

“Corrected version”

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting
March 10, 2011**

Board members present at commencement: Mary Stone, Gary Franklin, Bob Larsen, Craig Smith, and Jack Goodman. Staff present: Kirk Holland, John Dupnik, Brian Smith, Dana Wilson, Julie Jenkins, and Tammy Raymond. Bill Dugat and Claudia Russell of Bickerstaff, Heath also participated. 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.

Ms. Stone called the meeting to order at 6:00 p.m., noting that a quorum of the Board was present.

2. Citizen Communications (Public Comments).

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 from the March 10, 2011, Regular Meeting.**
- 3. Financial performance report through 2nd Quarter 2011, including Balance Sheet, Profit & Loss Statement, and Comparative Actual vs. Budget.**

Mr. Holland and Ms. Wilson briefly commented on the financial reports and answered questions from the directors. Mr. Goodman moved approval of items 3.a.1, 2 and 3 of the consent agenda, noting invoices from Figer and Company in the amount of \$10,500.00, and Bickerstaff in the amount of \$16,922.97.

Mr. Smith seconded the motion, and it passed unanimously with a vote of 5 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 on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. Personnel matters and utilization;
2. Upcoming public events of possible interest;
3. Aquifer conditions and status of drought indicators.
4. Discussion related to current staff work areas and specific activities of staff teams and directors. 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. Update on recent team activities.
 - ii. Update on developments, if any, concerning TCEQ's recommendations for providing GCD protection in unprotected areas of the Hill Country PGMA.
 - iii. Update on developments, if any, concerning the Jeremiah Venture TLAP permit and settlement discussions.

Mr. Holland, Mr. Dugat and staff updated the Board and answered directors' questions on the teams' activities concerning the items listed above.

4. Board discussions and Possible Actions.

4a. Discussion and possible action on progress with Centex in defining requirements for alternative water supplies and their relation to curtailments of industrial and non-agricultural irrigation permits during an Emergency Response Period.

Mr. Dupnik stated that another meeting was cancelled by Centex and that staff recommends continuing dialogue with them, as previously authorized, but no Board action required.

Ms. Stone stated that this item would return to the next agenda, no Board action was taken.

4b. Discussion and possible action on a requested amendment to the Settlement Agreement between the District and Hays County WCID No. 1.

Mr. Holland stated that staff recommends approval of the requested amendment.

After discussion, Dr. Larsen moved to approve amending the Settlement Agreement with HCWCID #1 to allow use of a structural storage tank for treated effluent rather than an impoundment, in accordance with the TCEQ TPDES permit amendment.

Mr. Goodman seconded the motion and it passed unanimously with a vote of 5 to 0.

4c. Update, discussion, and possible action related to developments concerning the District's legislative agenda and with other relevant legislative initiatives that potentially affect the District.

Mr. Holland and Mr. Dugat updated the Board on legislation concerning the District.

Mr. Holland stated that staff recommends continued pursuit of its legislation including committee substitutes as warranted to make progress with the agenda, including the addition of a provision in the direct discharge restriction bill(s) that would authorize use of Advanced Water Treatment effluent to be used on individually owned property as lawn irrigation.

After discussion, Dr. Larsen moved to direct staff and counsel to add language into SB 853 and any companion bill that directs TCEQ to allow re-use of such Advanced Water Treatment effluent as lawn irrigation on individual properties for enhanced water conservation and reduced volume of direct discharges to the contributing zone. Mr. Smith seconded the motion, and the motion passed unanimously.

4d. Discussion and possible action related to a NDU application for a Middle Trinity well by Kellywood Estates landowners, including whether it should be considered an NDU well or a well requiring a production permit.

Mr. Dupnik stated that Kellywood Estates landowners are asking for a NDU application to drill a Middle Trinity well for domestic use that would serve four homes on a total of four acres. He said that the cap for a NDU well is 500,000 gallons per year and would have to split between the four homes. There is no alternative water source for the property.

Mr. Stephen Delgado and Alison Gardner representing Mr. Kelly said that they understand the 500,000 gallon per year requirement and would meter the homes and install rainwater harvesting systems for outdoor use. They said that they contacted the City of Austin and Aqua Texas in hopes of connecting to a water system but were denied by both for various reasons.

Mr. Dupnik stated that staff recommends that it be a Board decision to consider this an NDU well or not, but suggests that it be classified an NDU well, in light of the applicant's commitment to implement conjunctive use of harvested rainwater and Middle Trinity groundwater, and provided there is a single legal entity that will be responsible for ensuring compliance with the NDU requirements, and further provided deed restrictions are placed on the four individual properties that acknowledge the NDU requirements as to applicable drought restrictions.

After further discussion, Mr. Smith moved to approve an NDU permit for the Kellywood Estates well provided the named permittee is and continues to be a single legal entity, and further provided that deed restrictions are emplaced on the served individual properties that acknowledge the NDU requirements, including applicable annual limitations and drought restrictions.

Dr. Larsen seconded the motion.

Mr. Franklin stated that with the circumstances this application should be for a production well and did not agree with the staff recommendation.

Following further discussion, Mr. Smith amended his motion to read: “the named permittee is and continues to be a single person or legal entity.”

Dr. Larsen accepted the amendment to the motion he seconded.

Mr. Smith called for a vote and the motion passed with a 4 to 1 vote, with Mr. Franklin voting nay.

4e. Discussion and possible action related to a clarification on applicable fees for certain NDU amendments.

Mr. Dupnik explained that in the current Fee Schedule all amendments have a \$400 fee. There is an NDU that would like to make a minor amendment to his pumpage permit, and staff does not feel that the minor amount of work involved in making such an amendment to an NDU permit warrants such a high fee. He said that staff recommends that the fee for a minor amendment to an NDU permit be reduced to \$50.

Mr. Smith moved to approve amending the District Fee Schedule to specify that the fees for minor amendments to NDUs shall be reduced from \$400 to \$50.

Dr. Larsen seconded the motion and it passed unanimously with vote of 5 to 0.

4f. Discussion and possible action related to approval of elements of an inter-local agreement with Hays County concerning services at Dahlstrom Ranch.

Ms. Jenkins gave a presentation on the Dahlstrom Ranch Project and the District’s prospective involvement in the educational programs.

Mr. Holland stated that staff recommends continuing the dialogue with Hays County concerning needs and support at Dahlstrom Ranch during an interim period, and authorizing the staff to participate in initial discussions of an Interlocal Agreement with Hays County for such interim services.

Dr. Larsen moved to authorize the General Manager to initiate discussions to define potential elements of an Interlocal Agreement with Hays County concerning interim services at Dahlstrom Ranch.

Mr. Franklin seconded the motion and it passed unanimously with a vote of 5 to 0.

4g. Discussion and possible action relating to City of Kyle vs. Goodman et al. and the Barton Springs Edwards Aquifer Conservation District, Cause No. 10-1267, 22nd District Court, Hays County, Texas.

Mr. Dugat stated that a hearing has been set for March 30th in Hays County District Court.

No action was needed.

6. Adjournment.

Without objection, Ms. Stone adjourned the meeting at 8:01 p.m.

Approved by the Board:

By: Mary Stone
Mary Stone, President

Attest: Craig Smith
Craig Smith, Secretary