

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting
September 10, 2009**

Board members present at commencement: Robert Larsen, Jack Goodman, Gary Franklin, Mary Stone, and Craig Smith. Staff present: Kirk Holland, John Dupnik, Robin Gary, Brian Smith and Tammy Raymond. Bill Dugat 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.

Dr. Larsen called the meeting to order at 6:04 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 August 24, 2009 Regular Meeting & Public Hearing, and the August 27, 2009, Regular Meeting, Public Hearing, and Work Session.**
 3. **Approval of the continuation of the contract with USGS for supporting gaging station on Onion Creek and the second year of the baseline nutrient water quality study in FY 2010, and any required amendment of the District's FY 2010 budget.**
 4. **Approval of the out-of-state travel request by a staff member, Dr. Brian Smith, to attend the 4th International Symposium on Karst in Malaga, Spain, from April 26 to April 30, 2010. Note: This symposium will cover a variety of karst topics including protection of water resources in karst, karst ecosystems, and importance of groundwater in the environment. Serving on the**

scientific committee organizing the symposium are many karst experts from around the world, including several from the United States.

Mr. Smith moved approval of the consent agenda as stated above, noting an invoice from Bickerstaff in the amount of \$14,000.03, Blue Cross Blue Shield in the amount of \$7,163.01, and Laura Raun Public Relations in the amount of \$6,424.50.

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

- 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 deliberate or take any action on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. Personnel matters, current staff work areas, and utilization
2. Upcoming public events of possible interest
3. Aquifer conditions and status of drought indicators.

Mr. Holland reported on the items above.

- c. **Discussion related to 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.

1. Update on 319h and HCP grant projects
2. Update on revision of well construction standards
3. Update on Technical Team in FY 2010
4. Update on neighborhood canvassing project
5. Update on Multi-agency Drought Response Coordination Meeting
6. Discussion of experience with new District telephone system

Mr. Holland and staff updated the Board on the teams' activities concerning the items listed above. None of these topics were moved to the regular agenda for possible action, as no action was required.

4. Regular Meeting: New Business.

4a. Discussion and possible action related to a change to the User Drought Contingency Plan for the City of Buda.

The Board tabled this item to a future Board meeting.

4d. Discussion and possible action related to District activities, possibly in collaboration with certain other organizations, to research, request, and fund advocacy efforts to request interim studies and hearings by legislative committees related to wastewater disposal in the recharge and contributing zones of the Edwards Aquifer.

The Board elected to return this item to a subsequent agenda.

5. Regular Meeting: Continued Business.

5d. Discussion and possible action related to status and progress on the contested-case before the District associated with the City of Kyle permit amendments. [Note: no action on approving or not approving these amendments will be taken in this meeting.]

Mr. Holland explained that this item will remain on each agenda until the hearing scheduled for December 5th, in the event that the Board would like to discuss it. There was no discussion of this topic in this meeting.

4c. Discussion and possible action related to the prospective use of reclaimed treated wastewater as a supplemental or alternative water supply for certain industrial purposes in the recharge zone.

After discussion, Mr. Smith moved to direct staff to continue to look into re-use as an option for Centex, Texas Lehigh, and all other interested parties, to find an acceptable solution that would permit Buda's treated effluent to be used as a substitute water supply.

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

5a. Discussion and possible action related to approval and adoption of the proposed rule changes associated with: definition of terms; implementation of management zones with revisions related to permitting, well spacing, production, withdrawal limitations, fees, drought, proscribed use, and other general provisions; Conditional Production Permit terms and provisions; drought periods and accompanying provisions; notice provisions; fees and credits; new general permits by rule; and other general administrative clarifications and corrections.

Dr. Smith gave a presentation on the basis for recommending a 30-day averaging period for the unstable, slowly changing base recession of Barton Springs flow.

Mr. Dupnik spoke about treated effluent over the recharge zone stating that although more studies are needed the Board might be able to take it on a case by case basis.

The Board heard public comments from the following:

Sarah Faust of SOS Alliance stated that she would like all rules passed and made effective immediately. She touched on the following: Industrial Permittees curtailments could be taken up

using variances if and as needed, the District should reconsider where drought triggers are, drought regulations on Trinity wells should be used to avoid over-pumping, and the Board should consider raising over-pumping fees to improve compliance.

Jennifer Walker of the Sierra Club stated that a 10 day average would be better than 30 days, and that a transport permit should never over-pump.

David Loftis of Centex Materials stated that the Board should not require its industrial users to take the brunt of the need to reduce water demand, that they are vital to the community and should not be overlooked. He said that we need to protect the resource but not over react, and that they are working on other sources but it takes time.

Leanne Fuller of Centex Materials spoke about the City of San Marcos and San Antonio using treated effluent.

Daryl Ball of Guadalupe-Blanco River Authority spoke about the treated waste water that they are allowed to re-use each day.

Dr. Larsen opened item 5c.

5c. Discussion and possible action related to status and progress on the contested-case SOAH proceedings associated with the TCEO preliminary decision on the TLAP for Jeremiah Venture, L.P.

Mr. Dugat gave an update on scheduled meetings and deadlines.

The Board adjourned into Executive Session at 8:12 p.m. under section 551.071 Consultation with Attorney on items 5a. and 5c. Dr. Larsen stated that no actions or decisions would be made while in Executive Session.

The Board reconvened at 9:17 p.m. Dr. Larsen stated that no action or decisions were made while in Executive Session.

Mr. Dugat stated that at the last meeting the Board directed their Attorney and the General Manager to go forward with the settlement, and recommended standing on the last action. No action was taken to re-consider that action or direct further action with respect to the Jeremiah Venture TLAP.

5a. Discussion and possible action related to approval and adoption of the proposed rule changes associated with: definition of terms; implementation of management zones with revisions related to permitting, well spacing, production, withdrawal limitations, fees, drought, proscribed use, and other general provisions; Conditional Production Permit terms and provisions; drought periods and accompanying provisions; notice provisions; fees and credits; new general permits by rule; and other general administrative clarifications and corrections.

Mr. Holland went through the proposed rule changes and amendments that were identified during, and since, the previous Public Hearing on the Rules.

Mr. Franklin moved to accept the Rules and Bylaws as proposed by staff.

Mr. Goodman seconded the motion.

Mr. Smith asked to make a substitute motion to amend the proposed draft to delete the suggested addition to rule 3-7.7(B)(4), which says to add one year after the effective date of these rules. He maintained that now is the time that the additional drought rules are needed, this year not next year, and they should be in the rules. It does say that it's not mandatory that we order a complete curtailment of Industrial Use.

There was no second; therefore the motion died.

Mr. Smith stated that he had a second substitute motion to amend 3-7.3(E) and (G), regarding the 30 day average spring flow trigger, to change the averaging period from 30 days to 10 days. He said that the risk is too high for the Barton Springs Salamander. The Board does not have to act but would have the choice.

Ms. Stone seconded the motion.

Dr. Larsen stated that we would have better science using the 30 day trigger and does not agree with the 10 day because we could go in and out of drought stages.

Dr. Larsen called for a vote and the motion passed with a vote of 3 to 2 with Dr. Larsen and Mr. Goodman voting nay.

Mr. Smith also made another substitute motion to amend the draft of 3-7.6(B)(1), under Transfer Volume Limitations, to amend the rule to say no more than 75 %.

Dr. Larsen said that it is too much of a reduction in water availability, and he does not agree with the motion.

The motion passed with a vote of 4 to 1 with Dr. Larsen voting nay.

Dr. Larsen called for a vote of Mr. Franklin's original motion to adopt the rules as proposed and amended in this meeting.

The motion passed by a vote of 4 to 1 with Dr. Larsen voting nay.

Mr. Goodman moved adoption of the rules, effective September 10, 2009.

The motion passed unanimously with a vote of 5 to 0.

4. Regular Meeting: New Business.

4b. Discussion and possible action related to authorizing, scoping, scheduling, and assigning roles and responsibilities for the FY 2010 Groundwater Stewardship Awards.

Ms. Stone and Mr. Smith volunteered to perform evaluations for the Groundwater Stewardship Awards scheduled for November 6th at Bowie High School. The awards program was accepted as recommended by the staff.

5. Regular Meeting: Continued Business.

5b. Discussion and possible action related to the Critical Stage Drought management program of the District, including 1) an update on conditions of and outlook for the aquifers and individual wells, 2) compliance by District permittees with their User Drought Contingency Plans, and 3) developments concerning enforcement actions and agreed orders for non-compliant permittees, including possible initiation of additional enforcement actions as warranted.

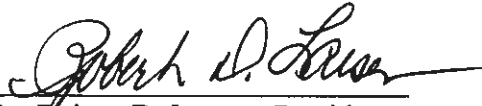
Mr. Dupnik updated the Board on the permittees compliance stating that there was exceptional performance and 45% curtailment. He said that the permittees that were not in compliance all had known, discussed, and rather unique circumstances.

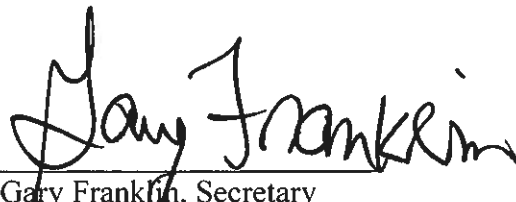
The Board took no action.

7. Adjournment.

Dr. Larsen adjourned the meeting at 10:00 p.m.

Approved by the Board:

By: 
Dr. Robert D. Larsen, President

Attest: 
Gary Franklin, Secretary