

# MINUTES

## Aransas County Commissioners Court



4:00 PM – Wednesday, January 31, 2024

The Aransas County Commissioners Court met on Wednesday, January 31, 2024, at 4:00 PM, in the Aransas County Courthouse, 2840 Hwy 35 N, Rockport, Texas. Aransas County Commissioner's Court meeting video recordings are available by following this link: [Commissioners Court Minutes and Agendas \(aransascourttx.gov\)](https://aransascourttx.gov), then scroll to the bottom of the page and select the date you wish to view.

Present: **Ray A. Garza**, County Judge  
**Jack Chaney**, Commissioner Precinct 1-1A – absent from the meeting  
**Leslie Casterline**, Commissioner, Precinct 2  
**Pat Rousseau**, Commissioner, Precinct 3  
**Robert Dupnik**, Commissioner, Precinct 4-4A

### I. CALL TO ORDER

### II. ROLL CALL

### III. DECLARE QUORUM

### IV. ITEMS FOR DELIBERATION AND/OR ACTION

#### 1. Update the Commissioners on the progress of the new Courthouse – Judge Garza

Mark Williams – We have been promised a construction schedule from the contractors, once we receive it we will review the critical path. That is clarification about what items have to be installed before others can be, this will help determine the time that Teal is due because of change orders, RFIs and those types of things. This should happen within the next week.

Judge Garza – When can you get them the file?

Teal – It was provided today, it was sent this morning.

Judge Garza – I got a letter from you, Mark Williams, about the fire suppression system, in the clerk's offices. I've been informed by the County Clerk that she is going to respond but she needs to think about the words, but she will formally respond.

Misty Kimbrough - By Monday.

Mark Williams – Do we want to discuss this at all?

Misty Kimbrough – I am the custodian of these records that is probably 90% of what I do. I am looking for any alternative to having water above these records that we are paying \$3.5 million dollars to restore image and index. My point is we can't continue to do this. We can't keep rescuing our documents from water. We can't afford it. So why wouldn't we go with another alternative, if we can. I have not been given the costs of one to the other. I would like more information before we finalize that decision. I'm the custodian of the records.

Mark Williams – Didn't we do a preliminary estimate on what it was going to cost you to dry type system in that area.

Teal - Yes, but it's been a while, we discussed in our meetings.

Misty Kimbrough – It never got to us and I'm the custodian.

Pam Heard – It never got to me and I'm the custodian of the District Clerk records. I wanted to address 1 of the items in the letter. There was never any language provided to the architects that said fire suppression system. What was provided is what the code is. If

there's if something other than a dry fire system that meets all of those requirements, I'm all for it. If there's something cheaper that's fine. My concern is that we have to do it right, the law changed in 2013. I don't know how many systems ya'll have done since 2013? I've talked to one in Houston and they went with the dry fire system. It's what the Texas State Library recommended and I am completely open to talk to anybody about it. My point is if there's something other than a dry fire system that meets all of those requirements, I'm all for it.

Mark Williams – We did look at the code very carefully before we wrote that letter.

Commissioner Casterline – Are you sure this is the same code she is looking at?

Mark Williams – Yes, absolutely. I received an email from Elle that had the codes that she sent to Elle for me to review. We have reviewed those and we've also talked to Mike Monreal who's with our company. We are going to contact the code district and have them write us an interpretation of exactly what that code says. When it talks about water, what it's talking about is natural causes. Rain and wind driven rain, or flood.

Pam Heard – No sir. Steam is steam it doesn't matter what it came from.

Mark Williams – We don't have steam.

Misty Kimbrough – Steam is in there. Steam is in that code, Bulletin

Mark Williams – I know it's in the code

Commissioner Casterline – Where is it in the courthouse is what he is saying.

Pam Heard – The water pipes, if the water pipes break or if they go off, how are we protecting the records from steam?

Commissioner Casterline – Steam is hot water.

Mark Williams – Yes, there's no steam.

Pam Heard – I assure you the old courthouse when the AC went down there was steam.

Collin Jackson – They are talking if a fire breaks out, those pipes burst that water is going to hit and it will boil and there will be steam at that point.

Mark Williams – What we are going to look for is an interpretation from the code department.

Pam Heard – I'm sorry, I don't mean to interrupt but who's the "code department"?

Mark Williams – It would be the, I don't have it here in front of me.

Pam Heard – The Texas State Library in the administrative code.

Mark Williams – It's in F of

Pam Heard – That's the Library

Mark Williams – If you read that code it states specifically, offers protection from fire, water, steam, and then it goes down further and says, are to be naturally occurring

Misty Kimbrough – But that's in a different code. It is not speaking directly about the storage.

Mark Williams – I think probably what we need to do is get an interpretation and once we receive that official interpretation we can confirm what we need.

Pam Heard – Again who are we getting the official interpretation from? This is my office and this is my decision. If we needed to talk about this a long time ago, we had the opportunity. I have sent email after email, we haven't had a meeting on this so, I don't know why we are here at this point.

Judge Garza – We can make the changes Madam District Clerk, I just want the Commissioners know that it is going to cost money.

Commissioner Casterline – I would think that's to do something other than what the law actually says.

Pam Heard – Once again, I read codes every day that is my job for 24 years to comply with



the law. I don't need somebody else to tell me what it says. It is clear.

Commissioner Casterline – It must be different than what this is, I tend to agree with them.

Pam Heard – This is not the code.

Misty Kimbrough – That is not 71.64. The 3<sup>rd</sup> word in that code is “shall”, shall is the same is must.

Pam Heard – The local government code does not apply to me. It applies to County Clerk. The historical permanent records area complete separate entity from any other records, completely.

Mark Williams – I defer to you Judge.

Judge Garza – Let's look further into it and get some estimates ASAP.

Mark Williams – Yes, I think that's probably in order, we'll work on that. We will defer to the county to make a decision on that.

Misty Kimbrough – I would like numbers.

Commissioner Casterline – I think we need to get the codes first, there's no use listening to

Pam Heard – Jennifer O'Steen is who I asked and she wrote this although it's not an official opinion but she did designate all of these different things. I'd be happy to share this, I thought it was already shared. It does not state that it has to be a dry system but it includes no water, steam or no pipes other than sprinkler pipes should pass through the records storage areas. Those pipes would need to be set with a bulb so high that they would never go off, that's what the Texas State Library recommended.

Mark Williams – Larry Irsik can speak to several courthouses that he's done sprinkling systems for. Larry if you would share your thoughts on that>

Larry Irsik Park of Texas – We've done over 30 courthouses, mostly restoration, but some new spaces, city halls. I guess typically always have a wet system. I don't know of a requirement for a dry system in a records space.

Amanda Oster – You do realize that restoration of old courthouses don't have the same requirements as new courthouses.

Larry Irsik – I thought they had the same records storage requirements.

Pam Heard – No. In 2013 the law changed.

Larry Irsik – For only new buildings?

Pam Heard – Yes. New construction SHALL be these conditions.

Amanda Oster – That's what we've been trying to get across since this started. Is that there are differences and we have to comply with the new codes and requirements.

Judge Garza – Commissioners we're going to pay for that. Let's move on.

Commissioner Rousseau – I'm not sure we have come to a decision today.

Judge Garza – We are not going to make a decision today.

Commissioner Rousseau – Whatever is going to happen is going to cost some money.

Judge Garza – Yes ma'am.

Mark Williams – I would like to go ahead and pursue an opinion from the drafter of those codes.

Pam Heard – I can get you the bill.

Mark Williams – We will source out the drafter

Pam Heard – It was the legislature they passed it and the governor signed it.

Mark Williams – Right so,

Amanda Oster – We'll ask the governor it's fine. I'm sure he'll tell us.

Mark Williams – We'll work to get clarification on this.

Pam Heard – Please include me.

Misty Kimbrough – And me. That's part of our frustration is not being included on decisions.

Judge Garza – What is our next item, Elle?

Elle Moralez – The list I have is concerns from every office.

- Elevator Status
- Attic Installation
- No change orders coming, right now, but some will be coming up from our meeting this morning.
  - JP1 & 2 having separate doors that need to be done before we start business, there needs to be with power and data for printers, this will be a change order with a cost to the county
  - Exterior signage to illuminate it similar to City Hall, this was taken out and now it's getting put back in

Mark Williams – We drafted a change order several months back that took the illumination of the sign out of the contract. We were given some money for it. Now we are going to put it back in the contract, but in a different manner because there is a large concrete beam that obstructs access to the sign that prohibits getting power to the sign.

Commissioner Rousseau – Is that why there was a complaint from the Neighbors?

Mark Williams – No, that was the soffit lights.

Commissioner Dupnik – That was access to put wiring or power to the sign, that's a change order we had previously, right?

Mark Williams – We deducted that out of the contract so we are going to add it back in. But, what you are talking about Ms. Rousseau was that we had a complaint that the soffit lights were too bright, so we went to the contractor who went to the electrical subcontractor and we had the architect review their plans along with their electrical consultant and come together and looks like we are going to get those dimmed. I think what we agreed on was to come up at night to set most of buildings at a desired level so they match. Then leave the settings that way even though will become dimmable if needed, or raise the light.

Mark Williams – The list that Elle's got we are going to go through that list of topics and we are going to divide out wants and needs and try to assign responsibility for that. If the design team is responsible we are going to let you know that. If it's something that's not in the plans and specs that the County is going to have to pay for we will notify you of that. We will try to have prices with those items so we have a handle on this. We are going to separate some of the other items on the list into a pre-punch list. That's our plan.

Elle Moralez - I do think it's important that everybody understands that once we accept this building, Teal has a 1 year warranty. So if we do anything to that building we void that warranty.

Mark Williams – Not the whole warranty but a portion of it.

Elle Moralez – So if you want to make changes you are going to have to wait a year, to not void the warranty on the wall you change/work on. So some things need to be done for the county to function and there are things that people want because of convenience, I would say.

Mark Williams – I'll just help clarify that. Some items become clearer after it's built. When looking at a floor plan and know if the outlets are exactly where the desks are going, during the first go around you probably didn't think about those things. There's no fault, it's just part of business. It's normal and most contract jobs



have things that get added on at the end of the project.

Pam Heard - And a cost to the county.

Mark Williams - Yes, unless it's in the contract.

- Amanda Oster - What's the update on the holding cells?

Mark Williams - Today we contacted the architect and asked them to release a change directive to authorize the contractor to go ahead and order the doors and the frames ahead of the work scope to hopefully beat that schedule. Then we will wrestle with the other items as we go through the project.

Amanda Oster - We can't move into the courthouse until that is completed. We can't use the courtrooms without that.

Mark Williams - Yes.

- Elle Morales - The 3 elevators. The first will be here mid-February. There is one group to install and it will take about 20 days to do each elevator. So it will take at least 2 months to install the elevators before we can start the work to be done around the elevators.

Mark Williams - The hope is that all the other work going on like, painting, flooring, the tile work, the ceiling tile, the wiring, plumbing, and the fixtures, all is being done in the interim.

Commissioner Rousseau - Isn't there some work that's going to be postponed until after the elevators have come in, moved through the lobby and been installed, because the things can't be finished until the elevators are completed?

Mark Williams - Right. We are talking about a section of flooring.

Commissioner Rousseau - It won't be turnkey ready when the last elevator is installed.

Mark Williams - The flooring will go in very quickly, it's a glue down L.V.T.

Commissioner Rousseau - I want to have realistic view.

Judge Garza - The storefront glass won't go in until the elevators are all delivered and installed.

Mark Williams - The storefront is on site, we are waiting to install it. We do want to take that out of the water testing so we can get that done. If there is a leak that we detect it may be because of system installation. We haven't talked about this Elle but, Mike Monreal and I talked about it. What we'd like to do is try to get water testing done so we can find out if we've got problems. If windows have to come out and modify installation we can jump that hurdle instead of waiting to the last minute. The elevator is holding that entrance door up. I know the county wants that one tested I believe, that's what was said in the meeting.

Jacky Cockerham - Indistinguishable ended with "to do after they can't do." Well they can't get a lot of their stuff done until the elevators are in.

Elle Morales - Collin and I talked about that yesterday. Once we do get possession of the building, Collin needs approximately 2 weeks to install all of the I.T. equipment and set up. So when we transition the offices over it's ready to plug in the computers and ready to go.

Larry Irsik - You mentioned 20 days to get an elevator installed, just to make sure everybody is on the same page. That's 20 working days, and they work 4/10s so that's 5 weeks, not 2.5 weeks.

Judge Garza - Elle is there anything else you want the Commissioner to know.

Elle Morales - I don't think so. Once Mark & I have a chance to go through this list we will be able to provide it weekly in these meetings. And see the reasoning's of what is more important than other things. Elevators are the most important, things that are going to make the whole Courthouse function for everybody are the things we need to focus on.

The individual office needs are going to be coming like secondary as far as cosmetic things.

Misty Kimbrough – Can I ask if that second counter that is in the way of the real counter, is that considered cosmetic?

Elle Morales – I would say yes.

Pam Heard – Oh, no. It's got to go. It doesn't look like it would be that hard, it's just put in underneath the counter. It keeps us from being able to wait on people. You literally can't reach it. We just need that taken out.

Mark Williams – Where would you put your computer work station?

Pam Heard – At our desks, we don't put them up there. When we wait on the public it is very person to person.

Mark Williams – Elle, I didn't know that, I thought they needed the counter. They don't need data and power.

Collin Jackson – The data is there for credit card terminals.

Mark Williams – But that's on the other side of the wall.

Collin Jackson – It needs to be on this side, I can't have the plugs exposed.

Elle Morales – Where does the machine go?

Collin Jackson – The machine is going to sit on the window.

Misty Kimbrough – The data is on the right side for mine, but that counter is in the way of it.

Pam Heard – The window that was supposed to be in the wall, at one point I think they thought they would do retro after we take the keys. But if what you are saying is we have to wait, that's not going to work. We have to be able to see the counter from that part of the office.

Mark Williams – That is a ballistic wall so if we put a window in it'll be a ballistic grade three window.

Pam Heard – You can just take it out, just cut a hole there I don't need anything there. I don't need glass or anything there, if it were up to me that would all be counter. For the functionality of the office we have to be able to see through that to see the counter. Half of the office is on that side.

Amada Oster – Before you leave just walk into her office and you can see how they function.

Mark Williams – I'll just need to pass that information to the architects, I'm just the messenger here.

Judge Garza – Does anybody else have anything?

Commissioner Rousseau – Are we meeting next Thursday?

Judge Garza – I believe so. If we need any change orders we need to hurry up, like the doors for the jail holding cells.

Mark Williams – Once we get the change directive that will go ahead and release the contractor to order them, even without money. The change directive is the official document that lets the contractor know that he's going to get paid for what he is told to do.

Commissioner Casterline – What's the hopeful delivery time on the cell doors?

Larry Irsik – Right now its 16 weeks.

Mark Williams – We're hoping to get a better delivery date.

Judge Garza – What is our move in date right now?

Teal – I don't think without the change orders we could tell you that.

Amanda Oster – I have at least 5 more years in office so.

Judge Garza – I need a finish date because I’ve got to call the landlord of this building and let them know.

Commissioner Casterline – This question is for the County Attorney. The offices that were not putting the safety glass in, do we have a liability issue because of that? Because we planned to put it in and we decided not to have it.

Amanda Oster – We don’t have safety glass in any of those offices.

Commissioner Casterline – What I’m saying is we planned it, so does everybody that works in that office from then on, say well, you planned it you must have thought we needed it.

Pam Heard – We never knew it was going to be there. I had no idea they were doing that.

Commissioner Casterline – Well, it’s not as much for you as everybody that works for you from now on to me.

Pam Heard – But, that’s what they have to do, whether I’m there or not. Whoever is in the office, they are “1 on 1” with people all the time.

Commissioner Casterline – I’m just asking when, if that person comes and pulls his gun out and fires a couple of round across.

Pam Heard – Well, you could ask anybody in my office and they would all tell you it’s impossible to work through glass. We would have to literally open the door and go out into the lobby to help people.

Misty Kimbrough – I can speak to that in my office. By law any person who requests, any person who want to, at any time my office is open, MUST, the word is MUST in the law be allowed to go back to peruse the records in person. What good is bulletproof stuff if they MUST be allowed in my office?

Pam Heard – I forgot about that too. I have to allow access in the vault where the historical records are. So they are just going to walk back in.

Commissioner Casterline – I was just wondering. I’ve been sued before, I don’t know if you ever have?

Pam Heard – I have not so far.

Amanda Oster – There are about a million reasons that you can get sued. You can get sued if there is glass or no glass. You can get sued for a bunch of reasons I’m not going to say on video.

Judge Garza – If there are no further questions. There were change orders that we were supposed to approve but we are going back the negotiation table.

**Motion to close this and go into closed session** by Commissioner Rousseau and seconded by Commissioner Dupnik

**Vote:** Motion carried 4-0: it was so ordered

Judge Garza – we are going to take a 5 minute break and then go into closed session.

**Break Started at 4:33 PM**

**Closed Session started at 4:38 PM**

## V. CLOSED SESSION

2. Convene into a Closed Session to consult with counsel and receive legal advice about insurance matters related to Aransas County’s projects and insurance claims from Hurricane Harvey, including the following pending litigation:



- i. *Aransas County Texas v. Endurance American Specialty Insurance Company, et al*, Aransas County District Court Cause No. 23-0021; and
- ii. *Northstar Recovery Service, Inc. v. Aransas County Independent School District and Aransas County*, Aransas County, District Court Cause No. 23-0066 consolidated with *Northstar Recovery Services, Inc. v. HR&R, LLC, et al*, Aransas County District Court Cause No. 20-0159; and
- iii. *Aransas County v. Kathleen Hicks, in her official capacity as Director of the Regional Pool Alliance*, Aransas County District Court Cause No. 23-0069.

pursuant to Section 551.071 of the Texas Open Meetings Act, which authorizes closed sessions for a governmental body to consult with its attorney(s) regarding advice on legal matters pertaining to "Pending or Contemplated Litigation; or Settlement Offer; or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with" the Open Meetings Act – Amanda Oster/Judge Garza

## VI. OPEN SESSION

### 3. Reconvene into Open Session

**Motion to reconvene into open session:** by Commissioner Rousseau, motion was seconded by Commissioner Casterline

**Vote:** Motion carried 4-0: it was so ordered

**Convened into open session at 5:01 PM**

### 4. Discuss and take action on matter discussed in closed session – Amanda Oster/Judge Garza

**Motion to dismiss the Aransas County District Court cause # 23-0069, which is Aransas County versus Kathleen Hicks in her official capacity as Director of the Regional Pool Alliance** by Commissioner Rousseau, motion was seconded by Commissioner Dupnik

**Vote:** Motion carried 4-0: it was so ordered

## VII. ADJOURNMENT

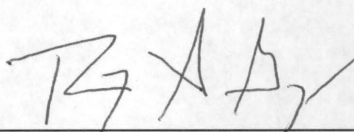
**Motion to adjourn:** by Commissioner Casterline, motion was seconded by Commissioner Rousseau

**Vote:** Motion carried 4-0: it was so ordered

**Meeting adjourned at 5:06 PM**

## ARANSAS COUNTY COMMISSIONERS' COURT



  
 Ray A. Garza, County Judge

