

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting
February 23, 2012**

Board members present at commencement: Craig Smith, Jack Goodman, and Bob Larsen. Mary Stone and Gary Franklin were out of town. Staff present: Kirk Holland, John Dupnik, Brian Smith, 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.

Mr. Smith in Ms. Stone and Mr. Franklin's absence 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 February 9, 2012, Regular Meeting.
 3. Approval of the termination of billing for monthly water use by Ridgewood Village Water System, which has shut down its well and anticipates the termination of its production permit under the terms of the Agreed Order.

After explanation of item 3.a.3 was offered by Mr. Holland, Mr. Goodman moved approval of the consent agenda items 3a. 1, 2, and 3.

Dr. Larsen stated that he had a question of how factual the minutes are in regard to Onion Creek Country Club being overpumped. He said that the next day it was found that an error occurred and they were actually under-pumped. He does not feel that these minutes should be approved unless a note is inserted that remedies the error, and puts the error where it belongs, on the staff.

Mr. Holland stated that the minutes are factual because Mr. Dupnik did report that the meter readings indicated unusual non-compliance between pumpage and target amounts that requires further investigation, and that now the results of that investigation and the correction would be properly reflected in the minutes of this meeting.

Mr. Goodman stated that the words in the minutes are factual because that is what was said, but that it doesn't mean that what was stated was a fact.

Dr. Larsen wanted to know how to fix the taped minutes and also felt an apology was needed.

Mr. Smith seconded the motion.

Mr. Dugat stated that a note could be placed in the February 9th minutes to review the February 23rd minutes for additional information.

After further discussion, Dr. Larsen said that he would rather open agenda item 4.b. to see what the wording of the note would be, and for discussion before approving the minutes in the Consent Agenda.

Mr. Smith called for a vote, the motion failed, with 2 ayes and 0 nays; Dr. Larsen abstained. A 3-0 vote was required for approval.

4. Regular Business: Board Discussion and Possible Actions.

4b. Discussion and possible action related to the compliance by District permittees with their User Drought Contingency Plans and compliance of all groundwater users with District Rules, including the status and initiation of enforcement actions, as warranted.

Mr. Dupnik explained that at the previous Board meeting a report containing false information was given on Onion Creek Country Club's compliance status for their January pumpage. He said that staff was using an April-2011 UDCP and should have used the updated July-2011 version to compare to their reported actual pumpage. He said that contrary to being overpumped, as indicated in the last meeting, they were actually 5% under target. He said that the error was caught the following day and immediately corrected. He apologized to the Board for reporting the wrong information.

Dr. Larsen stated that he wanted the minutes of the February 9th Board meeting to reflect the error, and that he wanted the staff to write a letter of apology to the Onion Creek Country Club.

Mr. Dupnik stated that the overpumpage for Hays County Youth Sports Complex, and Oak Forest Water Supply Corporation, was reported correctly in the previous meeting, and continued his drought compliance report, providing the Board with an update on what we have learned concerning the status of other permittees with actual overpumpage that are being followed, specifically Hays County Youth Athletic Association and Oak Forest WSC.

Mr. Smith indicated that Oak Forest WSC should be evaluated for enforcement action, and also mused that maybe some other party could use that water, and Mr. Holland suggested that we should explore that possibility with other non-potable water users in the area. After receiving an indication of interest from a representative of Industrial Asphalt present at the meeting, that it could possibly use that water for dust suppression, the Board indicated that the staff should pursue that matter.

After discussion, Dr. Larsen moved to accept the drought status report, inasmuch as this report of February 23rd showed that in fact there was an error by staff in the February 9th report that showed that Onion Creek Club over-pumped by 198% while further investigation showed that they had actually under-pumped by 5%, and that this correction is to be noted in the minutes of this meeting, and added the following items:

- 1) Place a note in the February 9th meeting minutes to refer to the February 23rd minutes regarding Onion Creek Country Club's compliance.
- 2) Reconsider giving drought reports in the first meeting of the month to keep errors down and to give them in the second meeting only.
- 3) Send Onion Creek Country Club an apology letter.

Mr. Goodman seconded the motion.

Mr. Holland stated that in Stage III Critical Drought it is important to assess any overpumpage and have the Board be able to take any required action as immediately as possible. It was agreed that the motion on the table would not preclude any such early action by the Board in the first meeting of the month.

Mr. Smith called for a vote, the motion passed with a vote of 3 to 0.

3. Routine Business.

- b. **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.**

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3. Approval of the termination of billing for monthly water use by Ridgewood Village Water System, which has shut down its well and anticipates the termination of its production permit under the terms of the Agreed Order.

Mr. Smith then re-opened consideration of the consent agenda. Mr. Goodman moved approval of the consent agenda with the note in the February 9th minutes.

Dr. Larsen seconded the motion and it passed with a vote of 3 to 0.

4a. Discussion and possible action related to the declaration of a change to a less severe drought stage, from Stage III-Critical to Stage II-Alarm drought.

Mr. Holland reported that aquifer levels have risen to the point where both drought indicators are well within or above their respective alarm stage drought zones.

Dr. Smith updated the Board on the near-term outlook of the aquifer's condition.

Mr. Holland stated that staff recommended downgrading the declared drought stage from the Stage III- Critical to Stage II-Alarm.

After discussion, Mr. Goodman moved to change the declared Drought Stage from Stage III Critical to Stage II Alarm effective immediately.

Dr. Larsen seconded the motion and it passed with a vote of 3 to 0.

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. Holland updated the Board on the Standing Topics.

2. Special Topics. 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. Review of Status Update Report -- at directors' discretion.**
- ii. Update on recent activities of GMA 9 and GMA 10.**
- iii. Update on the status of the Kyle litigation and Order, including appeal by SOS Alliance.**
- iv. Update on the status of additional funding and other needs for the District's prospective saline-zone hydrogeologic investigation.**

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

3. Routine Business.

c. 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.**

The Directors reported on the items listed above.

4c. Discussion and possible action related to communications with permittee Don's Grass and implications and options for enforcement of the Board's Final Order concerning non-compliance of permittee with District Rules.

Mr. Dupnik and Mr. Dugat reported on the recently revealed bankruptcy status of Don's Grass and the implications for enforcement of the Final Order of the Board with this permittee. The Board agreed with the notion that the staff and counsel should contact the appropriate parties to evaluate further options, although apparently they are limited in regard to enforcement against Don's Grass.

No Board action was warranted.

4d. Discussion and possible action related to the District's sponsorship of events, complimentary items, and/or other participation in the TAGD-initiated Texas Groundwater Summit in August 2012.

Mr. Holland recommended delaying making a decision to sponsor some defined part of TAGD's Texas Groundwater Summit in August 2012, until after other sponsorships have been subscribed.

No Board action was taken.

5. Adjournment.

Without objection, Mr. Smith adjourned the meeting at 7:36 p.m.

Approved by the Board:

By: Mary Stone
Mary Stone, President

Attest: Craig Smith
Craig Smith, Secretary