

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
February 11, 2016**

Board members present at commencement: Blayne Stansberry, Craig Smith, Bob Larsen, and Mary Stone. Blake Dorsett was absent. Staff present: John Dupnik, Vanessa Escobar, Brian Smith, Brian Hunt, Kendall Bell Enders and Tammy Raymond. Bill Dugat of Bickerstaff, Heath, Delgado, 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.

Ms. Stansberry 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 of the Board's January 14, 2016 Regular Meeting.**
3. **Approval of a contract amendment with Alan Plummer Associates for engineering services related to the District technical review of State Highway 45 Southwest.**
4. **Approval of a Groundwater Management Area 10 funding agreement to support additional consultant work on analysis of the projected pumping from the Trinity Aquifer in Hays County.**

Ms. Stone moved approval of Items 3a. 1 through 4, noting an invoice from Bickerstaff Heath, in the amount of \$5093.25.

Mr. Smith seconded the motion and it passed unanimously with a vote of 4 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 unless the topic is specifically listed elsewhere in this agenda.)*

1. Standing Topics.

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

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 District grant projects**
- iv. **Update on the activities related to the SH 45 SW roadway project**
- v. **Update on activities related to the HCP and the associated draft EIS**

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

4. Public Hearing (6:15 pm)

The Board will hold a Public Hearing on an application filed by Onion Creek Golf Group L.P., 2510 Onion Creek Parkway Austin, TX 78747, for a Production Permit to withdraw up to an annual permitted volume of 127,410,000 gallons of groundwater from the Middle Trinity Aquifer from a new nonexempt irrigation well located at the Northeast corner of FM 1626 and Wayne Riddell Loop, in the Knolls of Slaughter Creek Subdivision.

Ms. Stansberry opened the Public Hearing at 6:17 p.m.

Ms. Bell-Enders stated that during the October 2013 flood Onion Creek Golf Group (OCGG) experienced significant damage to their golf course in addition to the destruction of the City of Austin's Water Treatment Plant, which provided OCGG with reclaimed water for irrigation. Subsequently the City of Austin decided not to rebuild the Water Treatment Plant, forcing OCGG to find alternative sources for irrigation water. The District's Board approved a well drilling authorization May 14, 2015 to drill a new Middle Trinity well to reduce their demand on City of Austin potable water, which they are temporarily receiving in place of the

reclaimed water. The well was completed on July 20, 2015 in the Cow Creek formation in the Middle Trinity Aquifer at a total depth of approximately 1530 ft.

Ms. Bell-Enders went on to explain the well location, water demand and permit calculations, their planned User Drought Contingency Plan, and the aquifer test and hydrogeological report that was completed.

The applicant was not present at the meeting and there were no public comments.

Ms. Stansberry closed the Public Hearing at 6:25 p.m.

5. Discussion and Possible Action.

5a. Discussion and possible action related to an application filed by Onion Creek Golf Group L.P., 2510 Onion Creek Parkway Austin, TX 78747, for a Production Permit to withdraw up to an annual permitted volume of 127,410,000 gallons of groundwater from the Middle Trinity Aquifer from a new nonexempt irrigation well located at the Northeast corner of FM 1626 and Wayne Riddell Loop, in the Knolls of Slaughter Creek Subdivision.

Ms. Bell-Enders explained that the staff recommended approval of the Middle Trinity Production Permit for a total annual volume not to exceed 80,000,000 gallons/year with the following special provision:

Upon submission of a minor amendment application to retire 50% (47,583,250 gallons/year) of OCGG's Historic Freshwater Edwards Production Permit the General Manager will automatically (without notice and hearing) amend the Middle Trinity permitted volume from 80,000,000 gallons/year to 127,410,000 gallons/year.

After discussion, Dr. Larsen moved approval of the application filed by Onion Creek Golf Group to withdraw up to 127,410,000 gallons per year from the Middle Trinity aquifer subject to the special provision stated above.

Ms. Stone seconded the motion and it passed unanimously with a vote of 4 to 0.

5b. Discussion and possible action related to approval of prospective amendments and changes to the District's Rules and Bylaws for implementation of HB 3405, other legislation from the 84th Legislative Session, and other changes to be the subject of a public hearing on March 11, 2016.

Mr. Dupnik explained that due to complexity of the draft rule changes and the compressed timeframes, he would like to request an alternate schedule for the upcoming rulemaking process. He would like to have a first overview of suggested changes at the February 25th meeting, and then a Public Hearing on March 24th rather than on March 10th as set by the

Board in the previous Board meeting. He also suggested that the Board might want to schedule a Work Session prior to the Public Hearing on the recommended rule changes.

After discussion, Ms. Stone moved approval of a special-called Work Session to be held on Tuesday, March 1st and a Public Hearing at the regularly scheduled Board meeting on March 24th for amendments to the District Rules.

Dr. Larsen seconded the motion and it passed unanimously with a vote of 4 to 0.

5c. Discussion and possible action related to a request for consideration by Electro Purification, LLC to authorize under District Rule 3-1.20.D, General Permit by Rule for Test Wells, temporary production of a restricted amount of groundwater from Test Wells in the Trinity Aquifer for the purpose of aquifer testing.

Mr. Dupnik explained that EP had requested a temporary permit within the deadline after the effective date of HB3405, and made application for production of 32,590,000 gallons, to support the purposes of a wholesale water supply. The District has been working with EP to convert that permit temporary permit into a regular permit. In a response to a request for information EP had indicated that their immediate short term needs/demands and the rationale for the request of the reduced volume was to cover aquifer testing purposes. As staff worked through the application there was also a request to accept the existing pump test for that smaller volume and that limited purpose. Staff met with EP and proposed authorization under the General Permit by Rule, 3-1.20 Section D, that authorizes tests wells for production for aquifer testing as an option. Staff proposed that they might withdraw their current application and replace it with an application for the Permit by Rule. This would allow for some testing both for the District's and the applicant's purposes as well as offer some additional time to complete the wells. With the General Permit by Rule they would have 180 days to convert these test wells into permanent wells or plug them. After discussions of these options, EP initiated the request to operate under the General Permit by Rule.

Mr. Dupnik explained that the Board has the authority to deny a request for a General Permit by Rule if they do not feel that it's appropriate. He then asked direction from the Board. He said that it was staff's opinion that the limited purpose for what they intend to do fits within this type of permit. If the current application is withdrawn and replaced by this one, it would approve a one-time authorization for a limited volume to be identified in an aquifer test plan for a limited purpose only, which is aquifer testing, and would start a six month clock for getting the wells completed or plugged. This would allow EP to rethink their purpose and plans once they have done the testing, and submit a production permit application if or when they are prepared to. That application would follow our normal process, subject to notice, hearing, and review of aquifer test, protests, all of the normal steps in the standard process.

Mr. Smith stated that we went through some effort to round up volunteers with wells in the neighborhood to offer to be monitor wells so we installed probes in them. So we have an interest in developing knowledge about the Trinity aquifer. He then asked if we would we learn more if we allow EP to conduct this type of aquifer testing.

Mr. Dupnik stated that with the current permit application the 180 days will expire in March. If they try to expedite things to get them completed by then we would have a shorter timeframe to collect data. If they are granted the Permit by Rule we intend to be involved very closely with every stage of it including planning, implementation and recovery throughout the entire test.

Dr. Larsen asked which of the two options would give us the greater rigor.

Mr. Dupnik explained that the General Permit by Rule would give us more time to collect data.

Ms. Stone asked “isn’t there a difference in whether the well is completed or not” between the two permits, which is big.

Mr. Dupnik answered that the wells are only temporary completed and they would have to do packer testing to replicate a completed well to the extent that they can.

Ms. Lila Knight thanked the District but said that she has absolutely no trust in EP.

Mr. Dupnik read into the record a letter from Vanessa Puig Williams, Attorney for TESP, wanting assurance that they would monitor wells within a ½ mile radius and supporting the staff’s recommendation to allow authorization under the Permit by Rule.

Mr. Ed McCarthy stated that EP intends to fully cooperate with the District.

After further discussion, Mr. Smith moved that the Board directs the staff that if the application by Electro Purification otherwise complies with all of our rules, that we do not object to granting authorization of the General Permit by Rule for the limited purpose of aquifer testing.

Dr. Larsen seconded the motion and it passed unanimously with a vote of 4 to 0.

5d. Discussion and possible action related to the District’s technical review of the proposed stormwater controls for State Highway 45 Southwest and comments to be submitted to the Central Texas Regional Mobility Authority.

Mr. Dupnik explained that the committee met with Mr. Hegemier last Friday to consider the draft and comments that were in the last backup. He said that after the meeting; Mr. Hegemier drafted a letter incorporating comments and suggestions.

Mr. Smith said that the requirements before him are an improvement to the consent decree which was our goal, however, he wanted to know if anything was added that says that the fact that we are submitting these comments and we think that this is an improvement on the consent decree does not mean that we do not have concerns over the cumulative impact of all of the roadway projects

over the aquifer at more or less at the same time. He said that before he can support this he would like to include an additional sentence.

Dr. Larsen asked if the sentence that he wants to add would link all of the other projects to our approval of this document, which would be years and does not make sense to him. He said that he understands but the consent decree is pertinent to this project only.

Mr. Smith said that he cannot vote for the letter if we only focus on this project.

Dr. Larsen said that he cannot vote for what Mr. Smith is saying.

He went on to say that he believes that they are trying to pull the wool over our eyes and that they are building all of these things and segmenting them out in a deliberate attempt and successful so far to avoid a Federal EIS review.

Dr. Larsen asked if they could frame in a sentence somewhere between the two positions, he said that we should be involved in MoPac, but that has nothing to do with the consent decree. He said that he thinks we do need State Hwy 45 Southwest and that we have a system here that looks at all of the environmental issues and really performs really well to accommodate those including a half of a million dollar bonus. He said that we have been working on this since 1990.

Mr. Smith said that we have successfully kept the road from being built.

Dr. Larsen said he didn't know if that is successful because he looks at Brodie Lane and all of the negative impacts and all of the recharge features there that the City of Austin is not paying attention to. That causes additional environmental pressure and he would like us to look at that too.

Ms. Stone said that she understands what each Director is saying and that it's not related to this project but it is an opportunity to express concern.

Dr. Larsen said that he does not want this to be linked to future projects and another delaying tactic; he said that he ran on the platform for SW 45 to be built and built to environmental standards.

Mr. Dupnik asked if they could capture something that is acceptable to both Directors.

Dr. Larsen stated that you could put another sentence in there that the Barton Springs Aquifer District has a concern that the cumulative affect of the construction must be addressed, that's fine I just don't want them to be linked to specific projects.

Ms. Stone said that based on what each Director is saying that we could add the following sentence: We continue to be concerned about the cumulative effect of the multiple roadway projects over the recharge zone, which must be addressed.

Dr. Larsen said that the sentence does not say anything about linking them to specific projects so that is fine.

Ms. Stansberry commented that Dr. Larsen brought up an excellent point about the existing features next to existing roadways with nothing being addressed, and she would like to add that in as well. She also said that Mr. Hegemier's comments were very good and speaks to his years of experience as a reviewer/planner for LCRA, especially on downstream erosion that could take place outside of the right of way.

Ms. S.P. Gates commented that she is grateful for the opportunity to listen and learn and she is in awe of the scope of the work that the District is involved in and the responsibility. She expressed concern of rubber stamping everything because it fits the rules, and to keep questioning the rules and the motivation behind them.

After further discussion by the Board, Dr. Larsen moved to adopt the changes discussed in tonight's meeting in the CTRMA letter as our review comments and to be signed by the Board President.

Ms. Stone seconded the motion and it passed unanimously with a vote of 4 to 0.

5e. Discussion and possible action related to direction to the District representative to Groundwater Management Area (GMA) 10 on consideration of proposed Desired Future Conditions (DFCs) and Relevant Aquifer Designations including an alternative proposed DFC for the Saline Edwards Aquifer in the Northern Subdivision of GMA 10.

Mr. Dupnik gave an overview of the process for GMA10

After discussion, Mr. Smith moved to direct the staff to re-adopt the 2010 DFCs for all of the aquifers in GMA 10 except the Saline Edwards in the northern subdivision and in that subdivision to change the DFC from 5' to 75'.

Ms. Stone seconded the motion and it passed unanimously with a vote of 4 to 0.

Ms. Stone moved to adopt the relevant and non-relevant aquifers as described in the backup.

Dr. Larsen seconded the motion and it passed unanimously with a vote of 4 to 0.

6. Adjournment.

Without objection, Ms. Stansberry adjourned the meeting at 7:55 p.m.

Approved by the Board on February 25, 2016:

By: Blayne Stansberry Attest: Blake Dorsett
Blayne Stansberry, President Blake Dorsett, Secretary