

**Barton Springs/Edwards Aquifer Conservation District  
Board of Directors Meeting Minutes  
Regular Meeting and Public Hearing  
July 14, 2011**

Board members present at commencement: Mary Stone, Gary Franklin, Jack Goodman, Bob Larsen, and Craig Smith. Staff present: Kirk Holland, John Dupnik, Dana Wilson, and Tammy Raymond. Bill Dugat of Bickerstaff 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.**

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 Board's June 20, 2011, Special Called Meeting and Work Session, and its June 23, 2011, Regular Meeting.**
  3. **Approval of out-of-state travel for General Manager Kirk Holland to present an invited paper at the 2011 Annual Meeting of the Geological Society of America, October 2011, in Minneapolis.**
  4. **Approval of a contract with Hicks & Company to complete the EIS documentation required by US Fish & Wildlife Service for issuing an Incidental Take Permit supported by the District's Habitat Conservation Plan.**

Mr. Goodman moved approval of items 3.a.1-3 of the Consent Agenda noting an invoice from Bickerstaff in the amount of \$12,369.96.

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

At staff's request, Ms. Stone moved item 3a.4. to the Regular agenda for discussion.

#### **4. Public Hearing:**

##### **The Board will hold a Public Hearing concerning the District's proposed fiscal year 2012 Annual Budget, and the proposed 2012 District Fee Schedule.**

Ms. Stone opened the Public Hearing at 6:07 p.m.

Ms. Wilson and Mr. Holland reviewed the proposed Budget and answered questions from the Board.

There were no comments from the public..

Ms. Stone closed the Public Hearing at 6:24 p.m.

#### **5. Board discussions and Possible Actions.**

##### **5a. Discussion and possible action on approving a resolution establishing the District's fiscal year 2012 Fee Schedule.**

Mr. Smith moved approval of Resolution 071411-01, as included in the backup, to set the FY 2012 Fee Schedule.

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

#### **3. Routine Business.**

##### **3a.4. Approval of a contract with Hicks & Company to complete the EIS documentation required by US Fish & Wildlife Service for issuing an Incidental Take Permit supported by the District's Habitat Conservation Plan.**

Mr. Holland stated that staff recommended continuing negotiations with Hicks and with USFWS concerning the requisite scope of work, staffing, and cost associated with this contract, and this contract be taken up for approval in the July 28, 2011, Board Meeting, with an effective date of July 1, 2011.

Ms. Stone stated that this item would return to the next agenda.

##### **5b. Discussion and possible action related to approving the District's fiscal year 2012 Annual Budget.**

- 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 status of DOJ pre-clearance associated with HB 1060 and the District's de-annexation of Bastrop County.
  - iii. Update on progress in revising the District Management Plan.
  - iv. Discussion related to the intended use and implications of the phraseology "tabling an item" and "returning an item to a future agenda" in Board meetings.
  - v. Update on status of mediation concerning the Jeremiah Ventures TLAP contested case.
  - vi. Discussion related to citizens' concerns about wasteful use of groundwater in unprotected areas adjacent to the District during drought.

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

**5c. Discussion and possible action related to the negotiated rulemaking with Centex concerning extreme-drought curtailments and alternative water supplies.**

Mr. Dupnik stated that staff recommended going forward with Rulemaking.

Ms. Stone thanked Mr. Loftis for his part in expediting language agreeable to both parties.

After discussion, Mr. Smith moved approval of the negotiated changes in the rules discussed here, to serve as the basis for normal rulemaking, to be initiated in the July 28, 2011, Board meeting.

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

**5d. Discussion and possible action concerning the staff's interpretation of the eligibility criterion for a Non-exempt Domestic Use (NDU) General Permit and authorizing the General Manager to approve an NDU for a well location within a CCN area.**

Mr. Dupnik stated that staff recommended that the Board provide some limited discretion to the General Manager in interpreting the NDU eligibility rule to address the non-availability for ready water supplies by the CCN holder. The General Manager would continue to have the option to bring any permit to the Board for approval.

After discussion, Dr. Larsen moved that it is the Board's intent that the rule concerning the non-eligibility of a prospective NDU Permittee within a CCN service area may be interpreted as

requiring “the ability of the CCN holder to readily supply water to the property on which the NDU well would be located without unreasonably excessive cost and time delay to the Applicant/Permittee” as evaluated by the General Manager.

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

**5h. Discussion and possible action related to the assessment of director election date issues arising from SB 100, including moving election dates from the March local elections date to the November general election date and extending current terms of office of certain directors, or, in the alternative, including authorizing the General Manager and District legal counsel to negotiate terms of holding joint May elections with Austin Community College and other local governmental entities.**

Mr. Dugat updated the Board on the status of how local political subdivisions are intending to comply with SB 100, options being considered, and the outlook for the District to participate in joint local elections with ACC, as likely elections administrator, AISD, and the City of Austin, among others.

After discussion, Mr. Goodman moved to direct Bickerstaff to draft a Resolution to move the Director Election dates to November, thereby extending the current directors’ terms by five months.

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

**5e. Discussion and possible action to review and designate one or more draft redistricting plans as Illustrative Plan(s) to be proposed for public consideration and comment including scheduling one or more public hearings at which to receive comments on designated redistricting Illustrative Plan(s) from members of the public.**

With the action taken in Item 5h above, Ms. Stone returned this item to the agenda of a future meeting, to provide more time for individual directors to provide input to Mr. Dugat, provided that the meeting in which it would be taken up would have all five Board members present.

**5f. Discussion and possible action related to the draft Managed Available Groundwater report for the Edwards Aquifer issued by Texas Water Development Board and its potential implications for the District’s regulatory program.**

Mr. Holland reported that the TWDB had not produced a draft MAG that corresponded to the extreme drought DFC that the Board supported and GMA 10 adopted, but that after consultation with the District, TWDB has now agreed to produce one.

After discussion, Mr. Smith moved that the District Representative to GMA 10 inform the Committee that the District’s position is that it should not adopt the current Draft MAG Report at this time subject to considering a different MAG report now under preparation by the TWDB.

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

**5g. Discussion and possible action related to the compliance by District permittees with their User Drought Contingency Plans and potential enforcement actions.**

Mr. Dupnik updated the Board on drought compliance by the permittees.

No Board action was needed.

**5i. Discussion and possible action relating to further action on *City of Kyle v. Goodman et al. and the Barton Springs/ Edwards Aquifer Conservation District, Cause No. 10-1267, 22<sup>nd</sup> District Court, Hays County, Texas.***


The Board adjourned into Executive Session as authorized under Government Code Section 551.071 (Consultation with Attorney) at 8:39 p.m. Ms. Stone stated that no decisions or actions would be made while in Executive Session.

The Board reconvened into open session at 8:47 p.m. noting that no decisions or actions were made while in Executive Session. No further Board action was required.

**6. Adjournment.**

Without objection, Ms. Stone adjourned the meeting at 8:48 p.m.

Approved by the Board:

By:   
Mary Stone, President

Attest:   
Craig Smith, Secretary