

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting
January 12, 2017**

Board members present at commencement: Blayne Stansberry, Craig Smith, Bob Larsen, and Mary Stone. Blake Dorsett was absent. Staff present: John Dupnik, Brian Smith, Vanessa Escobar, Kendall Bell-Enders and Tammy Raymond. Bill Dugat of Bickerstaff, Heath, Delgado, Acosta also participated in the meeting. Also present were those on the attached sign-in sheet. These minutes represent a summarized version of the meeting; the complete discussion of the following items is recorded digitally.

1. Call to Order.

President Stansberry called the meeting to order at 6:02 p.m., noting that a quorum of the Board was present.

2. Citizen Communications (Public Comments of a General Nature).

There were no public comments of a general nature.

3. Routine Business.

- a. **Consent Agenda.** Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as an item of Regular Business.

1. **Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**

2. **Approval of minutes of the Board's December 15, 2016 regular Meeting.**

Director Smith moved approval of consent agenda items 1 and 2, noting an invoice from Bickerstaff, Heath, Delgado, Acosta in the amount of \$8719.25.

Director Stone seconded the motion and it passed unanimously with a vote of 4 to 0.

3. Routine Business.

b. General Manager's Report. (Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action unless the topic is specifically listed elsewhere in this agenda.)

1. Standing Topics.

- i. Personnel matters and utilization**
- ii. Upcoming public events of possible interest**
- iii. Aquifer conditions and status of drought indicators**

2. Special Topics. *(Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.)*

- i. Review of Status Update Report – at directors’ discretion**
- ii. Update on GMA and regional water planning**
- iii. Update on District grant projects and other Aquifer Science Team projects**
- iv. Update on activities related to area roadway projects**
- v. Update on the HCP/ITP application and the associated draft EIS**
- vi. Update on Board committee activity**

Mr. Dupnik and staff updated the Board and answered Director’s questions on the items listed above.

5. Discussion and Possible Action .

5a. Discussion and possible action related to amending the FY17 Budget.

Mr. Dupnik stated that the Budget Board Subcommittee met with staff on the amendments needed. He then laid out the primary drivers for the amendment and provided an overview of the substantive changes. He also stated that Ms. Wilson did a great job of outlining the changes with explanations of each item.

After discussion, Director Smith moved approval of the FY17 Budget amendment as outlined by staff and in the backup.

Director Larsen seconded the motion and it passed unanimously with a vote of 4 to 0.

5b. Discussion and possible action related to procedural matters on the permit application for conversion of a Temporary Production Permit to a Regular Historical Production Permit (Application) of Needmore Water LLC to authorize withdrawal of an annual permitted volume of approximately 289,080,000 gallons per year of groundwater from the Trinity Aquifer for agricultural use. The Board will consider the following:

- a. Timeline associated with processing of application;**
- b. Written comments and requests for contested case hearing;**
- c. Determination to conduct a contested case hearing;**

- d. Requests that contested case hearing be conducted by and referral to the State Office of Administrative Hearings (SOAH);**
- e. Deposit for and approval of contract with SOAH to conduct hearings;**
- f. Date, time, location and who will conduct the preliminary hearing;**
- g. Designation of presiding officer;**
- h. Matters to be included in any referral to SOAH, including hearing location and cost allocations;**
- i. Selection of special counsel; and,**
- j. Other matters necessary to conduct future hearings(s) in connection with the Application.**

Note: At this meeting, the Board of Directors will not conduct a hearing, determine party status, nor decide whether to grant or deny, in whole or part, the Application. The Board will consider the procedural steps identified above that relate to how, when and where the future hearings will be conducted. Adequate notice of the future hearings will be provided.

Mr. Ed McCarthy representing Needmore Water LLC, stated that their interpretation of HB 3405 was that it was separate from Chapter 36 and gave existing well owners in the white space a time period to obtain temporary permits and regular permits. He questioned whether 3rd parties could contest those applications.

Ms. Vanessa Puig-Williams representing TESPAA, stated that she disagrees with HB3405 prohibiting an application being contested, and agrees with the District that there is no specific language that says that third-party contested case hearings are prohibited.

Mr. Dugat stated that in the last round of Rule changes that the District went through presentations outlining every step of the hearing process in which Mr. McCarthy or his son was in attendance. He said that Chapter 36 works hand-in-hand with HB 3405 and that a hearing must be conducted by the Board or SOAH. He went through the timeline and a flow chart of the application process that was presented when the rules that memorialized the process were promulgated by the Board.

After discussion, President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) at 7:34 p.m. President Stansberry stated that no final actions or decisions would be made while in Executive Session.

The Board reconvened into open session at 8:15 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Director Smith moved that:

1. the Board determined that a contested case hearing will be held on the application by Needmore Water;
2. it be referred to the State Office of Hearing Examiners (SOAH) including the preliminary hearing to be held at the SOAH office,

3. the Board's attorney is directed to determine the amount of the appropriate deposit
4. the General Manager is directed to secure that deposit from TESP;A;
5. Bill Dugat will continue to represent the Board until the Board secures another attorney to represent it, in which time Bill Dugat will be delegated to represent the General Manager, and
6. the Board President is authorized to execute the contract with SOAH for the hearing.

Director Larsen seconded the motion and it passed unanimously with a vote of 4 to 0.

President Stansberry then designated a Board committee made up of Director Smith and herself to choose the attorney to represent the Board.

5c. Discussion and possible action related to an offer of compensation by the Hays Caldwell Public Utility Agency for easements on District property.

Mr. Dupnik stated that the Board Subcommittee met and looked at the offer and had questions. There was a request for additional information and that it was received.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) and 551.072 (Deliberations about Real Property) at 8:20 p.m. President Stansberry stated that no final actions or decisions would be made while in Executive Session.

The Board reconvened into open session at 8:50 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

No Board action was taken.

4. Presentation.

Presentation by the Aquifer Science Team on opportunities for recharge enhancement in conjunction with possible flood mitigation measures on Onion Creek.

Dr. Brian Smith gave a presentation on recharge enhancement and flood mitigation measures on Onion Creek.

5d. Discussion and possible action related to current efforts to address Onion Creek flooding including the role of the District in participating in such efforts.

Mr. Dupnik stated that staff was seeking direction from the Board on the District's role in the ongoing discussions regarding flood control and its position on a flood control district. He noted that the District's participation to date had been consistent with the District's management of the regional groundwater resources. He also informed the Board that Representative Workman had indicated his intent to file a bill to create a new flood control district.

Director Larsen stated that he would like the staff to continue to have an active role in participating in the efforts regarding flood control on Onion Creek.

President Stansberry agreed that it is important to look for recharge enhancement opportunities.

No Board action was taken.

5e. Discussion and possible action related to activities in the 84th legislative session of interest to the District including consideration of prospective bills proposed to be filed.

Mr. Dupnik gave a report on prospective legislation that could affect the District.

5f. Discussion and possible action related to the scheduling of future regular Board meetings.

The Board discussed the possibility of front loading the agenda of the first meeting of the month, and to have a lighter agenda or possible cancellation of the second meeting.

No action was taken.

5g. Discussion and possible action related to the City of Dripping Springs TPDES permit application to authorize direct discharge of treated wastewater to Onion Creek in the contributing zone of the Barton Springs segment of the Edwards Aquifer.

Mr. Dupnik gave a short update on the Drippings Springs permit.

6. Directors' Reports. *(Note: Directors' comments under this item cannot address an agenda item posted elsewhere on this agenda and no substantive discussion among the Board Members or action will be allowed in this meeting. Communications reported under this item may be used to support Performance Standard 4-1 of the District's Management Plan related to demonstration of effective communication with District constituents.)*

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Committee formation and updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

Ms. Stansberry stated that this item would be returned to the next agenda.

7. Adjournment.

Without objection, President Stansberry adjourned the meeting at 9:55 p.m.

Approved by the Board on January 26, 2017.

By: Blayne Stansberry Attest: Blake Dorsett
Blayne Stansberry, President Blake Dorsett, Board Secretary