irrevocable Standby Letter of Credit Extension

Motion by Commissioner Chaney to approve authorizing the Aransas County Treasurer to sign a Promissory Note and Disbursement Request and Authorization between Aransas County and Prosperity Bank for the automatic extension of the expiration date for one year, on the Irrevocable Standby Letter of Credit #1973 from Prosperity Bank to Texas Commission on Environmental Quality (TCEQ), said extension going through June 1, 2023. The Letter of Credit covers financial assurance of the Aransas County Transfer Station in the amount of \$10,200; seconded by Commissioner Laubach.

Vote: Motion carried 5-0; it was so ordered.

19. U. S. Fish and Wildlife Service Refuge Revenue Sharing

Motion by Commissioner Chaney to approve the Distribution of \$102,046.00 of the US Fish and Wildlife Service Refuge Revenue Sharing Account Annual Payments to Local Government for Lands under their Administration for Fiscal Year 2021, received in 2022; seconded by Commissioner Laubach.

Vote: Motion carried 5-0; it was so ordered.

20. Budget Line Item Transfers

Motion by Commissioner Rousseau to Budget Line Item Transfers; seconded by Commissioner Chaney. (Per Auditor Cockerham, there were none.)

Vote: Motion carried 5-0; it was so ordered.

21. Accounts Payable and Payroll/Payroll Liabilities

Motion by Commissioner Chaney to approve Accounts Payable and Payroll/Payroll Liabilities; seconded by Commissioner Laubach. (Per Auditor Cockerham, it includes a Wildlife Refuge distribution in lieu of taxes, a payment to Creel Law Group (forfeiture tax sale funds being turned over to this law group), \$23,000 out of Pathways for repair work on the Tule Creek bridge and kiosk, plus two large invoices totaling \$570,000 for work on Cedar Bayou to J.M. Davidson and Mott MacDonald.)

Vote: Motion carried 5-0; it was so ordered.

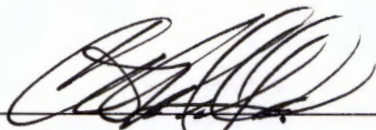
VII. Reports from Commissioners, Elected Officials & Department Heads – No action will be taken –

Jacky Cockerham, County Auditor: *We received the request to apply for our second half of the ARPA money (\$2.25 million). I submitted that last week, so we should be receiving it any day.*

Commissioner Rousseau: *I was made aware about 10 days ago that the ACND had completed its annual report. When I had initially inquired at the courthouse, I was given the information we had not received it. I did ask the ACND about it, and they gave me a copy. It was filed with the County Clerk on December 31, and I did present that to Judge Mills last week. So, that being said, it was filed at least within the guidelines of the Water Code.*

VIII. Adjournment

No further business presenting, the Court adjourned at 11:11 AM on a motion duly made by Commissioner Rousseau and seconded by Commissioner Casterline.


C. H. "Burt" Mills, Jr., County Judge


Carrie Arrington, Ex-Officio Clerk
of the Commissioners Court

