

MINUTES OF THE

COMMISSIONERS' COURT

SPECIAL MEETING - JULY 6, 2020

On the 6th day of July, 2020, 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; **Charles Smith**, Commissioner, Precinct 3; **Wendy Laubach**, Commissioner, Precinct 4; and **Valerie K. Amason**, County Clerk.

Other County Officers present in person, via ZOOM, and or via YouTube, were **Tracy Orr**, Administrative Assistant to the County Judge; **Jacky Cockerham**, Interim County Auditor; **Michael Geer**, Airport Manager; **Ralena "Misty" Kimbrough**, Collections Specialist;

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

Aransas County Navigation District: **Malcolm Dieckow**, Commissioner, Precinct 3;

Aransas County Citizens: **Mark Wagnon**, Attorney at Law;

The Meeting was convened at **9:00 a.m.** at which time a quorum was declared by Judge Mills, WHEREUPON, the following proceedings were had and done to wit:

CITIZENS TO BE HEARD

There were none.

ITEMS FOR DELIBERATION

1. Discuss, approve, or disapprove Resolution #R-24-2020, a resolution in support of Aransas County Navigation District's (ACND) expansion of Rockport Harbor through its development of a new deep-water marina.

Discussion:

Malcolm Dieckow: Can I just give an overall view of what this is all about?

Judge Mills: Sure.

Malcolm: This is to provide the necessary funding to complete a deep water transient boater marina with 60 slips, boats up to 80' length will be able to dock there. The transient boater marina, we have already received a million and one-half dollars grant but in our engineering, which is complete, the total to build, not only the marina but the onshore facilities came out to just about six to six and one-half million dollars. This would include the marina, the bulk heading, restrooms, power, and water, all the facilities necessary to fully support that marina. Well, what will the marina do for Aransas County? I think the Judge was at a meeting a couple of years ago when the Poco Bueno Tournament wanted to know if we would like to have them down here and of course at that time we did not have a marina to support such a fishing tournament. In working with them however, we have designed this marina specifically so that their tournament or any other fishing tournaments like it would have all of the facilities, enough room for the size of the vessel, everything that they would need to hold these deep water tournaments. Now, how much money will that bring into the county? We can make estimates, these people that own 40-80 feet yachts are people of means and we

would expect them to come and spend a lot of money. They may want to get off of their ships and stay at our hotels, but I would think that over a period of time hundreds of thousands, if not millions of dollars, would be brought into the county by these wealthy people visiting Aransas County and we don't get them right now. What else does that do? Well as you know, we have five and one-half acres that belongs to the District, not counting with the Bass property, that we are going to develop. Our first choice is to develop this property after the building of the marina, which is a requirement of everyone who has spoken to us, if we are going to get maximum coverage, maximum costs for our property. I've had two developers show me their plans and each plan contains a seventy five to one hundred room boutique hotel of the scale and type which will appeal to those people who own those yachts with associated restaurant, ship store, and various types of retail outlets, all on that acreage. It's become also obvious the Bass family is in no hurry to develop their property and I've been told by them "Hey, you guys develop yours and we will jump on board", I believe that is their statement and I can understand why they are saying that. So it is my opinion that if we actually begin, we build the marina, we do the RFP, we bring in the developer and he begins what he's going to do, then the Bass family will also begin to develop their portion of the property. Well once again, good question, what is that going to mean to Aransas County? Well of course all of that, retail outlets and all of that will be taxable so the tax base will broaden, which I think everyone here in Aransas County and in the City needs. The estimates that I got was there will be permanent jobs to man the restaurant, the hotel, and the outlets, and this is of course an estimation between 150 and 200 people

of which approximately 25% would be management positions. And if there's one thing I believe we need here in Aransas County, because of Harvey and other things, is more jobs for the folks. So, how much money will that bring in? Once again, it's an estimate, I'm going to let you realize that when we create that many more jobs, that type of fishing tournament that's coming into the County, it's going to bring in a lot of economic development and a lot of money. If we were to get the five million, that's what we are going to apply for, we would have enough money to begin the project. Now, another thing, the project is fully engineered, we have all of the permits, we've already done all of the dredging necessary down to at least 10 feet to enable these boats to get in and out, all of the engineering is basically complete. So, how long would it take for the District to let out the RFP, begin the actual construction of the marina which we don't need an RFP for, and develop the restrooms, washrooms, and the support facilities? A matter of months because it's done, we are just waiting for that money to do it. So I believe a grant would be a real benefit to the citizens of Aransas County. We put in for it last year, we did not make the final cut, who can predict the future? I just say that we brought in Gilbert Salinas, a friend of Mr. Mario Martinez, who as a, well he's written many successful EDA grants, and we are in conference with him on how to best shape ours to give it the maximum potential of success. Ok, any questions?

Commissioner Smith: You mention the million and a half dollars that you said you've already received?

Malcolm: Yes.

Commissioner Smith: You received it from whom?

Malcolm: It's the boating grant from, I guess it's from the Texas Parks & Wildlife, that's a national grant that we received, right before Harvey put everything to a stop. That combined with the five, the six and one-half is plenty of money for us to build the bulkheads and all of the things necessary.

Commissioner Smith: Have you already spent the million and a half?

Malcolm: No, the million and one-half is still available to us.

Commissioner Smith: So you haven't actually received it yet, but you say it's available?

Malcolm: It's committed, it's not in our bank but it's committed, it's a done deal for that million and one-half. In fact they are bugging us about when we are going to spend it, so we need to spend that money.

Commissioner Smith: On our money they put a time limit on it.

Malcolm: They did, we got an extension because of Harvey.

Commissioner Smith: This Resolution in front of us says it's already dredged to a depth of 60' and you were mentioning 10'?

Malcolm: Oh no, not 60', it's actually 10' as a minimum and that is plenty deep to allow those size of boats to get in and out of the marina.

Commissioner Smith: All of these new facilities that you're talking about, that will be built on Navigation District property, you're talking about the Navigation District, right?

Malcolm: Right.

Commissioner Smith: That's patented property?

Malcolm: Yes.

Commissioner Smith: All right, so you can't really sell it?

Malcolm: No, everything will be on a lease.

Commissioner Smith: So only the improvements would be taxable to the Navigation District for whom? Do you mean leasing those properties?

Malcolm: Yes, we would be leasing them, that's my understanding, of course the property is not taxable but anything built on Navigation property is taxable, so just the buildings themselves would be taxable.

Commissioner Smith: So your thought process is that these people who want to develop it would build a facility subject to a long term lease?

Malcolm: Correct.

Commissioner Smith: So they would maintain the property?

Malcolm: Yes.

Commissioner Smith: Ok, what about the marina itself, who would be maintaining it.

Malcolm: We would.

Commissioner Smith: Ok, you mentioned one Coco Bueno Tournament, so that's the only one that you've had somewhat an interest from?

Malcolm: We have had interests from some other tournaments, the only one that I've been involved with was the Poco Bueno Tournament.

Commissioner Smith: So if you built this facility and all of these facilities around it, you're really only assured that one tournament and maybe not even that one at this point?

Malcolm: I guess there's nothing that you would say is in writing that would assure us of additional tournaments but we feel very confident that due to the type of marina that we are building with size of the slips, which is the size necessary for deep water tournaments, Gulf type tournaments, all type tournaments, all interested people have said that these tournaments would come. One thing for sure, if we don't build it they won't come and we would be missing out on the potential.

Commissioner Casterline: What would you do with it the rest of the time?

Malcolm: Well, it will be a transient boating marina. It will be designed for large vessels. We get requests all of the time at the Navigation District, "Can I bring my 50' or 60' boat in for a couple of weeks?", you know they are going up and down the coast. Sometimes we can accommodate them but our marina is really not built for that size boat. So, would it be full all of the time? Perhaps not, but again if there is any income, it would be to the District because we would not be able to rent out those slips.

Commissioner Casterline: The foundation that runs the Poco Bueno, is it still in existence?

Malcolm: Still in existence, yes, but have they been having tournaments lately, the last two years? I believe they have not because they have no place that they are satisfied with.

Commissioner Casterline: Well I believe that you get them because I was at the meeting with them when they talked about coming down here and it doesn't sound like there is any facility around because to have that many boats come at one time. Of course the concern that I would have is, are you really going to utilize it fully the rest of the time. The places where they have those tournaments they basically have to move everybody out when they are coming. And where they use to have it up there is developed subdivision property and as it got developed the people didn't want them to use it anymore.

Malcolm: Now, if you understand, smaller vessels that are transient we can bring in, I mean this is floating docks it's going to be adjustable. So if someone comes in with a 30' or 20' boat and they want to be here for a couple of weeks then we can put them over there. So it's not always going to be full with just the yachts, but being a transient boater we will not lease any of our slips out when there is a tournament coming. So, that problem you mentioned won't exist.

Commissioner Casterline: Did you say that the grant that you you're going after right now is only going to do the docks, the bulkhead, the restroom facilities? It's not going to do anything towards stores, or hotels, or anything like that?

Malcolm: The grant that we have right now would allow us to begin the work on the onshore facilities, but before we do that kind of work we certainly need to know that we have enough funding to do the marina. Because if we build those buildings without a marina,

although anyone can use the restroom at any time, but yet....

Commissioner Smith: That's not necessarily true in our case here because your current restrooms have been closed for a while.

Malcolm: Yeah, but you know, what guarantees can I get? Except for the fact that we are ready to build, we are looking for money, who isn't? We feel that not only will we get a developer as soon as we put up the RFP and we have not because of COVID 19, that everything built on ACND property will be to support the marina in this sense, that it will be up to the standard that people who have these large yachts will demand.

Commissioner Casterline: Will the marina area be open to the public?

Malcolm: Well, I, I, well, open to an extent. Because, although I didn't mention it, along with the boardwalk, I mean, along with the bulkhead is the boardwalk. That boardwalk will be open from Market Street all the way down to our Rockport Harbor, so there will be public access all the way up and down that.

Commissioner Casterline: The Bass's are going to let you put a boardwalk?

Malcolm: Part of the contract, the agreement we made with them.

Commissioner Smith: That was accomplished during the last contract?

Malcolm: That's correct.

Commissioner Smith: The current harbors that you have, the Rockport Harbor and the Fulton Harbor, are they full right now?

Malcolm: No.

Commissioner Smith: What is your occupancy rate alone?

Malcolm: That would be a guess, I really don't know?

Commissioner Smith: How many slips do you have, maybe I can help you with the number of empty ones that you have?

Malcolm: Yeah, so no, I could venture a guess, but it would be wrong. Why is it empty? Well, it's not empty, we have a lot of the Edsels, but obviously Harvey has still had some effect. Before Harvey, basically we were turning boats away. We anticipate, if we ever get over Harvey, that we again will be turning boats away. I think if we build they are going to come, but those two harbors will not accommodate what we are building here, this will be unique, one of a kind for this area here. And there will be no competition between Rockport Harbor and...

Judge Mills: Will this marina be strictly for transient boats or what happens if a bunch of rich folks decide to move their boats from other marinas to this one and it fills up? Then what are you going to do?

Malcolm: As I remember the requirement is for at least 70% of the slips be made and kept for transient. That does leave a few slips, 30% for people who would like to stay longer and I'm trying to remember what is considered transient, it's not a day, it's not a week, it's a matter of weeks. So anyone who wants to stay a month with the realization that there is a tournament coming that they've got to go, they can stay.

Commissioner Chaney: I've got a couple of questions on the million two fifty, this says in cash so this is not an in-kind, ya'll are not doing any in-kind?

Malcolm: No.

Commissioner Chaney: Match, ok, where are you going to get the million two fifty for your portion of the five million dollars?

Malcolm: We have it.

Commissioner Chaney: Is that money from the previous grant?

Malcolm: No, we won't use that, we have the, uh, we have some.

Commissioner Chaney: Oh, ok, so you're saying you have some in reserve?

Commissioner Smith: Is that money available to build new projects with or is that your maintenance fund?

Malcolm: No, we have a, a, a, money available to meet all of the PA requirements that we have out right now. But why spend tax payer money on a project when we can get a grant for it.

Commissioner Smith: If you get a grant for five million though, a million two fifty is the matching funds.

Malcolm: Yes, we have the funds necessary for that match.

Commissioner Smith: Where are those funds coming from?

Malcolm: Our reserves.

Commissioner Smith: Your maintenance reserves?

Malcolm: Yes.

Commissioner Smith: You know that is contrary to the water code? This is a brand new asset that you are trying to build. I would think that probably the project has a fairly decent chance of adding to the community, but the water code requires that you are not in a self-liquidating situation, you can't use maintenance funds to build new assets. You have to go to the public and float a bond issue. I don't have a problem with putting out the votes to the people.

Malcolm: Well, do you really think at this time that the public is going to uh, we felt that a bond issue would have no chance of passing.

Commissioner Smith: But yet, you want to build something that the voter's don't want, is that what you are saying?

Malcolm: I'm not saying that the voters wouldn't want it, I'm saying that the voters won't fund it. I think there is a big difference between those two things. You know, as a voter, if I was asked to fund something which I felt was above my station, I really wouldn't feel too happy about going out and voting for it either.

Commissioner Laubach: Malcolm, if your legal counsel ends up advising you that you can't use your maintenance reserves to meet the matching funds, have you got other ideas in mind for where you might raise that money?

Malcolm: Well, of course, there's always the borrowing it, we have a AA Rating, we could go out and borrow the whole thing, but why would we do that when there is funds available from the Federal Government?

Commissioner Laubach: We are just talking about the matching funds.

Malcolm: Yes, yes, yes, there is a lot of difference about borrowing five million dollars and borrowing 1.5 or 1.25 million.

Commissioner Laubach: But if you had to borrow to meet the matching fund requirement, you feel that you have the capacity to do that, it's not a problem?

Malcolm: Absolutely.

Commissioner Smith: Malcolm, in the past I've been to a couple of Navigation meetings where your Harbor Master has made the comments that, "we've got a lot of projects on bulkhead repair that needs to be done", do you really think that right now is a good time to be borrowing funds to build a new asset when you've got all of these deferred maintenance titles that you're looking at?

Malcolm: Yes, I do, we've got to have a vision. We've got to look forward to the future. We can't be stuck in the past. We have the funds, the 10% necessary from insurance, or funds from the PA grant. We are, quite frankly, hoping and expecting that the state is going to pick up a portion of that 10%, but if they don't we have the money for it. You know, we've been pretty careful, about things, we've been very fortunate to be able to do work before we got the insurance funding to do it, or the monies from FEMA to do it, because we had the reserves necessary to do it. And we will maintain a certain level of reserves. That's the way we operate, the way I operate, and we're not going to extend ourselves to some degree where we are going to be short on

anything. I would not support that, even more than I would not support a tax increase, so if we do not have the capability to do it then we will not do it. However, based upon what I've been told and based upon what I see in our budget, funding is available, it's a fine project, and it will bring a good amount of economic development into Aransas County. And I think we would all agree that we need jobs here in Aransas County, we need economic development.

Commissioner Chaney: Malcolm, I've got just a technical question here on our Resolution #R-24-2020, the 60', it says "Aransas Bay is already dredged to a depth of 60' and protected by 870' of rock breakwater. Is the 60' the Channel?

Malcolm: It may be, but I can tell you that we could not dredge the whole harbor to 60'.

Commissioner Chaney: I just wonder if that's wrong, I mean.

Judge Mills: I think it's wrong.

Malcolm: It is, and the 6' is wrong too because we've dredged down to 10'.

Commissioner Casterline: I've watched them dig some of it and plus the rock? it's deeper than 6'.

Malcolm: And that's what I forgot to mention, we have funded a breakwater, we have funded the dredging, we have funded the engineering, so we have skin in the game, so to speak. We're going to build the darn thing someday but I'm not going to go up and ask the taxpayers to fund it. If we can't get a grant at this time, well, I guess we'll just wait and someday maybe we will be able to procure the necessary funding. But I don't know why we should put

off trying, and seeing if we can get this thing built, and seeing if we can get this started.

Commissioner Chaney: Getting back to my question, what does that figure need to be? Because obviously 60' is not correct.

Malcolm: No, it's 10', the way I've been told, it's a depth of 10'.

Commissioner Chaney: Ok, so if we pass this Resolution, that has to be amended?

Malcolm: Yeah, that would have to be changed.

Commissioner Chaney: The 870' is correct?

Malcolm: Yes.

Commissioner Smith: Malcolm, is there any, have you started working on your budget for this coming year?

Malcolm: Uh, not yet, however we have, next month we are going to start looking at the budget.

Commissioner Smith: Every year you've adopted the minimum tax and raised the same amount of money. That amount of money is one million and a half coming from tax payers every year. That is maintained in the District, right?

Malcolm: Yes.

Commissioner Smith: And that is a maintenance tax. That is a maintenance tax that this Commission has to approve every year in order for you to levy.

Malcolm: Ok.

Commissioner Smith: So why would we use maintenance tax money to build a new asset? I've already told you what the law is.

Malcolm: Well, I'll tell you Charlie, excuse me, Mr. Commissioner, if it is that we need to borrow a million and a half, if it's not legal, and our legal counsel tells us "you can't use this money", which he has not said, but if he did, then we would go out and get the money from another source. Maybe another grant, who knows, but we will get the money to do the job and we will not use money that is not legal for us to use.

Commissioner Casterline: I thought I heard somebody say that the grant that the Economic Development Group is applying for is a competitive grant for this. Is that right? Does anybody know?

Mark Wagnon: Commissioner, I don't know, I was told that there was room to have two EDA grants, one for the Navigation District and one for the TEAM Project, but I heard Commissioner Smith indicate otherwise earlier, so I'm not sure.

Commissioner Smith: It was my understanding that these were limited to one per area.

Judge Mills: That would be a question that I have because of that same question that Charlie has come up with. The EDC is asking us to apply for this grant for them, and I've been told that getting the Resolution from us is important for you, but just in case we did do this, and I'm just saying, would the Navigation District be interested in doing a Resolution in support of ours?

Malcolm: Well, absolutely. Now are they competitive? They may be, that's going to be up to the EDA to decide. I've had some evaluation, but our grant writer has also asked me the same question. He is actually going to speak to the EDA, powers to be here in Texas, Mr. Ayala, and his assistant to see if they would consider them competitive, if it's possible to get two such large grants in the same small county. I don't have the answer to that question yet, but certainly it is not my intention to not support the other EDA grant because it too has value. I don't question it.

Commissioner Smith: Wasn't this particular project been submitted before?

Malcolm: Yes, it was submitted and we did not make the final cut. That was the grant that the Center for the Arts received, and I'm not going to comment on the Center for the Arts receiving that grant. They got it and I hope it works out good for them. I hope it works out good for all of us.

Commissioner Chaney: We haven't seen a Resolution from the EDA yet, as to what they are applying for. Judge, is that something that we would see before they apply for it? Because the EDA would need a Resolution from the Court to support that, right?

John Strothman: I'm sure it's in the works.

Commissioner Chaney: Is that right, Judge?

Judge Mills: You might ask the chairman over there.

Mark Wagnon: My understanding is the County will be a Co-Applicant on the grant, along with the EDC. There would be a meeting where the Commissioners would hear the entirety of the

presentation, what would go into the grant from the Special Committee that the EDC has formed, to gather all of the information necessary for the County to file the application.

Commissioner Chaney: What is the time-line?

Mark: I think the date I heard is, ya'll have a meeting on about July 22nd, that's the meeting I believe it's set for all of that presentation to occur.

Malcolm: And I think the actual submittal was the end of July, I don't know the exact date.

Judge Mills: I thought you told me the 10th.

Malcolm: No, I'm talking about this grant, the workforce grant.

Commissioner Casterline: So it's a different grant?

Malcolm: Yes, ours is the 10th, he's speaking about the other, possibly competitive TEAM Project grant.

Commissioner Chaney: So this is not the same grant that ya'll are going after?

Malcolm: Two separate grants.

Commissioner Smith: These are competitive grants, I would imagine.

Commissioner Chaney: I'm really lost here and I apologize for that, but Charlie, whenever you say they are competitive grants?

Commissioner Smith: Well they only have so much funding, and they value each one of these or they rate each one of these projects as to what they will do for the community. I would assume that they've got their criteria for the Navigation

District, but when they run out of those funds there is no more.

Commissioner Chaney: Ok, so if they apply for it that depletes what is in the pot by the five million dollars.

Commissioner Casterline: Right.

Commissioner Smith: So what we are looking at here is if we are not on the hook, or if we are supporting the project and then we turn around and support another project, we're sort of working against ourselves to a certain extent there. I don't think either one of the projects is bad but it does compete against Aransas County as a whole.

Commissioner Chaney: Then the second project is harder to get, yeah.

Commissioner Laubach: But as a community we can each be supporting each other's projects and let the chips fall where they may with the EDA.

John: The EDA will have to make the final decision, that is correct.

Commissioner Chaney: Well we haven't seen anything from the EDC, and I'm sure that we will, but we haven't seen anything that makes us think that we would support that or not support it. I understand the common pot but what it looks to me like what you are asking for is an opportunity to go in and get some money out of some funds that are available. So we would be choosing between the EDA and the Navigation District.

Commissioner Laubach: Or we could support both.

Commissioner Chaney: Well I would assume that we would support both.

Malcolm: I would assume that. Any other questions?

Commissioner Chaney: Well I think you've answered my questions. We need to make the change in the first "Whereas" to the proper footage. But you know, I think that if we are ever going to grow we've got to step out and the EDC is very valuable to us, but this is on the table before us now.

Commissioner Casterline: The thing that I see is, they will get the tournaments, but I think the thing that everybody, that we've all talked about, is the way that they will diversify the economy and try to bring something other than the tourism and that's where this will fall short. It's the same type of thing, if we had another storm and that's going to cut off tourism, it's going to affect this just as bad.

Commissioner Laubach: But along the waterfront we pretty much need something and we are not putting factories out in the water.

Commissioner Chaney: I think even though this is tourist oriented, I don't think we can just get away from that, I think we need to add to it, that's still our base. So I will go ahead and make the motion to support Resolution #R-24-2020 with the change in the first "Whereas" to the proper depth of the channel.

1. Motion was made by Commissioner Chaney and seconded by Commissioner Laubach to approve Resolution #R-24-2020, a resolution in support of Aransas County Navigation District's (ACND) expansion of Rockport Harbor through its development of

a new deep-water marina with a change in the first "Whereas" as to the proper depth of the Channel.

Question. **Motion carried with Commissioner Smith voting against the motion.**

It is so ordered.

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

Question. Motion carried unanimously.

It is so ordered.

3. Motion was made by Judge Mills and seconded by Commissioner Casterline to approve Budget Line Item Transfers **of which there were NONE.**

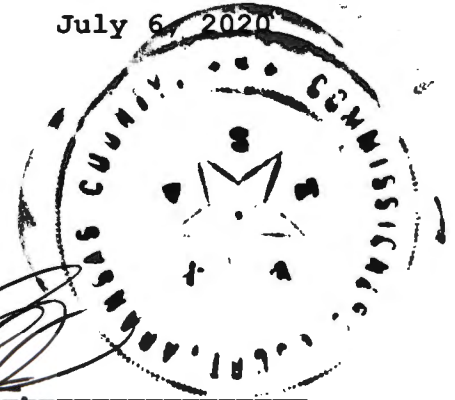
Question. Motion carried unanimously.

It is so ordered.

(Inserts)

No further business presenting, the Court adjourned at 9:35 a.m. on a motion made by Commissioner Casterline and seconded by Commissioner Chaney.

July 6, 2020



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



VALERIE K. AMASON,

EX-OFFICIO CLERK OF THE

COMMISSIONERS' COURT