

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
November 14, 2013**

Board members present at commencement: Mary Stone, Gary Franklin, Craig Smith, Bob Larsen, and Blake Dorsett. Staff present: John Dupnik, Brian Smith, Kendall Bell-Enders, and Vanessa Escobar. 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.

Ms. Stone called the meeting to order at 6:01 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 of the Board's October 24, 2013, Regular Meeting.**
3. **Approval of an Interlocal Cooperation Agreement with the Edwards Aquifer Authority to evaluate saline zone water properties of the Edwards Aquifer.**
4. **Approval of setting a Work Session of the Board and Staff and a Special Called Meeting of the Board to review and approve FY 2013 progress toward goals and objectives in the District Management Plan, to be included in the District's Annual Report to TCEQ.**
5. **Approval of setting a Work Session of the Board and staff for discussions related to commitments for the District Habitat Conservation Plan and to**

scheduling a public scoping meeting for the HCP environmental assessment.

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

Dr. Larsen moved approval of the consent agenda items 3a. 1 through 4, noting invoices from Bickerstaff in the amount of \$5155.96 and Holland Groundwater Management in the amount of \$6000, to amend the language as discussed and adding a signature block for Bill Dugat in the Interlocal Agreement with the Edwards Aquifer Authority, and to set a Work Session and Special Called Meeting on November 21st to assess progress towards satisfying the Management Plan goals and objectives in FY 2013.

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

Public Hearing (6:15 PM)

The Board will hold a Public Hearing on an application filed by Farmland Operating Company (David Trotter) for a Well Drilling Authorization application and a Historical Production Permit application to drill a new nonexempt irrigation well located at Kristi Drive, Rollingwood, Texas (legal: .6830 Acres of Lot 1, Shaw Acres) and withdraw an annual permitted volume of 750,000 gallons of groundwater from the Middle Trinity Aquifer to be used to fill a pool and irrigate a residential lot and a vegetable garden.

Ms. Stone opened the Public Hearing at 6:18 p.m.

Mr. Dupnik explained that this application was postponed in the previous Board meeting based on the Board's direction to:

1. Schedule a public hearing;
2. Allow the applicant to be present to answer questions from the Board; and
3. Re-evaluate the irrigation demand calculations using more accurate and representative data.

Ms. Bell-Enders provided an overview of the application and the demand calculations noting that after a meeting and site visit of the applicant's property, a re-evaluation using more representative data, and further technical review of the proposed irrigation demand, the recommended permit volume supporting reasonable demand for the proposed use had been reduced.

Dr. Larsen asked if the net evaporation rate on the pool was calculated on a square foot basis.

Ms. Bell-Enders answered yes, and explained the calculation.

Mr. Smith asked if the vegetable garden exists now, or if there is a contract for building it.

Ms. Bell-Enders answered no, not at this time.

Mr. Trotter commended Ms. Bell-Enders for her pleasant personality and work knowledge. He then provided information in support of a requested permitted volume equivalent to 2.5 acre-feet/acre for the entire area of his property indicating that he believed it was the amount that he was entitled to. This was new information that produced, by his estimation, an increase from the initially requested volume. Mr. Trotter also complained that the District's well construction standards increased the cost of the initial bid for the proposed well and that he could only justify the higher expense if he was issued a permit for this increased volume.

Mr. Trotter explained that he buys all of his real estate investments through Farmland Operating Co., but this was not intended to be a commercial deal. Two weeks ago he thought that he would be approved on one set of rules, and now his application is based on a new set of rules, and now he is going to change his application to build a house on the lot instead of building a vegetable garden. He wants the same volumes for that tract that he has for his residence. He would like the Board to grant him his volume request on having a residence built within a year and would like 2 ½ acre feet/acre of usage times the size of the lot which is equivalent to 500,000 gallons per year on his existing house and yard irrigation. He then asked if we had an expert that we consult with on well drilling and completion.

Mr. Dupnik explained that the District's well construction standards were developed and updated a few years ago, and were a product of an exhaustive stakeholder process where we sought and solicited input from all of the local drillers, local Hydrogeologists and everybody familiar with the hydrogeology of this region, and that is what shaped into what is now our adopted Well Construction Standards.

Mr. Trotter asked if our standards compare to the EAA's requirements.

Mr. Dupnik answered that EAA does not regulate the Trinity and this aquifer is very different from the Edwards.

Mr. Trotter asked if there was any way that we could have a contractor sit down with his contractor to try to develop a well that cost's less than \$52,000.

Mr. Dupnik said that we look at what's needed to preserve the quality of the Middle Trinity Aquifer, and through the stakeholder process it was determined that our standards do that. He went on to say that there is a provision that allows for a variance if his driller could come up with a design that would protect the water quality.

Dr. Larsen said that the original well was estimated at \$31,000 and after we applied certain standards to building that well it went up to \$52,000 and asked; why the difference in cost?

Mr. Dupnik said that a driller not familiar with our standards might look to just seal off the Edwards which is what the EAA requires. What we have learned through the Westbay well on

the Trinity aquifer is that the upper Trinity is extremely poor quality, and requires additional casing and grout at greater depth to seal off those zones.

Mr. Tim Miller, a resident of Kyle, offered public comment stating that he is not an aquifer user but saves small amounts of rainwater; he gave Mr. Trotter a packet of information on growing vegetables on low amounts of water. He said that in August he used 400 gallons of water for his five acre farm. He objected to giving Mr. Trotter the amount of water that he is requesting when city water is available to him.

Ms. Stone closed the Public Hearing at 7:10 p.m.

Discussion and Possible Action.

5a. Discussion and possible action related to an application filed by Farmland Operating Company (David Trotter) for a Well Drilling Authorization application and a Historical Production Permit application to drill a new nonexempt irrigation well located at Kristi Drive, Rollingwood, Texas (legal: .6830 Acres of Lot 1, Shaw Acres) and withdraw an annual permitted volume of 750,000 gallons of groundwater from the Middle Trinity Aquifer to be used to fill a pool and irrigate a residential lot and a vegetable garden.

Mr. Dupnik offered staff's recommendation explaining that the recommendation was formed with three key rule criteria from District rule 3-1.6 which were described in summary fashion to include:

1. The proposed use would be dedicated to beneficial use at all times including reasonable assurances of definite, non-speculative plans.
2. The proposed use would avoid waste and achieve conservation.... The assessment of the acceptability of the proposed volume would be based on industry and regional standards to assure that prospective use is commensurate with reasonable, non-speculative demand.
3. The water is used within the term of the permit.

John provided the staff recommendation for the reduced volume with a condition to authorize a reasonable volume of additional pumping with evidence of the non-speculative use on the adjacent lot.

Mr. Dupnik then stated that with all factors considered the staff recommends approval of a Multi User well drilling application and middle Trinity Production Permit to withdraw an annual permitted volume of 397,000 gallons from the middle trinity aquifer with the following special provisions:

1. Authorization of 177,000 gallons for irrigation of a vegetable garden on the undeveloped lot shall be deferred until the applicant can provide sufficient demonstration that the garden will be developed within one year of the effective date of the permit.

2. The effective date of the permit will be delayed so long as the District remains in declared drought.

Mr. Smith stated that in this meeting Mr. Trotter significantly changed his land plan for the adjoining lot without notifying us, should we offer him the opportunity to change his application or go ahead with the application for just his residence lot.

Mr. Dupnik stated that the way the staff's recommendation is structured is that water can be allocated for the use that we know is on the ground and has been demonstrated, if that never happens Mr. Trotter can apply for a minor amendment

Mr. Dugat said that two things could happen, the staff has recommended approval on the original application and that could be granted, then Mr. Trotter could come in for an amendment, or he could say don't act now I want to change my use, I am amending the current application, let the staff recalculate and come back to the Board.

Dr. Larsen asked what is involved in a minor amendment to change from a vegetable garden to a residential lot where he would get much more water.

Ms. Bell-Enders stated that terms of a minor amendment according the District's Rules.

Dr. Larsen asked Mr. Trotter what he would like to do.

Mr. Dupnik stated that the recommendation is for only the volume that would be used for his residence, and the special condition that would allow for the vegetable garden is contingent on Mr. Trotter providing evidence that that will happen, and if it does not then the special provision would expire. He could then apply for a minor amendment.

Mr. Trotter stated that he was not notified of the significant reduction in volume until a week ago, and said that this was unacceptable to him because it didn't make economical sense.

Dr. Larsen stated that he does not feel comfortable acting on this application without information on another application that the Board approved six months prior.

Ms. Stone explained that she represents the citizens of Hays County and that they are concerned about using that amount of water on a half an acre, and asked if there was any way that he could try to bring his volume request down. She explained that she lives on ten acres with ten oak trees, a pool, and a garden, and her family of four uses an average of 8,000 gallons per month. She said that she realizes that is low water use but hoped that there could be a compromise somewhere between his number and her example.

Mr. Trotter said that he needs more use approved than what staff recommended tonight to justify the amount of money he would have to spend to drill the well.

After further discussion, Mr. Smith moved to continue this action item allowing Mr. Trotter time to decide if he would like to amend his application.

Mr. Franklin seconded his motion and it passed with a vote of 5 to 0.

5b. Discussion and possible action related to a declaration of “No Drought” conditions within the District’s jurisdictional area

Dr. Smith explained that the USGS reports indicate that the Lovelady monitor well is very close to the no drought level and would likely cross the threshold in the next few days.

After discussion, Dr. Larsen moved to authorize the General Manager to declare a no drought status when the Lovelady well reached the threshold.

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

5c. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.

Ms. Bell-Enders provided a report indicating that Tier II and III permittees were compliant with monthly drought restrictions and suggested that no enforcement actions were needed at this time.

The Board took no action.

5d. Discussion and possible action related to consideration of proposing revised DFCs in GMAs 9 and 10 in the upcoming round of groundwater planning.

Mr. Dupnik informed the Board that direction was needed to inform the GMA representatives’ input on possibly proposing revised DFCs for the District’s Alternative Supply Aquifers. He described two options: 1) initiating an effort to support revised DFCs or 2) maintaining existing DFCs and working within the District rules to provide any necessary flexibility until better information is available to inform DFC decisions in the next round of planning.

Dr. Larsen moved to direct staff to pursue the staff’s recommendation of the second option as with the caveat of being able to put in modifications so that certain projects could be accommodated.

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

5e. Discussion and possible action related to a proposed municipal solid waste facility southeast of and adjacent to the District’s jurisdictional area in Caldwell County.

Dr. Smith provided an overview of a proposed municipal solid waste facility adjacent to the District’s area in Caldwell County.

Mr. Dupnik stated that staff's recommendation is to observe since this is not in our District.

Dr. Larsen expressed concerns because the Carrizo-Wilcox is one of our alternative sources.

Mr. Dorsett said that the facility is within Plum Creek GCD and that he felt that we should observe and assist them in their review if requested.

No formal action was taken by the Board.

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.**

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 activities related to development of the saline zone of the Edwards Aquifer**
- iv. 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.

Dr. Larsen reported the following:

170 houses in his neighborhood of Onion Creek flooded as well as the golf course and a bridge
Met with the club manager and golf course manager
Met with the president and security of the homeowner association

Mr. Dorsett reported the following:

Met with Goforth and Creedmoor about drought restrictions
Called Mr. Ervin
Visited Ski Quest
Met with John Dupnik several times
Attended the Creedmoor Maha Board Meeting

Mr. Franklin reported the following:

Participated in a City of Austin field trip of Onion Creek after the flood

Mr. Smith reported the following:

There is a Williamson Creek clean up in Sunset Valley on Saturday

6. Adjournment.

Without objection, Ms. Stone adjourned the meeting at 8:40 p.m.

Approved by the Board on December 12, 2013:

By: Mary Stone
Mary Stone, President

Attest: Craig Smith
Craig Smith, Secretary