

**COMPLAINT:** Open Government & Purchasing Violations

**AGAINST:** Mayor Mikel Virdel, Alderman Todd Keller, Alderwoman Jeanne Puryear, Alderman Mike Hazel, Alderman Bryan Miller, Alderman Allen Hopson, City Manager Brenton Lewis, and City Secretary Tony Milam

**SUBMITTED BY:** Marc Sewell, Llano Resident and Taxpayer

**SUMMARY:**

In an unscheduled, closed, illegal City Council meeting, the Mayor, Council, and City Manager discussed and decided to contract for dredging with Chanas Aggregates, LLC for \$50,000. A Public Information Request was submitted for information regarding the closed meeting and the initial response contained incorrect information with the objective of obfuscation and cover-up. The final PIA response was delivered after the 10 day requirement and contradicted the original response. Finally, the agreed contract from the illegal closed meeting was priced and split to circumvent the \$50,000 bid requirement.

**JURISDICTION:**

The Llano District Attorney has jurisdiction based on:

Open Meetings Act – Texas Attorney General Website FAQ page:

**Who enforces the criminal provisions of the act?** District courts have jurisdiction over criminal violations of the Act as misdemeanors involving official misconduct. Thus, complaints should be presented to the district attorney or criminal district attorney.

**What is the role of the local district attorney or prosecuting county attorney regarding Open Meetings Act violations?** As mentioned above, the local district attorney or prosecuting criminal county attorney (depending on the county) has the authority to prosecute criminal violations of the Open Meetings Act. As with other alleged crimes, the local prosecutor retains the discretion to determine which alleged violations he or she will prosecute.

Public Information Act §552.3215(e)

A complainant may file a complaint alleging a violation of this chapter. The complaint must be filed with the district or county attorney of the county in which the governmental body is located.

Abuse of Office - §39.015.

**CONCURRENT JURISDICTION TO PROSECUTE OFFENSES UNDER THIS CHAPTER.**

With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this chapter.

**FACTS:**

1. On 10/21/13 in a scheduled city council meeting, Mayor Mikel Virdel admitted that a closed session of council decided to contract Chanas Aggregates, LLC for \$50,000<sup>1</sup>. This admission was video recorded by the City.
2. The meeting agenda item F2<sup>2</sup> for the 10/21/13 indicates that “The Elected Officials and Staff have for several months explored the various avenues...”
3. During that 10/21/13 council meeting, the agreement originally conceived in the illegal, closed meeting was ratified<sup>3</sup>.
4. On 12/4/13, I submitted a PIA request<sup>4</sup> for information regarding the closed meeting referenced in Mayor Virdell’s statements. The city responded that the meeting was on 10/7/13<sup>5</sup>. When the lack of agenda detail for that meeting was challenged, the City ultimately responded on 2/20/14 that no closed meeting was held<sup>6</sup>, thus contradicting the first PIA request response and Mayor Virdell’s statement on the video of the 10/21/13 Council Meeting.
5. The dredging contract<sup>7</sup> excludes materials and labor for the access road to the dredging site. The amount of material to be removed was arbitrarily set at 19,200 tons. The contract amount is \$48K.

**ASSERTIONS:**

The Llano Mayor, City Council, and City Manager, in an illegal secret meeting(s), conspired to a contract for dredging that was purposefully priced and specified to avoid the competitive bidding statute requirement for contracts greater than \$50K. The public was purposefully precluded from information regarding the alternative contractors and dredging techniques. In an attempt to legally gain information regarding the secret closed meeting, a citizen was purposefully given false information to cover-up the illegal acts.

The actions by the Llano Mayor, Council and City Manager constitute the following violations:

1. Violation of Government Code §551.002 OPEN MEETINGS REQUIREMENT – The meeting that discussed and decided the dredging contract was not open to the public.
2. Violation of §551.021. MINUTES OR TAPE RECORDING OF OPEN MEETING REQUIRED – No minutes or recordings were taken of the meeting that discussed and decided the dredging contract.
3. Violation of Government Code §551.041 NOTICE OF MEETING REQUIRED – No notice was posted of the meeting that discussed and decided the dredging contract.

---

<sup>1</sup> Appendix D – 10/21/13 Council Meeting Video on page 17

<sup>2</sup> Appendix A – 10/21/13 Council Meeting Agenda on page 6

<sup>3</sup> Appendix B – 10/21/13 Council Meeting Minutes on page 7

<sup>4</sup> Appendix C - Public Information Act Request Email #1 on page 8

<sup>5</sup> Appendix C - Public Information Act Request Email #2 on page 8

<sup>6</sup> Appendix C - Public Information Act Request Email #11 on page 13

<sup>7</sup> Chanas contract available [www.llanowatch.com/llanowatch/documents/chanascontract.pdf](http://www.llanowatch.com/llanowatch/documents/chanascontract.pdf)

4. Violation of Government Code §551.043 TIME AND ACCESSIBILITY OF NOTICE – No notice was posted 72 hours prior to the meeting that discussed and decided the dredging contract.
5. Violation of Government Code §551.056 ADDITIONAL POSTING REQUIREMENTS - No notice was posted on the City Website 72 hours prior to the meeting that discussed and decided the dredging contract.
6. Violation of Government Code §551.101 REQUIREMENT TO FIRST CONVENE IN OPEN MEETING – The closed meeting that discussed and decided the dredging contract was not announced at an open meeting nor was the code section identified under which closed meeting was held.
7. Violation of Government Code §551.103 CERTIFIED AGENDA OR TAPE RECORDING REQUIRED – No certified agenda minutes or recordings were taken of the meeting that discussed and decided the dredging contract.
8. Violation of Government Code 551 Chapter D EXCEPTIONS TO REQUIREMENT THAT MEETINGS BE OPEN – None of the exceptions covered in this chapter allow a closed meeting to discuss and decide a construction contract.
9. Violation of Government Code §551.144.(a)(1) CLOSED MEETING – The Mayor, City Manager, and City Secretary called and/or organized the closed meeting to discuss and decide a construction contract.
10. Violation of Government Code §551.144(a)(3) CLOSED MEETING – The Mayor, Council, City Manager, and City Secretary participated in the closed meeting to discuss and decide a construction contract.
11. Violation of Government Code §551.145(a) CLOSED MEETING WITHOUT CERTIFIED AGENDA OR TAPE RECORDING - The Mayor, Council, City Manager, and City Secretary participated in the closed meeting to discuss and decide a construction contract knowing that a certified agenda of the closed meeting was not being kept and that a tape recording of the closed meeting was not being made.
12. Violation of Government Code §552. 221 ACCESS TO INFORMATION – The City did not supply the requested information described in Email #1<sup>8</sup>.
13. Violation of Government Code §552.353(a) FAILURE OR REFUSAL OF OFFICER FOR PUBLIC INFORMATION TO PROVIDE ACCESS TO OR COPYING OF PUBLIC INFORMATION – The City refused to provide accurate information on the closed meeting referenced by the Mayor during the 10/21/13 council meeting.
14. Violation of Government Code §552.351. DESTRUCTION, REMOVAL, OR ALTERATION OF PUBLIC INFORMATION – If the requested information cannot be produced, then it was destroyed.
15. Violation of Local Government Code §271.029 INTENTIONALLY OR KNOWINGLY MAKES OR AUTHORIZES SEPARATE, SEQUENTIAL, OR COMPONENT PURCHASES TO AVOID THE COMPETITIVE BIDDING REQUIREMENTS OF THE STATUTE THAT REQUIRES A CONTRACT DESCRIBED BY SECTION 271.024 TO BE AWARDED ON THE BASIS OF COMPETITIVE BIDS – By removing the labor and materials for the access road and specifying

---

<sup>8</sup> Appendix C - Public Information Act Request Email #1 on page 8

an arbitrary number of tons of material to be removed, the Mayor, Council, and City Manager intentionally and knowingly avoided the competitive bidding process.

16. Violation of Penal Code 37.10(2) TAMPERING WITH GOVERNMENTAL RECORD, MAKES, PRESENTS, OR USES ANY RECORD, DOCUMENT, OR THING WITH KNOWLEDGE OF ITS FALSITY AND WITH INTENT THAT IT BE TAKEN AS A GENUINE GOVERNMENTAL RECORD – In presenting the agenda for the 10/7/13 closed meeting as the closed meeting for dredging, the City Secretary and City Manager presented a citizen with a document knowing it to be false with the intent that it be taken as the true document.
17. Violation of Penal Code §39.02(a)(1) ABUSE OF OFFICIAL CAPACITY – The Mayor, Council, City Manager, and City Secretary have violated the laws described in this complaint.
18. Violation of Penal Code §39.02(a)(2) ABUSE OF OFFICE - MISUSE OF GOVERNMENT PROPERTY, SERVICES, PERSONNEL, OR ANY OTHER THING OF VALUE BELONGING TO THE GOVERNMENT - City Council and staff gave Chanas Aggregates, LLC information that had not been made public which resulted in a \$48K contract.
19. Violation of Penal Code §39.06(a) (1) MISUSE OF PUBLIC INFORMATION – City Council and staff gave Aggregates, LLC information that had not been made public which resulted in a \$48K contract.

### **REQUESTED ACTIONS:**

1. Please apply the penalties specified by Government Code §551.144(b), Government Code §551.145(b), Government Code 552.353(e), Penal Code §37.10, Penal Code §39.02, and Penal Code §39.06(e).
2. Please evaluate other contract violations such as website, aerators, and meter replacement to determine penalty as required by Penal Code §39.02(e):
  - If separate transactions that violate Subsection (a)(2) are conducted pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the use of the things misused in the transactions may be aggregated in determining the classification of the offense.
3. Information regarding the closed meeting be disclosed.
4. Removal from office based on Local Government Code §21.025(a)(2) and §252.063 or other.
5. The dredging, website, aerator, and meter replacement contracts and expenditures be audited by the Texas State Auditor's Office or/and the Texas Rangers Corruption Unit.
6. Funding of the \$48K dredging contract and possible violation of Local Government Code §102.009(b) should also be audited by the Texas State Auditor's Office or/and the Texas Rangers Corruption Unit since this item was not in the current budget.
7. The City be reimbursed for any legal fees regarding defense of this complaint.

## Appendix A – 10/21/13 Council Meeting Agenda



### City Council Agenda Item Report

October 21, 2013

#### Regular Agenda Item F-2

Contact – Brenton Lewis 247-4158 x 206

[blewis@cityofllano.com](mailto:blewis@cityofllano.com)

---

**AGENDA TITLE:** Discuss and consider action entering into an agreement between the City of Llano and Chanas Aggregates for the purpose of testing for best dredging procedures.

- 
- 1. BACKGROUND/HISTORY** – The Elected Officials and Staff have for several months explored the various avenues to remove the silt, sand, and other materials that have built up in Town Lake. Since the City has not has a major event, the sand and other materials have not been removed naturally, therefore a mechanical way has been sought. During the last large rain event, personnel from the USGS office surveyed the lake and determined the average depth to be four feet.
  - 2. FINDINGS/CURRENT ACTIVITY** – The various avenues that have been researched have varied from contracting a barge and dredge, purchasing a barge and dredge, or removal by track hoe. The costs associated with all of the reviewed avenues range from \$250,000 to well over \$5,000,000. Therefore, the City Staff negotiated a test process with Chanas Aggregates to dredge and remove 19,200 tons of material from the Town Lake. This will provide greater insight into the type of material that is in the lake, the marketability of the material, and the feasibility of dredging in this manner. The amount of removed sedimentation will increase storage capacity by about 3.5 million gallons. In addition to the removal, Chanas will be responsible for removing the material from the lake area and transporting it to their Eagle’s Nest Mine facility.
  - 3. FINANCIAL IMPACT** – The cost to perform this test process is to not exceed \$48,000 and is based on the 19,200 tons of material to be removed at \$2.50 per ton.
  - 4. ACTION OPTIONS/RECOMMENDATION** – Staff recommends that Council authorize the City Manager to enter into the agreement with Chanas Aggregates for the dredging and removal of 19,200 tons of material for a cost not to exceed \$48,000 from Town Lake. The actual site will be determined after a review of the three possible locations.

### Appendix B – 10/21/13 Council Meeting Minutes



City of Llano  
Regular Called City Council Minutes  
October 21, 2013 – 5:30 p.m.

**A. CALL TO ORDER**

Mayor Virdell called the meeting to order at 5:30 p.m. Those in attendance were Alderman Hopson, Alderwoman Puryear, Alderman Miiller and Mayor Pro-Tem Hazel. Alderman Keller was absent.

**B. PLEDGE OF ALLEGIANCE – Led by Alderwoman Puryear**

**C. INVOCATION – Led by Lance Idol**

**D. PUBLIC COMMENTS – Non-agenda items**

Marion Bishop, resident of Llano shared a handout with the Mayor and Council regarding the solar power. Roger Pinckney with the Llano County Historical Museum, thanked Staff for their help. The Auction raised \$14,000 which is subject to sales tax revenue, the Western Trappings was well attended and the art show is ongoing through January 4, 2014. Alderwoman Puryear announced the Cemetery Tours would be taking place on October 22, 2013 from 5:30 p.m. to 7:30 p.m.. This is the 5<sup>th</sup> year and is a good fundraiser for the Llano County Library. Mayor Virdell thanked all for the work put in during the Heritage Days and the Chuckwagon Cook-off.

**E. CONSENT AGENDA ITEMS** All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- 1. Approval of the regular called Llano City Council meeting minutes dated October 7, 2013.

*Mayor Mike Virdell/Toni Milam, City Secretary*

Motion by Mayor Pro-Tem Hazel, with a second by Alderman Miiller to approve the consent agenda item as presented. With there being no discussion, motion approved.

**F. REGULAR AGENDA ITEMS**

- 2. Discuss and consider action entering into an agreement between the City of Llano and Chanas Aggregates for the purpose of testing for best dredging procedures.

*Mayor Mike Virdell, Mayor/Brenton Lewis, City Manager*

Jeff Winn, resident of Llano spoke regarding this agenda item, asking Council to consider different staging areas of the operation. Marc Sewell also spoke regarding concerns with the different staging areas. Binky Morgan asked Council to take into consideration the wildlife on the river when dredging. Brenton Lewis, City Manager advised the cost for testing the dredging would be approximately \$50,000, with 19,000 tons of material to be hauled off, with a start date of before Thanksgiving, and would be completed within about 90 days. Mr. Lewis also advised Council, the agreement was currently under review by the City's Attorney. Motion by Mayor Pro-Tem Hazel, with a second by Alderman Miiller to enter into the agreement with Chanas Aggregates for the purpose of testing for best dredging procedures once the legal review had been completed. With there being no further discussion, motion approved.

## Appendix C - Public Information Act Request

The following emails represent the Public Information Act request and response for information on the illegal closed meeting on dredging.

### EMAIL Number 1.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Wednesday, December 04, 2013 8:27 AM  
**To:** 'Toni Milam'  
**Subject:** PIA Request - Closed meeting

At the 10/21/13 Council Meeting in the discussion about dredging, the mayor said that a decision was made by council in a closed meeting to spend \$50K. May I please have:

1. The date and time of the closed meeting
2. The agenda of the open meeting that contained the closed meeting.
3. The agenda of the closed meeting
4. The meeting minutes of both the open and closed meetings.
5. Any and all announcements of the meetings, paper and web.
6. The attendees of the meeting.

Thanks,  
Marc

### EMAIL Number 2.

**From:** Toni Milam [mailto:tmilam@cityofflano.com]  
**Sent:** Wednesday, December 04, 2013 8:42 AM  
**To:** 'Marc Sewell'  
**Cc:** 'Toni Milam'  
**Subject:** RE: PIA Request - Closed meeting

See responses below.

Toni

At the 10/21/13 Council Meeting in the discussion about dredging, the mayor said that a decision was made by council in a closed meeting to spend \$50K. May I please have:

1. The date and time of the closed meeting 10-07-13 @ 5:30 p.m.
2. The agenda of the open meeting that contained the closed meeting. See attached
3. The agenda of the closed meeting See attached
4. The meeting minutes of both the open and closed meetings. See attached[
5. Any and all announcements of the meetings, paper and web. Agendas posted on bulletin board at City Hall
6. The attendees of the meeting. See attached minutes

Thanks,  
Marc

[The attached documents were: 10-7-13 Regular Called Council Agenda – AMENDED.pdf, 10-7-13 Regular Called Council Minutes.pdf, 10-21-13 Regular Called Council Agenda.pdf, 10-21-13 Regular Called Council Minutes.pdf]

EMAIL Number 3.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Wednesday, December 04, 2013 10:03 AM  
**To:** 'Toni Milam'  
**Subject:** RE: PIA Request - Closed meeting

The closed meeting on 10/7/13 was not the meeting the mayor referenced in his remark on 10/21/13. May I please have the information for the closed meeting which decided on dredging not the open meeting where it was voted upon.

Thanks,

Marc.

EMAIL Number 4.

**From:** Toni Milam [mailto:tmilam@cityofllano.com]  
**Sent:** Wednesday, December 04, 2013 11:26 AM  
**To:** 'Marc Sewell'  
**Cc:** [blewis@cityofllano.com](mailto:blewis@cityofllano.com)  
**Subject:** RE: PIA Request - Closed meeting

Marc,

I have provided you with the agenda and minutes from the Executive Session held by Council on 10-07-13. There was no formal action taken by the Council when they came back into open session from the executive session Pursuant to Texas Government Code §551.071, the City Council will meet in closed session to consult with the City's Attorney regarding contemplated litigation on **water matters**. The information for the closed meeting was a "consultation with the City's Attorney regarding contemplated litigation on **water matters**". The agenda that was sent to you did not reference, in your words, "dredging".

Under the Open Meetings Act:

A certified agenda or recording of an executive session is confidential. A person who knowingly and without lawful authority makes these records public commits a Class B misdemeanor and may be held liable for actual damages, court costs, reasonable attorney fees and exemplary or punitive damages.<sup>364</sup> Section 551.104 provides for court-ordered access to the certified agenda or recording under specific circumstances:



(b) In litigation in a district court involving an alleged violation of this chapter, the court:

(1) is entitled to make an in camera inspection of the certified agenda or recording;

(2) may admit all or part of the certified agenda or recording as evidence, on entry of a final judgment; and

(3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or recording of any part of a meeting that was required to be open under this chapter.

### *Records of Meetings*

*2014 Open Meetings Handbook • Office of the Attorney General*

**57**

(c) the certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Subsection

(b)(3).<sup>365</sup>

Section 551.104 authorizes a district court to admit all or part of the certified agenda or recording of a closed session as evidence in an action alleging a violation of the Act, thus providing the only means under state law whereby a certified agenda or recording of a closed session may be released to the public.<sup>366</sup> The Office of the Attorney General has recognized that it lacks authority under the Public Information Act<sup>367</sup> to review certified agendas or recordings of closed sessions for compliance

with the Open Meetings Act.<sup>368</sup> However, the confidentiality provision may be preempted by federal law.<sup>369</sup> When the Equal Employment Opportunity Commission served a Texas city with an administrative subpoena for tapes of closed city council meetings, the Open Meetings Act did not excuse compliance.<sup>370</sup>

A member of the governmental body has a right to inspect the certified agenda or tape recording of a closed meeting, even if he or she did not participate in the meeting.<sup>371</sup> This is not a release to the public in violation of the confidentiality provisions of the Act, because a

board member is not a member of the public within that prohibition. The governmental body may adopt a procedure permitting review of the certified agenda or recording, but may not entirely prohibit a board member from reviewing the record. The board member may not copy the recording or certified agenda of a

closed meeting, nor may a former member of a governmental body inspect these records once he or she leaves office.<sup>372</sup>

Therefore under the OMA, unless by a court order, I cannot provide you with the certified agenda (for the purposed of a closed session).

Toni

EMAIL Number 5.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Wednesday, December 04, 2013 5:46 PM  
**To:** 'Toni Milam'  
**Subject:** RE: PIA Request - Closed meeting

In the 10/21/13 meeting the mayor said there was a closed meeting where the council decided to spend \$50K on dredging. His words. I asked you when that meeting was and you answered 10/7/13 which said water matters. So the lawsuit must be about dredging or dredging is the settlement for a lawsuit. Once the lawsuit has been resolved, you must disclose it to the citizens.

EMAIL Number 6.

**From:** Toni MILAM [mailto:tmilam@cityofllano.com]  
**Sent:** Wednesday, December 04, 2013 7:07 PM  
**To:** Marc Sewell  
**Cc:** Lewis Brenton  
**Subject:** Re: PIA Request - Closed meeting

Mr. Sewell,

Without going into detail regarding a discussion held in a closed session (class c misdemeanor if details are divulged), the closed session was to discuss water matters pending contemplated litigation.

The City of Llano on occasion will go into executive session to consult with the City's Attorney to receive advice on PREVENTING contemplated litigation. I will not divulge any more on this matter other than pursuant to LGC 551.071 council may conduct a closed session to consult with their attorney.

Thank you

Toni Milam

City Secretary

City of Llano

[Tmilam@cityofllano.com](mailto:Tmilam@cityofllano.com)

Ofc 325-247-4158 x 207

Fax 325-247-4150

EMAIL Number 7.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Wednesday, December 04, 2013 7:44 PM  
**To:** 'Toni MILAM'  
**Subject:** RE: PIA Request - Closed meeting

Not complying with a Public Information Act request is also a misdemeanor. Since the “water matter” was resolved by the \$50K dredging contract which was passed on 10/21/13, the matter is no longer “contemplated” litigation but resolved litigation which must be disclosed in a PIA request.

Marc

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Tuesday, January 07, 2014 9:21 AM  
**To:** 'Toni Milam'  
**Subject:** FW: PIA Request - Closed meeting

I am still awaiting an answer on this.

EMAIL Number 8.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Wednesday, February 19, 2014 12:22 PM  
**To:** 'Toni Milam'  
**Subject:** FW: PIA Request - Closed meeting

I am still awaiting an answer on this.

EMAIL Number 9.

**From:** Toni Milam [mailto:tmilam@cityofllano.com]  
**Sent:** Wednesday, February 19, 2014 3:56 PM  
**To:** 'Marc Sewell'  
**Cc:** 'Mike Virdell'; 'Brenton Lewis'  
**Subject:** RE: PIA Request - Closed meeting

Marc,

The executive session held on 10-07-13 had nothing to do with contemplated litigation on dredging.

Toni

EMAIL Number 10.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Wednesday, February 19, 2014 4:54 PM  
**To:** 'Toni Milam'  
**Subject:** RE: PIA Request - Closed meeting

We are going in circles here. I asked when the closed session on dredging was held and you sent the agenda for 10/7/13 which said "pending litigation on water matters". Now you are saying that wasn't about dredging. So when was the closed meeting on dredging?

Marc

EMAIL Number 11.

**From:** Toni Milam [mailto:tmilam@cityofllano.com]  
**Sent:** Thursday, February 20, 2014 8:59 AM  
**To:** 'Marc Sewell'  
**Subject:** RE: PIA Request - Closed meeting

THERE WAS NO CLOSED MEETING ON DREDGING.

Toni

EMAIL Number 12.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Thursday, February 20, 2014 9:09 AM

**To:** 'Toni Milam'  
**Subject:** RE: PIA Request - Closed meeting

BUT THE MAYOR SAID THERE WAS. SEE VIDEO HERE. My PIA request stands open and late. Marc

EMAIL Number 13.

**From:** Toni Milam [mailto:tmilam@cityofllano.com]  
**Sent:** Thursday, February 20, 2014 9:53 AM  
**To:** 'Marc Sewell'  
**Cc:** 'Brenton Lewis'  
**Subject:** RE: PIA Request - Closed meeting  
**Importance:** High

Marc,

I have provided you with the agenda and minutes from the Executive Session held by Council on 10-07-13. There was no formal action taken by the Council when they came back into open session from the executive session Pursuant to Texas Government Code §551.071, the City Council will meet in closed session to consult with the City's Attorney regarding contemplated litigation on water matters. The information for the closed meeting was a "consultation with the City's Attorney regarding contemplated litigation on water matters". The agenda that was sent to you did not reference, in your words, "dredging".

In looking back at your original request for information, all of your requests have been filled and you were provided with documents on December 4, 2013, within 15 minutes of your request for the documents.

This request is not late but is in accordance with the Public Information Act.

Portions of your previous e-mails which are in your words: ***"Since the "water matter" was resolved by the \$50K dredging contract which was passed on 10/21/13"***. This statement made by you is purely an assumption on your part that "dredging activities" was the "water matter" that was discussed in executive session and in your words a "decision that was made in closed session", again, there was **no decision** made in a closed session regarding dredging, or for that matter, "water matters", and the Mayor mis-spoke when saying so, but rather other "water matter" issues were being discussed regarding contemplated litigation. The water matters discussed in the executive session **HAVE NOT BEEN RESOLVED EITHER**, so there is still the possibility of contemplated litigation.

In accordance with the Public Information Act, this request for information has been fulfilled and the City considers the request closed.

Toni

EMAIL Number 14.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Thursday, February 20, 2014 10:41 AM  
**To:** 'Toni Milam'  
**Subject:** RE: PIA Request - Closed meeting

My original PIA request was clearly regarding the closed meeting for dredging which began with:

“At the 10/21/13 Council Meeting in the discussion about dredging, the mayor said that a decision was made by council in a closed meeting to spend \$50K.”

You were the person who brought up the 10/7/13 meeting. You were wrong about that meeting. Please ignore all emails that followed your error about the 10/7/13 and answer my original PIA request regarding the closed meeting on dredging. I only need information relevant to the closed meeting about dredging – which the mayor said occurred. SEE VIDEO HERE.

Marc

EMAIL Number 15.

**From:** Toni Milam [mailto:tmilam@cityofllano.com]  
**Sent:** Thursday, February 20, 2014 10:47 AM  
**To:** 'Marc Sewell'  
**Cc:** 'Brenton Lewis'  
**Subject:** RE: PIA Request - Closed meeting

Marc,

No need for me to respond since there was no closed meeting for dredging.

Toni

EMAIL Number 16.

**From:** Marc Sewell [mailto:marcs@simonlabs.com]  
**Sent:** Thursday, February 20, 2014 10:52 AM  
**To:** 'Toni Milam'  
**Subject:** RE: PIA Request - Closed meeting

Since the mayor has said, on video tape, there was a closed meeting on dredging, did you ask him when it was? You are just the gatekeeper and not the source of information.

marc

EMAIL Number 17.

**From:** Toni Milam [mailto:tmilam@cityofllano.com]  
**Sent:** Thursday, February 20, 2014 11:03 AM  
**To:** 'Marc Sewell'  
**Cc:** 'Brenton Lewis'  
**Subject:** RE: PIA Request - Closed meeting

Marc,

The Mayor and I have had several conversations, so I did go to the source of information. I also sat in on the executive session of 10-07-13.

Toni

## **Appendix D - 10/21/13 Council Meeting Video**

Web page [www.llanowatch.com/llanowatch/illegalclosedmeeting.htm](http://www.llanowatch.com/llanowatch/illegalclosedmeeting.htm) contains a video snippet where the Llano Mayor admits to the illegal closed meeting to approve a \$50,000 contract.

Attached DVD also contains video snippet.