

MINUTES OF THE
COMMISSIONERS' COURT

SPECIAL MEETING - MAY 31, 2019

On the 31st day of May, 2019, there was a Special Meeting of the Commissioners' Court in the Commissioners' Courtroom, 2840 Hwy 35 N, Rockport, Aransas County, Texas, with the following members present: **C. H. "Burt" Mills, Jr.**, County Judge; **Jack Chaney**, Commissioner, Precinct 1; **Leslie "Bubba" Casterline**, Commissioner, Precinct 2; **Brian Olsen**, Commissioner, Precinct 3; **Wendy Laubach**, Commissioner, Precinct 4; and **Christy Gibson**, Deputy County Clerk.

Other County Officers present were **Pam Heard**, District Clerk; **Suzy Wallace**, County Auditor; **Diane Dupnik**, Justice of the Peace, Pct. 1; **Linda Garcia Haynes**, Executive Assistant to the County Judge; **Tana Taylor**, Assistant Auditor; **Linda Doane**, Human Resources Director; **John Strothman**, Pathways Project Manager; **Jacky Cockerham**, First Assistant County Auditor; **Ronell Burke**, Animal Control Supervisor; **Rick Mclester**, Emergency Management Coordinator & Aransas County Fire Marshall;

Long-Term Recovery: **Randall Freeze**, Long Term Recovery Specialist;

Members of Local City Government, Community Groups and other Interested Parties present:

Aransas County Navigation District: **Judith Vlasik**, Commissioner Pct. 1-1A;

City of Aransas Pass: **Ram Gomez**, Mayor; **William "Bill" Ellis**, Council Member Place 2; **Gary Edwards**, City Manager;

Aransas County Citizens: **Betty Stiles**; **Charles Smith**;

Other Parties: **David L. Earl**, Attorney representing Rockport Terminals, LLC; **David Rae**, Attorney representing Mojave LTD; **Jerry Goetz**, Attorney representing JCACJ Holdings, LLC; **Matthew White**, Representative from Rockport Terminals, LLC; **Charles Rourke**, owner of property within the annexation area; **Mike Probst**, Editor and Publisher of the Rockport Pilot Newspaper;

The Meeting was convened at **10:00 a.m.** at which time a quorum was declared by Judge Mills, WHEREUPON, the following proceedings were had and done to wit:

Linda Garcia Haynes: Letter from Citizens for Responsible Annexation was read, to be inserted into the minutes.

(See Insert)

David Earl, Attorney for Rockport Terminals, LLC: We are here today to look at the appointment of five negotiators, which is required by the Commissioners Court when the City attempts to annex property. In April of 2019 these annexation proceeding began, as indicated on slide two of our power point, typically when a city annexes property they must take inventory and then prepare a three year annexation plan to go through the process, give the area notice of the annexation, have hearings and other things like that. Having prepared that three year plan, the City of Aransas Pass began this annexation immediately without giving any other notice than the simple notice required to begin the annexation. They did that under of hopes of using an exemption that allows not having

to do a three year plan if you annex an area that is sparsely occupied with less than 100 lots on which one home is located, however if you look at slide three, you see their original annexation area and it included more than 100 lots on which homes were located. So, they changed the annexation and broke it out into three phases, and by doing in three pieces instead of one big piece, it looks like they could have tried to circumvent the requirements of the law that they do a three year plan as shown in slides 4, 5, and 6 where you see the amended area being annexed. We are here today to specifically to talk about slide 6 of the Phase II area because they've already taken action on the 21st of May, annexing Phase I. I will tell you briefly as well, during the public hearings they held on the annexation proceedings, they did not negotiate with the land owners, there was no going back and forth, no negotiation even though the law says that the services to be rendered can be negotiated at the public hearings, there was no negotiation. They simply put forth a power point of the service plan and said "this is the service we are going to give you" and moved forward with the annexations. To my knowledge there has been no negotiation with any resident regarding services to the areas. As it states in slide 8, because of an outbreak in abusive practices regarding annexations, the Texas Legislature, this year, enacted House Bill (HB) 347 that was authored and submitted by Representative King, that would limit a municipality's ability to annex, and require consent of the people being annexed, or a vote of the people being annexed, in order to annex the property. However, that HB had a very limited section in it, Section (4)(b) gave a transitional period that said "hey, if the City had already instructed the City Manager to initiate a service plan in an area before the bill was enacted", so this bill

would not apply to that annexation plan. So, the City of Aransas Pass decided to instruct their City Manager to do a service plan on 21,000 acres of land, their entire ETJ, in essence try to circumvent the application of that law to their entire ETJ. Personally we think that action was void against public policy and void with regard to its application of Chapter 43, because before a City can do a service plan it has to do an inventory of the area, which takes about 9-10 months, then once the inventory is done the law says you can then do a service plan, but you can't do a service plan before you take inventory of all the services in the area. They did no inventory for any of these annexations, however the City, on May 17th, did pass that Resolution attempting to exempt that 21,000 acres. The signatures that you received from the citizens concerned about annexation, those 500 residents all reside within that 21,000 acre territory. So on May 21st, they moved forward and annexed Phase I of this area. Slide 9 shows you, in red hatching, all of the area that they purportedly intend to annex one day, now that they are exempt from the new House Bill by doing this Service Plan Resolution, I want to make you aware of that because a lot of that area is in Aransas County and would affect you. On Slides 10 and 11 there begins the actual service plan that they published for the area Phase II for annexation, these blue water like slides are actually the slides that comprise the City's entire service plan for annexation. As you can see in Slide 12, it is their area of annexation, Phase II, and this is their proposed method of serving that area, this is all that the citizens were given. Slide 13 shows the map of the Phase II area, Slide 14 says, basically, this is a spreadsheet of the cost of water and sewer improvements, now they estimate the cost of providing sewer service to this area at 7.2 million dollars,

roughly 7.3 million dollars and they note here that the Phase I area, which they have already annexed at this point, is going to cost them 6.5 million dollars, just for sewer and water. On Slide 14 it talks about, they are going to bring all of these services in this area, as is required by law, within 2 ½ years and the way they are going to do that is, basically they are admitting on Slide 15 that they don't have any money to do this with, they're just going to go and try to get Grants, but they are going to annex the taxpayers and collect taxes from them during this period of time, knowing that they have no money to serve them, but their plan is just to go try to get the Grants. We don't believe that is a fair, accurate, or honest way to look at serving a community when you annex them. Slide 16 talks about how they are going to maintain the roads, now as you know Aransas County has maintained the roads on this property since they have been there, you are aware of what the cost of road maintenance is, the level of service that these people enjoy currently by paying county taxes and getting that level of road service. The City intends to tax them over 77 cents per 100 and intends to put aside \$20,000 for road maintenance for that entire area for the next five years and it's saying here that this is adequate service. So you can see that, obviously, there are a lot of concerns by the property owners in this area that the services that are supposed to be rendered by the City, how they were derived at, how they came up with them, and whether or not the City can actually provide those services. So, Slide 23, you can see some of our issues with the Service Plan (read the first few) then, concerning the current City Tax Rate at .775196 per 100 of value and its debt service rate according to current budget on 15.7 million dollars' worth of debt is 28 cents per 100, now if you think about that, if they were required to raise the 14 plus

million dollars to provide these services it would bump up their actual debt service rate so that their tax rate would exceed the maximum ceiling of 85 cents and there is no possible way that they could do it, in essence it would bankrupt the City. Their projected income from the area, assuming it's annexed and they get the money from it, every year it's \$140,000 in taxes. The debt service on that debt alone is \$800,000 plus dollars a year, so the plan makes no sense. Fortunately, the Texas Legislature in passing Section 43.0562(b) has this provision in the law, and I quote, it's on page 24 of your presentation. "For purposes of negotiations under Subsection (a)(1) the Commissioners Court of the County in which the area proposed for annexation is located shall select five representatives to negotiate with the municipality for the provision of services to the area after annexation" and referring to the section A that says "After holding hearings as provided for in Section 43.0561 the Municipality and the Property Owners opposed for annexation shall negotiate for the provision of services to the area after annexation or for the provision of services to the area in lieu of annexation, so that is why we are here today. You have received a request on behalf of the property owners and my client Rockport Terminals, requesting the appointment of five competent people to negotiate with the City about these issues. Those five people are here today, they are myself, **David Earl**, and I have over 30 years' experience in Municipal Law, I've been the City Attorney for nine cities and this is what I do. Also here is **David Rae**, who is a transactional mergers and acquisitions attorney who represents Mojave Limited, he has a great background in law and complicated structure transactions. **Jerry Goetz**, another attorney who is a property owner in the area and practices law here in this county,

and **Charles Rourke**, who is a retired school teacher and over time has acquired 228 acres of land adjacent to these tracts and who resides and pays taxes in Aransas County, and then **Matthew White**, who also represents Rockport Terminals. I remind you that we have put a lot of money collectively and Rockport Terminals has put over \$3,000,000 dollars in clean up in this part of the county and we really want it to grow and prosper and do well. There is a huge investment here and we would like to invest more here, but we can't do that if there are inadequate services and no comprehensive plan for the future. So with that, I respectfully request this court and you, Judge, to appoint the five negotiators that have been identified to represent this part of the community to negotiate with the City about these issues, as required by law. I have to tell you that I have had conversations with the City Attorney and her and I have gotten along well in the past and she has asked that the folks that are appointed by this court not be allowed to negotiate on behalf of all the property owners, but rather just the property owners along the water in that Phase 2 map. I can't come to terms with that myself, ethically, and I've talked with Commissioner Chaney, we believe everybody deserves to be represented and be fairly treated, so as one stands or falls, so should all. I have to tell you that's what they want, I've talked to the Mayor, and some of the City folks are here today, I respect their request but after discussing it, we ethically don't think it's the appropriate thing to do. So we are asking that these five people be appointed for the entire area.

Judge Mills: Anybody have any questions for Mr. Earl? No, so the City of Aransas Pass has requested time to speak, come on up. **Gary Edwards, City Manager of Aransas Pass:** Thank you very much for the opportunity to speak before you. I think I heard a few minutes

ago that City by The Sea is going to be annexed, did I hear that correctly? If I heard that, that is incorrect, plus some other areas I heard, I just want to make the record clear on that. We had two public hearings on the issues of Phase II with Mr. Earl on May 17th and May 18th and it's scheduled to be finalized on June 8th or shortly thereafter and what our request comes down to is not exactly what Mr. Earl was saying, I'd like to read exactly what the Mayor is requesting of you. "The City requests that the County clarify whether it's appointed representatives will negotiate on behalf of Highway 35 Business Waterfront only and not Highway 35 Bypass. If the County intends for its appointed representatives to negotiate for both Highway 35 Business Waterfront and Highway 35 Bypass, then the City asks that there be an equitable number of representatives with land interests on both Highway areas. The City's recommendation to represent both Highway areas, and we have two names we are submitting that we would hope that you would consider to be added to part of that five, if the County Commissioners are so inclined." That is what is in this letter which I will leave with you. Thank you.

Judge Mills: Thank you. Alright, put this of record too.

(See Insert)

Judge Mills: Chester Kaczinski, his address is Corpus Christi he owns property at 2208 McCampbell Street and Sheri Hall owns property on 2208 N. McCampbell Street.

Commissioner Chaney: As I understand it, what we are appointing are the negotiators for the area that is in Phase II that is East of McCampbell and East of Highway 35 Bypass, it's that area there, right?

David Earl: The way this is currently written it's all of Phase II on this map, it's on all the property owners who own property as illustrated on Slide 6, yes, Phase II, Slide 6, the blue areas.

Commissioner Chaney: In the negotiations of this, you are now going in good faith to the City and see if you can come up with some equitable solution to an issue that fits both the needs that you are expressing and hopefully includes some of the needs that the City is expressing too, but whenever you get seven, eight, or ten people on a negotiation or board meeting type of thing, it gets kind of to be cumbersome. The gentlemen who have been put forward to us have significant interests, both financially and personally, they are included in Phase II as the petition shows and the letter shows that was read into the record with other members and I think that they can fairly represent that area, so with that I make a Motion to Approve the names as written and read into the record.

Commissioner Laubach: Before we go to a vote, I just have a couple of questions. Is there anybody here other than the Aransas Pass City Manager supporting the two new names?

Commissioner Chaney: The Mayor and one Council Member are here.

Commissioner Laubach: Okay, so basically just the City Management of Aransas Pass, but no citizens who live in the Phase II area?

Commissioner Casterline: Probably, presumably Ms. Hall, but she left the room.

Commissioner Laubach: I don't know that she was.

Commissioner Chaney: I don't know that she was involved, I think it was her sister that was involved.

Commissioner Laubach: She didn't say that she was in support. As I understand it, the Statute requires us to appoint five, we're not allowed to extend to seven, so if we wanted to include either of these two new people we'd have to kick two of the people off that are supported by the many petitioners'.

Commissioner Chaney: Right. That is correct.

Judge Mills: Alright the motion was made do we have a second?

Commissioner Olsen: I second the motion.

ITEMS FOR DELIBERATION AND/OR ACTION

1. Motion was made by Commissioner Chaney and seconded by Commissioner Olsen to approve the request of Earl & Associates, Attorneys At Law, for the Appointment of Negotiators Pursuant to Section 43.0562(b) of the Texas Local Government Code regarding negotiations for the provision of services in the area of the City of Aransas Pass proposed to be annexed.

Question. Motion carried unanimously.

It is so ordered.

2. Motion was made by Commissioner Olsen and seconded by Commissioner Casterline to approve Accounts Payable and Payroll/Payroll Liabilities.

Question. Motion carried unanimously.

It is so ordered.

May 31, 2019

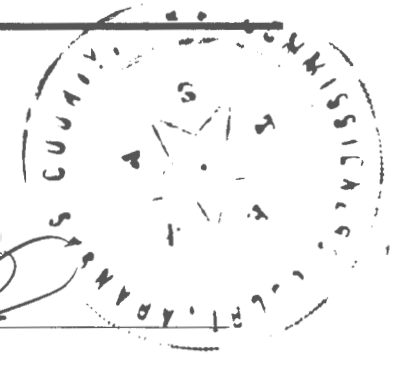
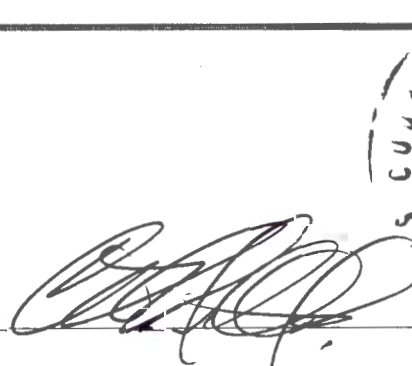
Judge Mills: Okay, this is Commissioner Olsen's last meeting, so it's been a pleasure working with you, we're going to miss you, and we're going to see you again, I'm sure.

Commissioner Olsen: Absolutely!

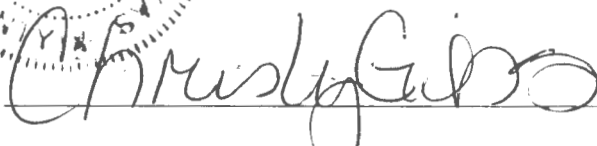
Judge Mills: With that being said, I'm going to give him the pleasure of making the last motion at the last meeting.

Commissioner Olsen: Motion to adjourn.

No further business presenting, the Court adjourned at 10:20 a.m. on a motion made by Commissioner Olsen and seconded by Commissioner Casterline.



C. H. "BURT" MILLS, JR., COUNTY JUDGE



CHRISTY GIBSON, Deputy

EX-OFFICIO CLERK OF THE

COMMISSIONERS' COURT