

**Barton Springs/Edwards Aquifer Conservation District  
Board of Directors Meeting Minutes  
Regular Meeting and Public Hearing  
October 11, 2012**

Board members present at commencement: Mary Stone, Jack Goodman, Craig Smith, and Gary Franklin. Bob Larsen was absent. Staff present: Kirk Holland, John Dupnik, Dana Wilson, Brian Hunt, Kendall Bell-Enders, 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.**

Ms. Stone 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 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 September 6, 2012, Work Session, and the September 27, 2012, Regular Meeting.**

Mr. Goodman moved approval of the consent agenda, noting that there were no invoices over \$5000.

Mr. Franklin seconded the motion and it passed with a vote of 4 to 0.

**3.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 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.

#### **4. Public Hearing.**

**The Board will re-convene and continue the public hearing on proposed revisions to the District Rules and Bylaws related generally to: definitions, permit application requirements, considerations for actions on permits, provisions related to adjusting permitted volumes, multi-user well requirements, nonexempt domestic use wells, temporary transfer permits, designation and retirement of historic-use status, Desired Future Conditions (DFCs) and Modeled Available Groundwater (MAG) estimates for District aquifers, permit and drought requirements for conditional permits, conservation-oriented rate structures for public water systems, drought stage triggers, drought contingency plans, curtailment of historical permits in Emergency Response Periods (ERP), alternate curtailment schedules for historical permits, enforcement of drought rules, officer election dates, hearing and protest procedures, well construction standards, and other general administrative clarifications and corrections. Note: This is a continuation of the public hearing that was initiated in the Board's September 27, 2012, meeting, which was recessed in that meeting, for purposes of being continued in this meeting.**

Ms. Stone re-convened the Public Hearing from its recess at 6:05 p.m.

Mr. Holland reviewed the public participation and notice that have been an integral part of the rule-change process to date.

Mr. Dupnik and Mr. Holland summarized the staff's responses to comments received on the proposed rules, and the latest recommendations as to language changes in a few areas; special attention was paid to explaining the requirements of the new language concerning the conservation-oriented rate structure for water utility permittees..

The following citizens made comments.

Katy Phillips of Sunset Valley  
David Cowan of Oak Forest WSC

Ms. Stone then closed the Public Hearing at 6:41 p.m.

#### **5. Board Discussion and Possible Action.**

**5a. Discussion and possible action related to approving the proposed revisions to the District Rules and Bylaws related generally to: definitions, permit application requirements, considerations for actions on permits, provisions related to adjusting**

**permitted volumes, multi-user well requirements, nonexempt domestic use wells, temporary transfer permits, designation and retirement of historic-use status, Desired Future Conditions (DFCs) and Modeled Available Groundwater (MAG) estimates for District aquifers, permit and drought requirements for conditional permits, conservation-oriented rate structures for public water systems, drought stage triggers, drought contingency plans, curtailment of historical permits in Emergency Response Periods (ERP), alternate curtailment schedules for historical permits, enforcement of drought rules, officer election dates, hearing and protest procedures, well construction standards, and other general administrative clarifications and corrections.**

Staff answered questions by the Board.

Mr. Jim Ruby suggested that the District should have a separate drought trigger for the Trinity aquifer.

After discussion, Mr. Smith moved to adopt the proposed Rules as set forth in the agenda packet, including the changes in addenda 1 and 2, and also the changes identified in Board discussion in this meeting, including amending rules 3-1.24.E and 3-7.6.B(5) to institute a one year phase in period for the new requirements on existing Class C Conditional permits.

Mr. Franklin seconded the motion and it passed with a vote of 4 to 0.

Mr. Holland stated that the District's counsel has also recommended using only the term "penalty" in the Rules in lieu of the word "fine", which is typically associated with criminal activity.

Mr. Smith moved that wherever in the rules the term fine is used in the enforcement sense, that we substitute the word penalty.

Mr. Goodman seconded the motion and it passed with a vote 4 to 0.

**Continuation of 3.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 on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. 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 recent activities of staff and teams.
  - ii. Update on recent permitting and non-drought regulatory activities.

**iii. Update on the status and proposed content of a white paper on alternative water supplies.**

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

**3.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.

Gary Franklin gave a report.

**5b. Discussion and possible action related to the November 6, 2012, director elections including: approval of joint election agreements and election services contracts with Hays, Caldwell and Travis Counties; approval of election day polling places; approval of locations, dates and times of early voting; ratification of Board President's actions on election matters, adopting orders or amendments to prior Board orders in connection with the election; and, any other action necessary for the November 6, 2012, director elections.**

Mr. Dugat reported that the election notices were being prepared for posting and publishing, and that he did not anticipate further Board actions related to the elections being required, or further involvement of the District in the elections process until election night.

No action was needed.

**5c. Update, discussion and possible action related to pursuit of the District's legislative agenda and to other legislative initiatives that potentially could affect the District.**

Mr. Holland summarized the status of desalination-enabling legislation that is the District's top priority, noting that we need to identify a local legislator to be a co-author in both the House (along with Lyle Larson) and the Senate. The Board and staff discussed several possibilities.

He also mentioned that in support of the assessment of the possible direct-discharge restrictions bill, we were engaging an engineering consultant under a task order to perform incremental cost analyses to end-users for implementing such restrictions.

Mr. Dupnik explained that the Board may be formally asked by the City to consider annexation of portions of the Northern segment of the Edwards that are in the City's jurisdictional area, as a possible response to the proliferation of landscape irrigation wells.

No formal action was taken.

**5d. Discussion and possible action related to an appropriate response to recent assertions concerning the District's boundaries and authority.**

Mr. Dugat stated that the Oak Forest WSC was approached by third parties seeking financial support for obtaining an AG opinion on the District's authority to regulate the Trinity, and that OFWSC made a financial contribution to that effort. He went on to say that to his knowledge no AG Opinion Request had yet been made, but if one was, we almost certainly would be asked to submit a legal brief to the AG.

The Board indicated that until we have a confirmation of intent by these parties-unknown and more details as to the basis for such assertions and opinions, there was little merit in pursuing that at this time, so it did not go into Executive Session to consult with attorney.


The Board directed the staff to meet with both the OFWSC and Ruby Ranch POA governing bodies to provide a fact-based presentation of our Trinity involvement, to be responsive to any (non-legal) questions that those bodies might have for the District, and to attempt to discern better the nature and basis of the assertions presented to them.

No formal action was taken.

**6. Adjournment.**

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

Approved by the Board on October 25, 2012:

By:   
Gary Franklin, Vice-President

Attest:   
Craig Smith, Secretary