

MINUTES OF THE ARANSAS COUNTY COMMISSIONERS' COURT

REGULAR MEETING - DECEMBER 14, 2020

On the 14th day of December, 2020, there was a Regular Meeting of the Commissioners' Court in the Commissioners' Courtroom, 2840 Hwy 35 N, Rockport, Aransas County, Texas, with the following members present in person, via ZOOM, or via YouTube: **C. H. "Burt" Mills, Jr.**, County Judge; **Jack Chaney**, Commissioner, Precinct 1-1A; **Leslie Casterline**, Commissioner, Precinct 2; **Charles Smith**, Commissioner, Precinct 3; **Wendy Laubach**, Commissioner, Precinct 4; and **Carrie Arrington**, County Clerk.

**Other County Officers present** in person, via YouTube, or via Zoom, were: **Alma Cartwright**, Treasurer; **Pam Heard**, District Clerk; **Tracy Orr**, Administrative Assistant to County Judge; **Jaime Blackburn**, Executive Assistant to County Judge; **Kristen Barnebey**, County District Attorney; **Jacky Cockerham**, County Auditor; **Tana Taylor**, First Assistant County Auditor; **Ermalinda Alvarado**, Assistant Auditor; **Sue Pash**, Assistant Auditor; **Lara Kirchens**, Assistant Auditor; **Linda Doane**, HR Director; **Elizabeth Guerra**, HR Assistant; **Misty K.**, Collections Specialist; **Collin Jackson**, IT Director; **Judge Diana McGinnis**, Pct. 2 Justice of the Peace; **Jerry Brundrett**, County Surveyor; **David Reid**, County Engineer; **Sheriff Bill Mills**; **Rhonda Konieczny**, Executive Assistant to the Sheriff; **David Klanica**, Detention Center Lieutenant; **John Gutierrez**, Chief Deputy, Sheriff's Department; **Valerie Gonzalez**, Environmental Health Director; **Bob Doane**, Litter Abatement/Mosquito Control Supervisor; **Kevin Stroud**, Elections Administrator; **Mike Geer**, Airport Manager; **John Strothman**, Project Manager; **Lori Cesar**, Animal Control Director; **Kim Foutz**, Long-Term Recovery; and **William Whitson**, Long-Term Recovery.

Members of Local City Government, Community Groups and other Interested Parties present in person, via YouTube, or via Zoom, were: **Casey Cullen**, Attorney, Cullen Law Firm; **Pam Stranahan**, Friends of the History Center; **J. Mark Wagnon**, Alderman Place 4, Fulton Town Council; **Robert Henderson**, Equity Portfolio Manager, RBC Global Asset Management (U.S.) Inc.; **David Mendez**, Partner, Bickerstaff Heath Delgado Acosta LLP; and **Mike Probst**, Editor and Publisher, The Rockport Pilot.

**Aransas County Citizens present** in person, via YouTube, or via Zoom, were: **Pat Rousseau**, Commissioner-elect, Pct. 3; **Monty Melcher**; **James Teague**; **Katy Jackson**; **Mike Fields**; **Candace Sargent**; **Rick Smith**; **Carolyn Smith**; **Jeff Hutt**; **Andrew Kane**; **Kristie Rutledge**; and **Rhonda (Ronni) Sampson**.

The Meeting was convened at 9:00 a.m. at which time a quorum was declared by Judge Mills. He then announced the Court was going into closed session to consult with legal counsel.

The Meeting was reconvened into open session at 9:20 a.m., WHEREUPON, the following proceedings were had and done, to wit:

Judge Mills told the group we were starting with item 6. so Mr. Cullen could get back to Victoria.

#### COUNTY ROADS

6. A motion was made by Commissioner Casterline and seconded by Commissioner Smith to approve posting statutory notice of the County's intent to sell by sealed bids, the County's interest, if any, in dedicated streets and easements in a portion of the original Lamar Townsite.

Question. Motion carried unanimously.

It is so ordered.

CITIZENS TO BE HEARD

**Judge Mills read a statement submitted by Mary Christine Ritter:**

Though I recognize the need for a new courthouse, I am opposed to the current plans (both the 3-story and the 2-story) which are much larger and more luxurious than necessary. We need to show fiscal restraint with public monies just as we do with our personal finances. Also, 3.5% is not that good of a rate for the amount of money being borrowed.

**Commissioner Laubach read two statements into the record. The first was submitted by Brad Brumback:**

There are constraints on attendance at Commissioners Court meetings such as the one being held today. Among these constraints are the day and time of the meeting and COVID restrictions. Attendance, or lack thereof, should not be interpreted as a lack of interest, especially as it pertains to Item #25 on today's Agenda.

The residents of Aransas County were quite loud and clear on this issue: they wanted to be able to vote on the courthouse debt. They created a petition to force this vote to be allowed, and in the ensuing election the proposal to issue this debt was voted against by more than 6,000 residents. The proposition was defeated as part of a free and fair election. As elected officials it is your DUTY to represent the will of your constituents. Those same constituents made it clear they do not want this debt issued. Just because you can find a legal way to circumvent the will of the voters does not mean you should. Revise the proposal, put it on the ballot for the May election and let the people have their say. Any potential costs that might arise due to the delay can be blamed on a lack of better preparation on the County's part.

I strongly urge you to vote AGAINST Item #25.

**The second was from Kathy Kane:**

At today's meeting, the agenda has 3 items which are being discussed. I am predicting the outcome.

- Item 5 - Discussion with the architects concerning the size and scope of the proposed Courthouse. The recommendation will be to build a 3 story facility at the higher cost.
- Item 24 - Discussion and vote to hire lawyers to defend the Court's decisions regarding issuing debt. The vote will be to retain their legal services.
- Item 25 - Discussion and vote to issue Tax Notes. The vote will be to proceed.

A clear message was sent in November yet it is clear Judge Mills and at least two of the Commissioners will ignore the voters and do as they please. After all, they are 'just ready for this to be over'!

I too am ready for this to be over. I am ready for my elected officials to hold workshops with public input on a building I am helping to fund and to vote on a less expensive option. I am ready for my elected officials to not waste my money on lawyers and potential legal proceedings because they know they are overstepping their authority by twisting the rules to suit their wants.

Judge Mills asked if any of the other citizens who completed a public participation form wanted to speak now or wait to comment during a particular agenda item. Most opted to wait. **Pam Stranahan** opted to speak. Despite transmission challenges with Zoom (on Zoom's side), Pam Stranahan she gave the quarterly report

for Friends of the History Center during this portion of the meeting rather than waiting for item 10. She highlighted the Center's Holiday Fare exhibit and new outdoor display.

James Teague, attorney for Monte Melcher, also spoke. He asked for item 9. to be tabled until next meeting to give his client.

#### CONSENT ITEMS

1. Minutes from the November 23, 2020 Regular Meeting.
2. Minutes from the December 1, 2020 Special Meeting.
3. State of Texas bond for Tax Assessor-Collector from Western Surety for Anna Marshall as Aransas County Tax Assessor-Collector.
4. County bond from Western Surety for Anna Marshall as Aransas County Tax-Assessor Collector.

A motion was made by Commissioner Smith and seconded by Commissioner Chaney to approve the consent items.

Question. Motion carried unanimously.

It is so ordered.

#### COUNTY REPORTS

5. Judge Mills read a statement:

Aransas County has a legal obligation with the State of Texas to provide a courthouse in the county seat to hold the people's business - that's chapter 291.001 of the Texas Local Government Code. We also have the fiduciary responsibility to secure the best financial deal for the taxpayers to complete this project. We have commitments from federal and state agencies to assist us with partially funding this project as well as from our

insurance company - and they are all waiting for direction from this Court. It has been three years since Hurricane Harvey and all of the funding entities want to see us move forward with a short plan of action. Several experts have told us that delaying the courthouse project only places a heavier burden on local taxpayers, and continued uncertainty will only place a higher price tag on its overall cost. Building the Courthouse at the same time as City Hall allows both projects to take advantage of economies of scale, reducing expense for both buildings and, again, to taxpayers. This issue has been the subject of much debate in the community. There are, obviously, different ways to deal with the issue but the responsibility and obligation rests with us, the Commissioners Court. I'm asking the Court for your help, cooperation, and support to move forward on a clear plan. Now, it's time for this Court to step up and do its part and meet its obligations with the State of Texas. With that being said, I'm talking about item 5. Discuss and establish and size and scope of Courthouse Construction Project. And, with that being said also, we have been notified that a lawsuit was filed, Friday afternoon, and our bond counsel and financial counselor are here and they would like us to go into closed session to discuss this, so here we go.

**The Court went into closed session at 9:38 a.m. The Court returned from the closed session at 10:24 a.m. and then took a short break to reboot its Zoom connection. The Court reconvened at 10:34 a.m. with Zoom working properly.**

Still on item 5., Judge Mills said that he'd just like to say that I have heard the voters and what their wishes are, I also have, and the Commissioners' Court has, the fiduciary duties to bring the best possible rates to and save money for the

citizens so, with that being said, I move that the County establish the size and scope of the Courthouse Project to be a two-story 46,419 square foot building at a cost of \$13,400,000 for the purpose of pricing these notes. Judge's motion was seconded by Commissioner Casterline.

**Pat Rousseau** expressed her disappointment in seeing this item on the agenda. She feels it is being rushed on the community and she doesn't like the idea that someone who is leaving the court soon should be voting on such an important issue. She wants the vote to be delayed until after the new year.

Judge Mills called for the vote. The motion carried 4 to 1 with Commissioner Smith voting against reducing the size of the Courthouse.

It is so ordered.

**David Mendez** (Bickerstaff, Heath, Delgado, and Acosta LLP) directed the Court to now ask Robert Henderson (RBC Capital Markets) to provide the court with an updated report on the tax rate impact and interest rate on the tax notes based on the Court's action that just reduced the size and scope of the Construction Project.

**Bob Henderson** spoke a bit on how he thought those numbers would end up and how they would be driven by at least four items: 1) the interest rates on the notes, 2) the impact of the lawsuit that has been filed, 3) the structure of the seven year term - particularly the opportunity of an August 15, 2022 call date to refinance after three years and extend to a maximum of thirteen years, 4) the interest rates available at the time of the refinance. He asked for questions. There were none.

COUNTY ROADS

6. (Item was voted on during CITIZENS TO BE HEARD.)
7. David Reid commented on the submitted variance request. They are re-platting four lots into three lots. Because it's a re-plat, it would be subject to the current subdivision setback regulations of 25' front and back and 8' on the sides. They are asking for setbacks of 20' front and back and 5' on the sides which is consistent with the rest of Holiday Beach. A motion was made by Commissioner Laubach and seconded by Commissioner Casterline to approve the variance request on County setback requirements on the property commonly known as 33-37 Oakshore Loop in order to conform to Holiday Beach Property Owners Association subdivision requirements.  
Question. Motion carried unanimously.  
It is so ordered.
8. David Reid reported that the 2021 Road Material Bids had been reviewed and tallied. Commissioners each received the materials. Reid gave his recommendation: to award the bid to each of the low bidders by category. A motion was made by Commissioner Smith and seconded by Commissioner Chaney to award the road material bids to each of the low bidders by category as reflected on the one page table and supporting documents submitted to the court by Mr. Reid.  
Question. Motion carried unanimously.  
It is so ordered.

ENVIRONMENTAL HEALTH

9. Referring back to Mr. Teague's request during CITIZENS TO BE HEARD, A motion was made by Commissioner Smith and seconded by Commissioner Casterline to **TABLE** taking action against



CASHLAND LLC for their clear cutting of live oak trees, a clear violation of Ordinance 102010 restricting such clear cutting.

#### COUNTY REPORTS

10. Due to a challenging Zoom connection earlier, there was some confusion as to whether or not Pam Stranahan's report on Friends of the History Center activities, given during CITIZENS TO BE HEARD, was actually the group's quarterly report, but it now was established as such. A motion was made by Commissioner Smith and seconded by Commissioner Chaney to approve the 3<sup>rd</sup> Quarter report from Friends of the History Center as presented. Question. Motion carried unanimously.  
It is so ordered.

#### COUNTY SHERIFF

11. Sheriff Mills reported that two dogs from his K-9 unit needed to be retired and that each dog's handler is willing to adopt the dog they worked with in the event the County clears the way for such adoptions by declaring the dogs as surplus (per the Constitutional amendment approved by Texans in November of 2019). A motion was made by Commissioner Laubach and seconded by Commissioner Smith to declare K-9's "Urso," who was purchased through donations from the community, and "Rex," who was purchased through Homeland Security funds, as surplus and allow both dogs to be adopted by their handlers. Question. Motion carried unanimously.  
It is so ordered.

#### CONTRACTS, AGREEMENTS, GRANTS & LEASES

12. The Interlocal Agreement with Regional Public Defenders for Capital Cases - which was tabled last meeting - came back for consideration. A motion was made by Commissioner Smith and

seconded by Commissioner Chaney to authorize County Judge to sign the Interlocal Agreement with Regional Public Defenders for Capital Cases, a collaborative effort between counties and state to ensure that competent and effective counsel are appointed to represent defendants charged with a capital case where the death penalty is sought at the trial level while also providing counties with budget predictability and stability. Question. Motion carried unanimously.

It is so ordered.

13. A motion was made by Commissioner Laubach and seconded by Commissioner Casterline to approve authorizing County Judge to sign a Professional Services Contract with Trileaf Corporation for the provision of an FCC (Federal Communications Commission) NEPA (National Environmental Policy Act) report for the proposed radio tower related to General Land Office (GLO) Grant #20-065-098-C270. John Strothman indicated the funding for this contract was coming out of a 100% grant and that there would be no effect on the budget.

Question. Motion carried unanimously.

It is so ordered.

14. John Strothman explained that a delay to the project caused by Hurricane Harvey increased the cost of the project but that there was money still in the Pathways bonds funds that could cover the deficit. A motion was made by Judge Mills and seconded by Commissioner Chaney to approve authorizing County Judge to pay the \$80,574.16 deficit amount to Texas Department of Transportation (TxDOT) for the previously-approved Aransas Pathways Southern Trail project out of Pathways Bond funds.

Question. Motion carried unanimously.

It is so ordered.

15. A motion was made by Judge Mills and seconded by Commissioner Chaney authorizing County Judge to sign contract documents to extend our existing Microsoft Enterprise License Agreement - through reseller SHI Government Solutions - for another three years under Texas Department of Information Resources Contract #DIR-TWO-4092, beginning January 1, 2021.

Question. Motion carried unanimously.

It is so ordered.

16. A motion was made by Commissioner Smith and seconded by Commissioner Casterline to approve contract amendment #1 for PGAL, Inc. (Architect) to initiate design plans for the plaza portion/open space features for the Downtown Anchor Project using available Community Development Block Grant - Disaster Recovery (CDBG-DR) funds awarded to Aransas County, while preserving the option of flipping the positions of City Hall and the Courthouse to allow the courtroom to be closer to the jail.

Question. Motion carried unanimously.

It is so ordered.

17. A motion was made by Commissioner Chaney and seconded by Commissioner Laubach authorizing County Judge to sign a Federally-assisted Airport Development Grant between Aransas County and Texas Department of Transportation (TxDOT) to reconstruct apron drain/sinkhole and perform an inspection of the airfield drainage.

Question. Motion carried unanimously.

It is so ordered.

#### **PLANNING & BUDGET**

18. A motion was made by Commissioner Smith and seconded by Commissioner Laubach to approve the Indigent Healthcare Report

for November 2020 as submitted by Treasurer Alma Cartwright.

Question. Motion carried unanimously.

It is so ordered.

19. Kevin Stroud withdrew his request of changing the status of a temporary full-time Elections Coordinator position (paid through November 30, 2020 by a CARES Act grant) to a full-time permanent position. A motion was made by Commissioner Laubach and seconded by Commissioner Smith to drop the previously-tabled item from the agenda.

Question. Motion carried unanimously.

It is so ordered.

20. After Commissioner Smith expressed concern about setting a precedent of paying vacation out to employees, Linda Doane mentioned that because there was a federal disaster order declared this year, we could potentially allow all employees to carry over hours above the normally allowed 80 hours if we choose. Further discussion brought forth a motion by Commissioner Laubach that was seconded by Commissioner Casterline to **TABLE** approving paying out five (5) vacation days to Gayle Otto with the expectation of bringing forth an item next meeting that would allow all employees to carry over more than 80 hours this year.

Question. Motion to table carried unanimously.

It is so ordered.

21. A motion was made by Commissioner Judge Mills and seconded by Commissioner Casterline to approve reimbursement to Aransas County for independent contractor costs up to \$20,800 from the County District Attorney's asset forfeiture account.

Question. Motion carried with four votes. Commissioner Laubach abstained.

It is so ordered.

22. County Auditor Jacky Cockerham reported no Budget Line Item transfers or amendments. A motion was made by Commissioner Casterline and seconded by Commissioner Smith to approve (no) Budget Line Item Transfers and Amendments for this period. Question. Motion carried unanimously.

It is so ordered.

23. Ms. Cockerham also stated that our Accounts Payable and Payroll/Payroll Liabilities were all normal for the period - but that she needed to add one additional (late) check request in the amount of \$5,678.16 to reimburse a business on a collected hot check. A motion was made by Commissioner Smith and seconded by Commissioner Chaney to approve Accounts Payable and Payroll/Payroll Liabilities - including the additional check.

Question. Motion carried unanimously.

It is so ordered.

24. A motion was made by Commissioner Smith and seconded by Commissioner Casterline to approve authorizing the Bickerstaff Heath Delgado Acosta law firm to defend Aransas County in potential litigation related to the County's authority to issue financial instruments and to file any necessary action to protect the County's authority to issue financial instruments. Question. Motion carried on a 4 to 1 vote with Commissioner Laubach dissenting.

It is so ordered.

25. **David Mendez**, bond counsel for the county, explained "This item relates to the potential issuance of tax notes and, as we know in item 5., gave Mr. Henderson and his team some direction to market that obligation for us. What I'm asking the court

to do now, if you have no other business at this time, is to recess this session to reconvene as soon as Mr. Henderson has received the pricing information so that we can then present it to the commissioners to see if you all want to authorize it. And, I defer now to the County Attorney whether we need to recess to a time certain."

There was some discussion and Mr. Henderson requested a time no sooner than 2:00 p.m. He hoped that he would have something by then but said we could have to sit around until 2:30 or so.

Commissioner Laubach wanted to continue the discussion on this besides the precise pricing on this which we don't think will be a huge surprise to us. She wanted to continue discussing the merits of moving forward on this and issuing notes without an election, which is the issue that galvanized the interest of the community and caused us to be subject to a law suit.

Mr. Mendez stated that as long as you can recess and maintain your business meeting in time to receive that information it would be the court's call to do that or not, we just can't call the question now. But, it wouldn't be a problem for people to comment now, if you want then to be able to do that now.

Judge Mills said that the people who had signed up to speak on this item could certainly speak now. Commissioner Laubach said that she would also like the court to take up the discussion of whether or not it's a good idea to move forward with the tax notes. Judge Mills said the court couldn't discuss it without a motion and a second. Commissioner Laubach said that somebody should make that motion and second then so

they could talk about it and not make these people come back at 2:30. She also said that she wasn't going to make the motion because she was voting against it.

Judge Mills called for Jeff Hutt to speak. With the permission of the court, **Jeff Hutt gave his speaking time to Rhonda (Ronni) Sampson** as this was her first time to Commissioners' Court and she didn't know she needed to sign up to participate.

Ronni Sampson spoke as a new resident of this community (who came to the area after Hurricane Harvey to help with the disaster relief and fell in love with it) and as a voice of the people against the court's taking on tax notes and disregarding the election. She referenced tyranny. She said she knew the county needed a courthouse but said we were standing in a courthouse right now. She strongly objected to the discounting of the votes and to placing such a burden on the backs of the taxpayers.

An unidentified number was noticed on Zoom. Judge Mills asked if it was Andrew Kane. It was. He pressed again for the court to NOT issue tax notes and to bring it, instead, to a May election. He referenced the order that the court signed for the bond election, Order #0-13-2020, and the majority votes against it.

Kristie Rutledge again spoke out against the tax notes calling it "an aggressive upper-handed move pitting the Commissioners' Court against the people by nullifying 6,211 votes again Proposition A." She asked if our elections have integrity. And went on to say that the people voted against a new

courthouse. You have a courthouse. You got it in September of 2017 and moved into it in January of 2018.

**Candace Sargent** generally stated that the courthouse was voted down in November to give the court a chance to revise this massive debt and sell us a more reasonable version in May. If you sign for tax notes today after you signed the order to bring the bond election to the people, your words are hollow and meaningless. And, to make matters worse you have hired an attorney to represent you against the people's law suit so you have become a dictator. I have traveled a lot in my life and I've never traveled some place to look at a courthouse. People come to Rockport to fish. No one cares about the courthouse unless they're a bail bondsman or an attorney.

**Pat Rousseau** spoke again about how she ran for office to restore her ABCs of county government (accountable to voters, build trust, communicate openly). She stated she was proud and pleased when the court decided to let the voters have a say in the new courthouse but now she is very embarrassed and ashamed about this end around the court is doing with these tax notes. She urged the court not to do it.

Judge asked if there was anyone else who wanted to speak. No one did. **At 11:32 a.m., he recessed the court until 3:00 p.m.**

**At 3:00 p.m., Judge Mills reconvened the meeting.**

Judge Mills advised the group that the people behind the scenes need another fifteen minutes. He then asked Mr. Henderson to speak to the group giving them any updates he had.



**Robert Henderson:** "Thank you, Your Honor. For the record, my name is Robert Henderson. I have the honor and privilege to be the financial advisor to Aransas County, representing RBC Capital Markets.

Per the direction of the court this morning with respect to the size of the transaction, we have re-sized the transaction to 13, 400,000 in terms of proceeds to a construction account. When the final numbers come out, I expect the numbers to be slightly less.

I want to congratulate David Mendez and his team as well as Tom Spurgeon and his team at McCall, Parkhurst & Horton - the firm acting as underwriters and counsel, these two law firms have worked very cooperatively together to revise the preliminary official statement to not only reflect the forward delivery date but to reflect some very important disclosure language with respect to the lawsuit on the risk of the forward delivery and other pertinent matters related to this transaction. I alluded this morning - and I'm going to take the opportunity now to, I don't know if some of you saw my email from around 12:30 this morning, about some of the additional risk and cost factors that are related to a forward delivery. I was not able to copy the entire Commissioners' Court because, frankly, I didn't have Mr. Casterline's or Mr. Chaney's email but I did copy Ms. Laubach and Mr. Smith.

There were four things that I outlined in that email - which is also what I said this morning - which is the forward-delivery aspect of this transaction is not normal. We normally would close in thirty days and, in fact, now, we're looking at closing within ninety days - which is a sixty day extension to

allow for additional time to, hopefully, positively resolve the lawsuit issues. That extended period of time - in terms of capital commitment by the investors - requires an increase in yield. We also have the risk that the transaction simply won't close if we don't get a resolution to the lawsuit. We have the risk of a termination because documents may or may not be adequately revised. We don't think that's going to be a problem. Or, that there may be additional matters that have to cause additional revisions to the documents and that can be an issue. And then, finally, of course, just the news itself that the transaction is subject to a lawsuit has some impact.

I have indicated this morning, when I was asked about what the potential impact of that would be and I said 25-30 basis points probably and that would be more than half a point. The great news is that it looks like, from a yield perspective, the impact is going to be less than what I had predicted. We ought to be under 20 basis points in terms of the impact of the noted lawsuit, the forward delivery, and so forth. We have gone out into the market. There was a lot of discussion with the underwriters as to what couponing would occur on that. I think everybody probably understands it. If they don't, I will do my best to explain it, that what we are issuing here are fixed income securities and there are three variables that impact the pricing on fixed income security. One is the stated coupon. The other one is the yield.

The stated coupon is the interest rate that is actually printed on the bond that the investor would expect to get paid. Then there's the yield on the bond which is what they really actually expect to get paid in terms of earnings because that coupon can be above or below actual market yields. And, then

there is, of course, the timing of the payment, the date of maturity, and that's one of the unique aspects of this transaction - we have a very short final maturity of seven years but we've got a substantially shorter date of August 15, 2022 as to the call date.

So, those three factors combine to generate what is called a dollar price, the actual amount of money that an investor would pay for this transaction. When you look at this transaction - and Ms. Orr's waiting on numbers that we hope to have by 3:15 - you are going to see a couple of different numbers. One is called the "all in TIC" - the true interest cost considering what the gross spread is, the fees to the transaction are, and, of course, the yields on the bonds (notes). The other one is the arbitrage yield. The arbitrage yield does not reflect the costs associated with the transaction but does reflect the actual yield that the investors are earning. That number is going to be less than one percent. So, we're talking about a couponing at three percent, the actual yields to the investor of less than one percent, and that's going to combine to a par value, then, of about, we think, \$13,120,000 - \$13,140,000, something like that.

Those are the final numbers that we are looking at. The hold up, at this point, is that the senior manager on the underwriting team BLK Securities because this is a forward delivery has to get special what is called, for lack of a better term, "big boy investment letters" to try to get the people buying the bonds (notes) to actually sign letters saying that they understand that this is a forward delivery, that they understand that there are risks of non-delivery because

of the law suit and that they've been adequately advised of the special closure of this transaction.

So what we're waiting on now is that senior underwriter to confirm that all of the buyers are on board with signing this "big boy investment letter." And then, in terms of the actual numbers, we are communicating with the senior underwriter as to such matters as his counsel's legal fees. Again, Mr. Mendez and Mr. Spurgeon and their respective teams have worked not just today, they worked all weekend long, we became aware of the lawsuit late Friday and these lawyers and their teams have been working all weekend to get all of this stuff together so we could bring a price and now we just have to figure out the final fees for these sorts of things are.

Commissioner Casterline asked for a comparison for financing this way versus financing with bonds for a longer term if we were to wait for a May election. Mr. Henderson said that he, obviously, can't predict what interest rates will be in June or July, but all things being equal, we would not have had the about 20 basis point extra yield that we are having in terms of the uncertainty of the forward delivery and so forth. So, that roughly 18-20 basis points in extra yield is an easy one to identify. We are going to have higher than expected issuance costs. We just talked about, you know, the increased underwriter's counsel fees. My fees will stay the same. Most of the cost - the rating cost, the preparation cost - most of those costs are going to stay the same. Our gross spread - gross spread is the fees that go to the underwriter and to their counsel - are going to be a little elevated: probably a buck, buck and a half a bond (note). A bond (note) being \$1,000 denomination. So if we've got \$13,100,000 worth of

bonds, you're talking about 13,100 bonds (notes) at a buck and a half, you're talking about \$18,000 - \$19,000 of additional cost as a function of the spread."

(At this point, Mr. Henderson received a phone call from his partner who informed him that they were still about 15 minutes away from the final numbers.)

Mr. Henderson returned to the podium and entertained questions from the court. There was some additional conversation between several Commissioners and Mr. Henderson, asking him to compare this tax note situation to a bond election in May and to what would have happened if the bond election in November had passed. General conversations ensued under a variety of "what if" scenarios centering around equity, borrowing, tax rates, terms, additional financing variables, the possibility of adding other financial needs to county debt in the future, the benefits of the borrowing for both existing and future citizens, the idea of voting by moving here and adding yourself to the tax rolls, balancing paying for things with cash on hand versus borrowing for them, etc.

**Kristie Rutledge** asked to speak again. Generally, she spoke out against the court taking a vote today for tax notes. She asked the court to delay a vote until they had the full information and the citizens have received the full information. She said it was the citizens' right to have the full information and to have their voice and vote count. She stated, "Bob Henderson has said, previously, that in all his years as a municipal advisor the successful citizen petition that forced the county courthouse to a vote in the general election was only the second he has ever seen. How many times,

then, have tax notes been passed after the certificates of obligation was forced to a general election bond and after that general election bond was defeated in the election by an overwhelming margin? My guess is zero." She asked the court to consider carefully the precedent that they would be setting with a vote today - a precedent that would be used over Texas taxpayers for years to come. She asked them to carry out their duties as public officials in a manner that would protect the integrity of our elections and the public trust.

**Jeff Hutt** then took the podium. "It seems to me that we're having a couple of issues here. On this side of the wall, you guys are talking about fiduciary responsibility. And, on this side, we're talking about the right to honor an election and these things. And, what I think is that we're missing something here is if you look at the American tradition - and it started in about 1765. It started with the idea of natural rights and the whole idea of taxation without representation did not come out of some strange left field. It came out because people, at that time, looked at the way their government was treating them and looked at the way their government was functioning and they realized that it was bad. That if you don't have consent from the governed, the decisions that government makes are bad. From the very get-go, this has been a bad deal in terms of the information given, the way it's gone. It seems like, if we're going to do what's right, we need to trust the people. And, the people told you guys that we want you to come back in May with a better plan for us to vote on. That is the fiduciary responsibility that the people took. They took it off your hands and we brought it on ours. 53% of the population voted for you guys to bring it back to us in May. This is after you all created a PAC that

spent \$10,000 saturation, misinformation that we could lose up to \$10,000,000 if we didn't vote for this. Also, you all told us that we could lose the Celebration Plaza and the community center if we didn't vote for this - which the GLO confirmed that's not the case, that's a separate thing. After Mrs. Laubach came out in support of it, the courthouse. After all these things, citizens still voted 53% that said we don't want this courthouse now. We want you to bring us back in May with a courthouse, have citizen input on it, and we'll vote for it. And, if you go through the steps and gain consent, then when it comes in May, we'll vote for it. The fiduciary responsibility has been taken off of you and has been taken by us."

**Commissioner Laubach then read her own statement:**

"I continue to object to the issuance of tax notes in lieu of putting the courthouse financing issue to the voters in May 2021. Regardless of whether the language that we approved in the election order dated August 2020 is ultimately judged to bear on this decision, as a purely legal matter. Either way, I believe we let people vote in the November 2020 election with the understanding that their vote would mean something, and that we understood it would be wrong to circumvent their right to vote. We used language implying that understanding. If we always intended to hold the tax note option in reserve - in case we lost the election - I was not aware of that plan. I believe the taxpayers of this county should have been told of those plans before they voted. They had a right to know that the county was determined to borrow this money no matter what they thought about it and that, in that case, we would be driven to doing so under circumstances that would raise the

cost of the borrowing, and expose us to risk of a substantial tax hike after 3 years if refinancing turns out not to be feasible according to rates at that time. I just believe that we owe the taxpayers the courtesy of giving them what we implied they were entitled to which is the May 2021 election. I think we can get to work figuring out how not to let that delay hurt the plans and that all we've done now is force desperate taxpayers to the extremity of filing a pro se piece of litigation which is raising our costs and costing them a lot as well. It never needed to happen that way in the first place."

**Ronni Sampson** stepped to the podium again, saying she had something that she would like to add. "Ms. Wendy is my commissioner and I greatly appreciate her information, the way she informs the community. We have problems. The people have problems because we elect you folks to serve US, to serve OUR needs in our community, to be our LEADERS, but you have to LISTEN TO US because it is the voice of the people that elects you into your positions. You are accountable to us. No one else. What do you want YOUR legacy to be, that your grandchildren and your great grandchildren hear? I want my grandchildren and my great grandchildren to know that I, too, stood up for the Constitution. I, too, stood up for (against) taxation without representation. And, what you've done to us is made us feel that way, whether that was your intent or not. I'm new to this community. I want to be a part of it. I love the people in this community. That's why we bought a home here. We didn't buy a home here to be under - I don't know what you'd even call it - because you people say one thing and turn around and do another. And, I also listened to that July 13<sup>th</sup> Zoom that was on YouTube and I disagree with you in your



reflection about the \$10,000,000 because that is how it came off to the taxpayers of Aransas County. We went from having what you were offering as a two-story courthouse that the majority of us were on board for to a three-story courthouse <snap> in that much time. And, not once did you even consider how the people would feel about it. Is that the legacy you want? It's on your shoulders. Your shoulders. Think twice.

**Bob Henderson:** Your Honor, Members of the Court, we have final numbers. As we promised all along. We never asked the court to take action without final numbers, and here they are:

- We have a deposit to the construction fund of \$13,400,000 per the estimates provided by your construction manager at risk.
- Because of the coupons versus the yields, the stated par will be \$13,230,000.
- Reflecting historically low interest rates, we've got an arbitrage yield which reflects the raw yield that the investors are earning at 0.884108 percent, so less than one percent as we had talked about. They did need to bump the all in TIC (true interest cost - a calculation based on all of the cots being involved and all of the fees from the various professionals calculated at the final maturity rate of seven years) to 2.700846 percent, so slightly less than 2.75 percent. We talked this morning about the interest rates. I was confident that they'd be under 3 percent and was hopeful that they be under 2.5 percent but they didn't quite get there.

So, there's no guessing about what the rates will be at this point. These will be locked in.

**Commissioner Smith:** So, if a subsequent Commissioners' Court wants to refinance and lengthen the term, we would be paying the \$13.2 million principal at that point in time?

**Bob Henderson:** Yes, sir. That's the par amount that we would be asking.

**Commissioner Smith:** We'd be at 13.4 but we're only going to have to redeem 13.2.

**Bob Henderson:** Right. That's the difference between coupons and reoffering.

**Smith:** I got you.

**Henderson:** I'd be happy to answer any further questions. There's no guessing at this point. This would be all locked in.

A motion was made by Commissioner Judge Mills and seconded by Commissioner Chaney to approve Order #0-26-2020, authorizing the Issuance of Aransas County, Texas Limited Tax Notes, Series 2021; Levying a Continuing Direct Ad Valorem Tax on all Taxable Property with the County to pay the principle of and interest on said notes and to create a sinking fund for the redemption thereof and the assessment and collection of such taxes; authorizing the sale thereof; and enacting provisions incident and related to the issuance of said notes.

Question. Motion carried on a 4 to 1 vote, with Commissioner Laubach voting against issuing the tax notes.

It is so ordered.

No further business presenting, the Court adjourned at 3:46 p.m. on a motion duly made by Commissioner Chaney and seconded by Commissioner Smith.



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

CARRIE ARRINGTON, EX-OFFICIO CLERK  
OF THE COMMISSIONERS' COURT

