

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting &
Two Public Hearings
August 10, 2023**

Board members present at commencement: Blayne Stansberry, Dan Pickens, Lily Lucas Christy Williams, and Vanessa Puig-Williams. Staff present included: Tim Loftus, Dana Wilson, Kendall Bell-Enders, Erin Swanson, Jacob Newton, Justin Camp, Jeff Watson, and Tammy Raymond. These minutes represent a summarized version of the meeting; the complete discussion of the following items is recorded digitally.

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development) 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. Call to Order.

President Stanberry called the meeting to order at 5:03 p.m., noting that a quorum of the Board was present.

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

There were no citizen communications on items not listed on the agenda.

3. 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 a separate item of Regular Business on this agenda.)

3a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.

3b. Approval of minutes of the Board's June 8, 2023, Regular Meeting and June 28, 2023 Special Called Meeting.

3c. Approval of an engagement letter from Montemayor Britton Bender PC regarding the FY 2023 Audit.

Director Puig-Williams moved approval of the consent agenda items a. through c. noting two invoices from Bickerstaff in the amount of \$7860 and \$5710, and two invoices from LRE Water in the amount of \$9000 each.

Director Pickens seconded the motion and it passed unanimously with a vote of 5 to 0.

4. General Manager's Report. Discussion and possible action.

Topics

- a. **Review of key team activities/projects.**
- b. **Aquifer status update.**
- c. **Upcoming events of possible interest.**

Dr. Loftus and staff gave updates on the topics above.

6. Discussion and possible action.

6c. Discussion and possible action on one combination nonexempt well drilling and Historical Trinity Production Permit application for the commercial use of up to 789,000 gallons of water per year filed by Jarica Investments, LLC for one well in the middle Trinity Aquifer to be located at 350 Lonesome Trail in Driftwood, TX 78619 including consideration by the Board of Directors of special conditions or delaying the effective date for an application submitted and/or considered during drought.

President Stansberry stated that there were two citizens that signed up to speak on this item. The District also received nine comments by email before the meeting.

Mr. Dean Blackmoor and Mr. Les Carnes both spoke out against the Board granting a permit for commercial use in their neighborhood where wells are already suffering from the drought and asked for a moratorium on permits.

The following citizens sent written comments against the permit.

Martha Meacham
Suzanne Teshera
Betty Vaughn
Sarah Jackson
Sharon Grayum
Anita McNabb
Mick Vann
Nancy Weaver
Louie Bond

Ms. Swanson reported that the well would be located on a 3.944-acre tract in Hays County off of Old Lonesome Trail and completed in the Middle Trinity Aquifer. It is proposed to be used for twelve tiny home rentals with a use of 788,400 gallons per year. She said that staff has reviewed the application and deemed it administratively complete and recommends approval.

President Stansberry asked if there are upper and middle trinity connections.

Mr. Watson said that they are separate aquifers, but one well did respond from the EP wells during pumping.

Dr. Loftus stated that if the application was for two million gallons or more a year, we would require a pump test and a hydrogeological report, and we would have more data.

Director Puig-Williams asked how that determination was made.

Ms. Bell-Enders answered that when the rule was made it was determined by hydrogeologists that anything under two million gallons would not create unreasonable impacts.

Director Pickens said that when that rule was made it might have been the case but that was many years ago and circumstances have changed. He suggested a moratorium on permits while we are in drought.

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 5:54 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 7:07 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

President Stansberry stated that there was a lot of good discussion but that a moratorium on this permit would not apply because the permit was submitted before one is in place. She went on to say that because of EP we have a lot of monitor wells and data from that neighborhood but since this permit is under two million gallons a pump test is not required. She said that our rules have always been backed by science and asked Mr. Watson to run a hydrogeological model using the knowledge and data we have in this area for the well with 788,400 gallons of annual use to see any potential impacts on nearby wells.

Director Lucas moved to continue this matter until the September Board meeting so that staff can run a model.

Director Puig-Williams seconded the motion and it passed unanimously with a vote of 5 to 0.

5. Public Hearing.

5a. Public Hearing on the District's FY 2024 Fee Schedule, and FY 2024 Proposed Budget.

President Stansberry opened the Public Hearing at 7:09 p.m.

There were no public comments.

Dr. Loftus presented the first change to the FY 2024 Fee Schedule due to SB 1745 where a new class of permittees will pay \$0.27 per 1000 gallons for Trinity water. This fee will increase by \$0.10 each year until it reaches the LCRA firm yield water rate which is currently set at \$0.48 per 1,000

gallons, along with the language referencing .17 per 1000 gallons to specify that it will be for historic Edwards only where it was previously for both historic Edwards and Trinity. He said the second change we are recommending is increasing the Saline Edwards water-use fee that was set at \$0.08 per 1,000 gallons years ago to \$0.17 per 1,000 gallons, an amount equivalent to the Historic Edwards fee.

The Board discussed increasing fees associated with difficult permits that take more staff time at a later date. Staff reported that this scenario is rare and thus, had no recent examples to highlight.

Dr. Loftus then went through the FY 2024 Budget line items and answered questions from the Board.

President Stansberry closed the Public Hearing at 7:27 p.m.

6. Discussion and possible action.

6a. Discussion and possible action related to the approval of the FY 2024 Fee Schedule by Resolution #081023-01.

Director Puig-Williams moved approval of the FY 2024 Fee Schedule by Resolution #081023-01.

Director Lucas seconded the motion and it passed unanimously with a vote of 5 to 0.

6b. Discussion and possible action related to the approval of the FY 2024 Proposed Budget.

Director Lucas moved approval of the FY 2024 Proposed Budget as discussed.

Director Williams seconded the motion and it passed unanimously with a vote of 5 to 0.

5. Public Hearing.

5b. Public Hearing on Amendments to the District's Management Plan approved on October 13, 2022.

President Stansberry opened the Public Hearing at 7:29 p.m.

There were no public comments.

Dr. Loftus explained that the current Management Plan needs an amendment made necessary by the Texas Water Development Board's new Groundwater Availability Model (GAM) Run 21-015 MAG report. Thus, Table 2-2: Summary of DFCs and MAGs was updated to reflect the new MAG (Modeled Available Groundwater) numbers featured in that report.

President Stansberry closed the Public Hearing at 7:33 p.m.

6. Discussion and possible action.

6i. Discussion and possible action on amendments to the District's Management Plan.

Director Puig-Williams moved approval of the amendments to the District's Management Plan.

Director Williams seconded the motion and it passed unanimously with a vote of 5 to 0.

6d. Discussion and possible action on declaring Stage IV Exceptional Drought.

Dr. Loftus explained that provisional data suggests that we have reached the threshold to declare a Stage IV Exceptional drought. However, we would like to go out with our USGS colleagues on August 24th to take manual measurements to confirm the provisional data before we make a declaration that has not been made in the history of the District. We recommend that the Board give us permission to do this and either wait until next month to declare the next stage of drought or give the General Manager permission to do so when the trigger has crossed.

Director Pickens moved to authorize the General Manager to declare Stage IV Drought pending confirmation by the USGS.

Director Williams seconded the motion and it passed unanimously with a vote of 5 to 0.

6e. Discussion and possible action on the reclassification of Class A permittees.

6f. Discussion and possible action on an order of curtailment.

President Stansberry opened item 6e. and 6f. consecutively.

Dr. Loftus stated that based on rules written several years ago when we were transitioning away from permitting Historical Edwards firm yield water to conditional permits, we came up with a Class A Conditional Permit then Class B, C and so forth. When certain Class A permits were issued, permittees were informed and it was agreed that if the District ever moved into Stage IV Drought that some of those permittees would be eligible for reclassification to Class B. We have sixteen Class A permittees that have additional water but would have to curtail 100% of that Class A Conditional permit volume upon reclassification.

After discussion, President Stansberry stated that the Board would meet in Executive Session on items 6e. and 6f. as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) at 7:47 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 8:04 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

No Board action was taken in open session.

6i. Discussion and possible action on amendments to the District's Management Plan.

Mr. Dugat asked the Board to re-open this item noting that it is not clear if a resolution is needed by the TWDB and asked the Board to approve a resolution and give the General Manager permission to execute it.

Director Puig-Williams moved to approve Resolution #081023-02 approving the District's Management Plan amendments and authorizing the General Manager to execute it.

Director Pickens seconded the motion and it passed unanimously with a vote of 5 to 0.

6h. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.

Ms. Swanson reported the following:

Tier 3 permittees

Creedmoor – continuing with Agreed Order

Goforth – 2nd occurrence of noncompliance. Last time she reached out to Mario Tobias the General Manager, and he said that they hired a new operator, and he was not aware that they are supposed to keep a buffer and used it up. Not sure the reason for the 2nd occurrence.

Mr. Dugat said that he got a call from Goforth's attorney, and he directed them to have the General Manager reach out to staff to discuss it.

Tier 2 Permittees

Aqua TX, Bliss Spiller – continuing with Agreed Order

Aqua TX, Bear Creek Park – In the process of completing the investigation report and other documentation and the matter will be coming before you (the Board) very soon.

Cimarron Park Water Co. – First month of noncompliance, will reach out to them for a pre-enforcement meeting to find out what's going on.

Aqua TX, Sierra West – First month of noncompliance but very minor.

Tier 1 Permittees – All permittees over 2 million gallons are in compliance except Cook Walden-Forest Oaks – This is their 2nd issue of noncompliance, and staff will reach out to them.

6g. Discussion and possible action on the draft preliminary changes to the District's Rules and Bylaws.

The Board discussed the preliminary changes to the District's Rules and Bylaws.

Director Lucas left the meeting at 8:20 p.m.

Director Pickens moved to continue this item to the September meeting and set a Public Hearing at the October 12th meeting.

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

6j. Discussion and possible action in connection with a separation agreement with Brian Smith.

President Stansberry stated that there was no response to the agreement offer and that he filed for unemployment.

7. Director Reports.

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;
- Board committee updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

Board members gave reports on activities they have been involved with since the last meeting.

8. Adjournment.

With no objection, President Stansberry adjourned the meeting at 8:43 p.m.

Approved by the Board on September 14, 2023.

By: Blayne Stansberry
Blayne Stansberry, Board President

Attest: Christy Williams
Christy Williams, Board Secretary