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MAY 23 2000

OPINION COMMITTEE

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May 5, 2000

Honorable John Cornyn  
Attorney General  
State of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

RQ-0233-JC-LR

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MAY 19 2000

FILE # ML-41430-00

I.D. # 41430

OFFICE OF THE ATTORNEY GENERAL  
EXECUTIVE ADMINISTRATION

Dear General Cornyn,

The undersigned has received a complaint alleging a violation of the Open Meetings Act of the State of Texas. The allegations contained in the complaint allege that the Aransas County Navigation District #1 Commissioners violated the Texas Open Meetings Act by the following actions:

FACTS

From the facts presented to this office it appears that:

The Navigation District commissioners posted an agenda for a meeting for the 21st day of March, 2000 at 4:00 p.m. A copy of said "NOTICE OF MEETING" is attached hereto marked as Exhibit "A" and incorporated herein. On the agenda was an item stating that the commissioners would meet in a closed executive session for the purpose of "Legal Matters" pursuant to section 551.071

The Navigation District Commissioners opened their Open meeting and proceeded with their business according to the agenda.. Thereafter the navigation District commissioners went into closed executive session to conduct their business. It appears that they were unable to consummate and/or finish their executive session business on that particular day and came out of executive session and the official minutes of the March 21, 2000 meeting then read as follows:

"At approximately 5:34 p.m., Commissioner Gill moved to RECESS Open Meeting for an Executive Closed Session, Pursuant to Sections 551.071--551.074 Texas Government Code re: Legal Matters and Personnel. Commissioner Wildman seconded the motion. All in favor; motion carried." (See Certified copy of minutes of March 21, 2000 meeting marked as Exhibit "B" attached hereto)

Thereafter continuing with the next paragraph of the certified minutes of the March 21, 2000 meeting as follows:

"Chairman Roy Lassiter reconvened Open Meeting at approximately 5:50 p.m., and

announced that the Board would RECESS their Closed Session until Wednesday, March 22, 2000, at 1:30 p.m., to discuss the Slip-Stall Lease Agreements.”( Exhibit “B”)

Thereafter continuing with the last paragraph of the certified minutes of the March 21, 2000 meeting as follows:

“Commissioner Wildman moved to adjourn. Commissioner Gill seconded the motion. All in favor; motion carried.” (Exhibit “B”)

The Navigation District Commissioners then adjourned the meeting posted for March 21, 2000.

Then it appears that the Navigation District Commissioners met again the next day (March 22,2000) at 1:30 and immediately went in to Executive Closed Session.

Thereafter continuing with the certified copy of the minutes of the meeting of March 22, 2000 as shown on Exhibit “C” attached hereto and incorporated herein as follows:

“The Board of Navigation and Canal Commissioners reconvened at 1:30 p.m. in Executive Closed Session after recessing the Closed Session on Tuesday, March 21, 2000, with Chairman Roy Lassiter presiding. Commissioners present were Lynn Wildman, Dan Gill, Luna Bell; Attorney Jim Mays. Commissioner Dominguez was not present.”

#### QUESTIONS

- 1) May an Executive Closed Session that was placed on a “ NOTICE OF MEETING” that was to be held at a given time and date be continued to another date if the posted meeting in which the Executive Closed Session was authorized is officially adjourned?
- 2) Did the commissioners of the Aransas County Navigation District #1 violate the Texas Open Meetings Act by failing to post an agenda for the meeting held on March 22, 2000?
- 3) Did the commissioners of the Aransas County Navigation District #1 violate the Texas Open Meetings Act by failing to post an agenda for the Executive Closed Session held at 1:30 p.m. on March 22, 2000?
- 4) Did the commissioners of the Aransas County Navigation District No. 1 violate the Texas Open Meetings Act by failing to post an agenda for an open meeting for the Executive Closed Session held on March 22, 2000 and by failing to open up into an open meeting prior to going into a closed executive session pursuant to section 551.101 of the Texas Open Meetings Act?

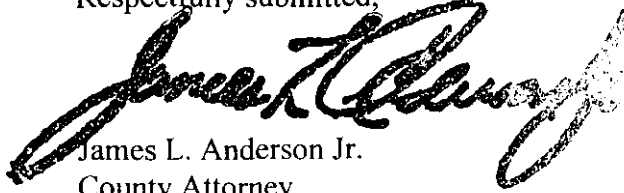
#### BRIEF

Although the issue of recessing an open meeting of a governmental body was recognized as a case of first impression in *Rivera vs. City of Laredo* 948 S.W.2d 787 the issue was addressed indirectly by way of dicta and incorporating some logic of the states of Michigan and California. The court went on to cite Texas Attorney General Opinion H-1000 which opined that a recess of an OPEN MEETING could continue only until the next day without re-posting the meeting.

The undersigned has not been able to find any Attorney General Opinions or case law that deals even remotely with the issue of recessing an Executive Session until the next day after having properly adjourned the open meeting in which the original Executive Session was authorized.

Due to the dearth of case law or Attorney and General Opinions governing, assisting or directing official actions concerning the facts as presented above the undersigned respectfully requests an Attorney General's Opinion answering the above reference questions in light of the facts and actions as set out above and as contained in the exhibits attached hereto.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James L. Anderson Jr.", written in a cursive style.

James L. Anderson Jr.  
County Attorney  
Aransas County