

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting
January 9, 2014**

Board members present at commencement: Gary Franklin, Bob Larsen, Mary Stone and Blake Dorsett. Craig Smith arrived at 6:05 pm. Staff present: John Dupnik, Brian Smith, Dana Wilson, Brian Hunt and Tammy Raymond. Bill Dugat of Bickerstaff, Heath, Delgado, and 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.

Mr. Franklin called the meeting to order at 6:03 p.m., noting that a quorum of the Board was present. He stated that he would conduct the meetings according to the Board-adopted guidance referenced in the District Bylaws, *Parliamentary Procedures at a Glance*, that is based on Roberts's rules of Order in order to facilitate orderly meetings.

2. Citizen Communications (Public Comments).

There were no 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 12, 2013, Regular Meeting.**
3. **Review and approval of District's quarterly financial performance reports.**
4. **Approval of an amendment to the contract with Hicks and Company, Inc. for Environmental Document Preparation Services to increase the hourly rates.**
5. **Authorization of the initiation of Phase II work under the existing professional consulting services contract with Holland Groundwater**

Management Consultants, LLC, to provide continued support in accordance with the terms of the contract.

Mr. Dupnik briefed the Board on the consent agenda items above.

Mr. Smith moved approval of consent agenda items 3a. 1 through 5, noting an invoice from Holland Groundwater Management in the amount of \$6,100.24, and Figer & Company in the amount of \$12,000.

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

3b. 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. Standing Topics.

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

Mr. Dupnik and staff updated the Board and answered directors' questions on the items listed above.

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 activities related to GMA and regional water planning**
- iii. Update on irrigation demand methodology review**
- iv. Update on activities related to the District HCP**
- v. Update on the status of *SOS Alliance v. City of Kyle, Goodman et al., and the Barton Springs/Edwards Aquifer Conservation District.***

Mr. Dupnik, staff, and Mr. Dugat updated the Board and answered directors' questions on the items listed above.

3c. Directors' Reports. Note: Board Member comments in this part of the agenda cannot address any aspect of an agenda item posted elsewhere on this agenda, and no substantive discussion among the Board Members or action by the Board on these comments will be allowed in this meeting.

Individual Board Members may, on a voluntary basis, make a brief report to the entire Board on their personal involvement in activities and dialogue that are of likely interest to the rest of the Board, in one or more of the following topical areas:

- **Meetings and conferences attended or that will be attended;**
- **Conversations with public officials, permittees, other stakeholders, and private citizens;**
- **Kudos and recognition of people doing good things for groundwater management in the District;**
- **Concerns about specific issues or problems for groundwater management in the District.**

Mr. Franklin reported the following:

Commented that the Holiday Open House was a success and thanked staff for their help

Ms. Stone reported the following:

Stated reported the purchase of the property regarding Jeremiah Venature

Dr. Larsen reported the following:

Attended a breakfast meeting with TxDOT people, Commissioner Gerald Daughtery from Travis County, Mark Jones from Hays County, and Campo.

Mr. Smith reported the following:

Attended a Regional Water Quality Plan Working Group meeting

Mr. Dorsett reported the following:

Attended the Creedmoor Maha Board meeting

Mr. Dupnik suggested that the Directors' Reports agenda item be included only once/month.

The Board concurred.

4. Discussion and Possible Action.

4a. Discussion and possible action related to GMA 9 planning activities including direction to District representative, Brian Hunt, in the re-consideration of declaring the Ellenburger, Hickory, Marble Falls, and Upper Glen Rose aquifers, along with the Edwards Aquifer in Bandera County as "non relevant" aquifers for regional planning purposes.

Mr. Hunt informed the Board of the re-consideration of declaring the relevance of five minor aquifers in GMA 9 for the purpose of regional planning. He informed the Board that the general consensus of the GMA 9 members was to declare four of the five as being non-relevant for planning purposes, and maintaining the Upper Trinity as relevant.

After discussion, Dr. Larsen moved that the Board direct the District representative to GMA 9, Brian Hunt, to vote to declare the subject aquifers as non-relevant as initially directed by the Board in a prior Board meeting with the exception of the Upper Trinity, which should remain relevant for regional planning purposes until further study.

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

4b. Discussion and possible action related to the status of efforts to characterize the Edwards saline zone and the negotiation of a cooperative agreement with Texas Disposal Systems for hydrologic investigations pursuant to brackish groundwater development.

Mr. Dupnik informed the Board of the District's efforts to provide a specific definition of the District boundary to the TCEQ to delineate the area subject to rule making under SB 1532 related to desal projects in the saline zone. He went on to say that the definition is complicated by inconsistent information on the boundary along Bradshaw road.

Mr. Smith said that he read over the key components of an access agreement and that it doesn't mention TDS drilling a production well. He then asked if TDS complied with the access agreement would we drill a well on our own.

Dr. Brian Smith said that originally, at a minimum, we needed a monitor well to gain a lot of detailed information and that at the time we did not envision a test well because it was way out of our budget. He said that a couple of years ago Dr. Larsen brought up the interest of TDS drilling a test well which would give us so much more data. He said that we do not have any other prospects for teaming up with anyone else; therefore, we are back to where we started.

Dr. Larsen stated that the Gregory's are consumed with other responsibilities and have not had time to respond to the agreement that the District sent to them. They apologized and said that they will address it as soon as possible.

Dr. Brian Smith provided an overview of a pared-down one page version of an access agreement needed to initiate drilling of the District monitor well on the TDS property.

After further discussion, Mr. Smith made a motion that the Board adopts the key components for an access agreement between the BSEACD and Texas Disposal Systems, Inc. as set out on page 62 of the agenda packet with the following amendments:

- 1) to revise the third bullet to reduce the distance from 300 to 200 ft, and

- 2) to revise the last bullet to delete the first sentence and replace it with the following:
The District will have monthly access to the well for monitoring purposes for the life of the well.

Also to deliver it to TDS as an outline of what the District would be willing to agree to.

Ms. Stone seconded the motion and it passed with a vote of 4 to 1. Dr. Larsen voted nay.

4c. Discussion and possible action related to the status of the Contingency and Risk Management Plan and planning and authorizing an extension of the schedule for completing the initial plan. (in folder

Mr. Dupnik provided an overview of a list of risk scenarios, and requested that the Board choose the most critical scenarios to be the focus of further analysis by staff.

After discussion, Dr. Larsen moved that we take the 12 original potential threats and risks for possible inclusion in the contingency planning effort and reduce it to 4 items. Under Legal/Financial 1, 2, and 3 as in our handout and, under Drought, the revised item #8 as given to us in our blue folders as opposed to what was in the original document on page 67.

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

Dr. Larsen made a second motion to extend the deadline from January to March to ensure adequate time for staff to focus on the HCP.

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

4d. Discussion and possible action related to the six-month performance review of the General Manager and the associated increase in compensation if judged to be satisfactory.

Mr. Franklin stated that this item is according to the original contract drawn up upon hiring Mr. Dupnik as the General Manager and sees no changes from that contract.

Dr. Larsen stated that the contract calls for a \$5000 increase in salary as it relates to his successful performance of all of the tasks as outlined in the original contract, which he has done an exemplary job on.

Mr. Smith made the following motion:

WHEREAS, the Employment Agreement between the District and John Thomas Dupnik (Mr. Dupnik) dated June 27, 2013, for the services of Mr. Dupnik as the General Manager and Chief Operating Officer of the District provides, in part –

In consideration of Mr. Dupnik's service, the District agrees to pay Mr. Dupnik at the annual rate of \$85,912 from the effective date of this agreement until January 6, 2014. Thereafter, provided a contemporaneous review of Mr. Dupnik's performance by the Board is judged to be at least satisfactory, from January 6, 2014, for the remainder of the 2014 fiscal year, Mr. Dupnik will be paid a salary at the annual rate of \$90,912, subject to approval by the Board of

an annual budget of the District that contains such compensation; and, thereafter, such annual amount as is agreed to and budgeted by the Board based upon his performance, but no less than his prior year's salary.

WHEREAS, the Board of the District has on January 9, 2014 conducted a review of Mr. Dupnik's first six months of performance as the District's General Manager and Chief Operating Officer, including a review of his performance in his key areas of responsibility for staff management and development, programmatic planning and execution, stakeholder relationship development and communication, and financial administration of the District and a list of his major accomplishments during the period, and has determined his performance to be better than satisfactory;

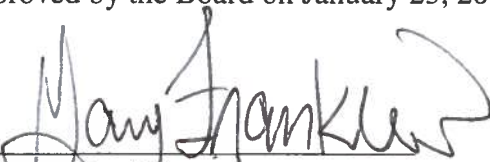
THEREFORE; the Board directs that Mr. Dupnik's salary be increased, as of January 6, 2014 and for the remainder of 2014 fiscal year, to an annual rate of \$90,912, subject to the terms of the Employment Agreement mentioned above.

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

5. Adjournment.

Without objection, Mr. Franklin adjourned the meeting at 7:59 p.m.

Approved by the Board on January 23, 2014:

By: 
Gary Franklin, President

Attest: 
Craig Smith, Secretary