

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting
July 12, 2018**

Board members present at commencement: Blayne Stansberry, Mary Stone, Craig Smith, Bob Larsen, and Blake Dorsett. Staff present: Alicia Reinmund-Martinez, Dana Wilson, Brian Hunt, Kendall Bell-Enders, Justin Camp, Erin Swanson and Tammy Raymond. 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.

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development) 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. Call to Order.

President Stansberry called the meeting to order at 6:01 p.m., noting that a quorum of the Board was present.

2. Citizen Communications (Public Comments of a General Nature).

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 a separate item of Regular Business on this agenda.)*

- 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 June 28, 2018, Regular Meeting.**

Director Smith moved approval of Consent Agenda items 1 and 2, noting invoices from C.C. Lynch in the amount of \$7962.00, and Holland Groundwater Management in the amount of \$7700.00.

Director Stone seconded the motion and it passed unanimously with a vote of 5 to 0.

4d. Discussion and possible action relating to procedural matters on the permit application for a Production Permit (Application) of Electro Purification LLC to authorize withdrawal

of an annual permitted volume of approximately 912,500,000 gallons per year (2.5 MGD) of groundwater from the Trinity Aquifer for wholesale water supply.

The Board will consider the following:

- **Timeline associated with processing of application;**
- **Written comments and requests for contested case hearing;**
- **Determination to conduct a contested case hearing;**
- **Requests that contested case hearing be conducted by and referral to the State Office of Administrative Hearings (SOAH);**
- **Deposit for and approval of contract with SOAH to conduct hearings;**
- **Date, time, location and who will conduct the preliminary hearing;**
- **Designation of presiding officer;**
- **Matters to be included in any referral to SOAH, including hearing location and cost allocations;**
- **Selection of special counsel; and,**
- **Other matters necessary to conduct future hearings(s) in connection with the Application.**

Note: At this meeting, the Board of Directors will not conduct a hearing, determine party status, nor decide whether to grant or deny, in whole or part, the Application. The Board will consider the procedural steps identified above that relate to how, when and where the future hearings will be conducted. Adequate notice of the future hearings will be provided.

President Stansberry explained that in order to make a public comment, each person must fill out an information card. Each public comment would be three minutes or less, and that no more than two people could donate their time to another commenter. She said that public comment is not a question and answer session, nor intended to create a dialog among the Board and commenters. She said that the Board is here to listen to your comments but that they will be unable to respond. She made sure to say that this doesn't mean that they are not interested, it is the rules by which they must follow. She then asked Mr. Dugat to give an overview of the contested case and SOAH process.

Mr. Dugat explained that the General Manager (GM) declared the application administratively complete on May 21, 2018. Electro Purification (EP) published notice on June 3rd and June 25th was the deadline for hearing requests and public comments. He said that the District received around 312 comments and 12 contested hearing requests on the permit. He said that none of the protestants requested a State Office of Administrative Hearing (SOAH) request. He said that the District rules and the Texas Water Code provide that the applicant can request that the matter be heard by SOAH therefore, if an applicant submits a request it will be heard by SOAH. He went on to say that EP filed a timely request for a SOAH on their permit by the deadline of July 5th which was timely, and agreed to pay the cost of the hearing as required. He explained that the District would have to enter into a contract with SOAH when the amount of the hearing is determined.

President Stansberry acknowledged Representative Jason Isaac and thanked him for coming.

Director Larsen asked the audience if they did not understand the SOAH process and what they do.

Many hands went up therefore, President Stansberry asked Mr. Dugat to explain the SOAH process.

Mr. Dugat explained that SOAH is a state agency that stands for State Office of Administrative Hearings. He said that it is an administrative agency that is made up of law judges, and their primary function is to hear contested matters by state agencies such as the Railroad Commission, the Texas Commission on Environmental Quality, Licensing Commissions of all sorts, and Groundwater Districts. He said that hearings can be conducted by one or more judges and that it is a formal process similar to a trial without a jury. After the Administrative Law Judge completes the hearing, they will prepare a recommendation to this Board, which is called a proposal for a decision. At that time the Board will decide if they want to follow that recommendation or modify it etc. This Board has the ultimate say in connection with the SOAH proceeding.

President Stansberry opened the Public Comment portion of the item. The following signed a card to speak:

Patrick Cox
Chris Elliott
Marshall Jennings
Joe Day
Louis Bond
Ashley Waymouth
Representative Jason Isaac
Andrew Backus
Richard Walker
Jim Edwards
Deb Lewis
Dana Pape-Salas

President Stansberry thanked the public for attending and giving their comments.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) at 6:49 p.m. President Stansberry stated that no final actions or decisions would be made while in Executive Session.

The Board reconvened into open session at 7:34 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

President Stansberry then asked Mr. Dugat to continue to present the individual bullet items under Agenda Item 4d.

Mr. Dugat explained that under the District Rules there is a formality where the General Manager makes the determination to conduct a contested case hearing.

Ms. Reinmund-Martinez stated that she as the General Manager of the District confirms that there will be a contested case hearing on the EP application.

Mr. Dugat explained that SOAH can hear the entire matter and declare party status. The date and time of the hearing is subject to SOAH's determination. He said that SOAH would give a cost estimate of the entire hearing, and that the hearing would not begin until EP has given that amount as a deposit for the District to hold and make payments to SOAH. As the hearing progresses SOAH will send monthly invoices to the District for payment. He said that once a contract is signed that it typically takes about six weeks to have a hearing.

Mr. Dugat stated that the following motions are needed:

1) Motion to confirm the GM's determination that a contested case hearing will be held on the EP application.

Director Smith moved to approve the GM's determination to conduct a contested case hearing on the EP application.

Director Stone seconded the motion and it passed unanimously with a vote of 5 to 0.

2) Motion to refer the EP application to SOAH for SOAH to conduct the contested case including the preliminary hearing to be conducted as SOAH's offices.

Director Stone moved approval to refer the EP application to SOAH for SOAH to conduct the contested case including the preliminary hearing to be conducted as SOAH's offices.

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

3) Motion to authorize the GM and the Board's attorney to determine the amount of the deposit, to finalize the contract with SOAH, and to authorize the President to execute that contract once the deposit is obtained from EP.

Director Stone moved approval to authorize the GM and the Board's attorney to determine the amount of the deposit, to finalize the contract with SOAH, and to authorize the President to execute that contract once the deposit is obtained from EP.

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

4) Motion to authorize the GM to obtain the deposit from EP.

Director Stone moved to approval to authorize the GM to obtain the deposit from EP.

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

5) Motion to determine representation of the Board and the GM.

Director Stone moved that Bill Dugat will continue to represent the Board until separate counsel is secured to represent the Board, at which time Mr. Dugat would then represent the GM.

President Stansberry stated that she would like to establish a subcommittee of Director Smith and Director Stone to review resumes for legal counsel for the Board.

6) Motion to decide if the Board wants the President to execute a contract with the special counsel chosen by the subcommittee, or bring it to the full Board for approval.

Director Stone moved to authorize the Board President to execute the contract for special counsel.

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

President Stansberry stated that all of the procedural items for a contested case hearing on the EP application have been covered.

At 7:44 p.m. President Stansberry stated that the Board would take a 10 minute recess.

The Board reconvened at 7:54 p.m.

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 for consideration.)*

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 certain projects and activities of individual teams and of Board committees.**
- iii. **Update on HCP and ITP status.**
- iv. **Update on the Salary Survey and Structure by Evergreen Solutions, LLC.**
- v. **Update on settlement agreement regarding the City of Dripping Springs’ application for a TPDES permit.**
- vi. **Update on the ILA with Travis County.**

Updates were given by Ms. Reinmund-Martinez, staff, and Bill Dugat.

4. Discussion and Possible Action.

4a. Discussion and possible action related to adopt the FY 2019 fee schedule by Resolution #071218- 01.

After discussion, President Stansberry stated that action on this item would be postponed until the August 9th Board meeting.

4b. Discussion and possible action related to reviewing the draft FY 2019 preliminary version of the annual budget and setting a public hearing.

Ms. Reinmund-Martinez and Ms. Wilson gave a report on the preliminary version of the FY 2019 annual budget, and answered questions from the Board.

After discussion, Director Smith moved to set a Public Hearing on the proposed FY 2019 budget for August 9, 2018.

Director Stone seconded the motion and it passed unanimously with a vote of 5 to 0.

4c. Discussion and possible action related to renewal of annual Production Permits for FY 2019 contingent on compliance with District rules and renewal requirements.

Staff confirmed that all District permittees were in compliance with the District rules and requirements.

Director Smith moved approval of the renewal of all annual Production Permits for FY 2019.

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

4e. Discussion and possible action related to declaring Stage II Alarm Drought.

Mr. Camp stated that at the last meeting we were just on the cusp of drought, and that the recent rain did not affect the water levels. He said that both drought triggers are in the Stage II Alarm Drought status now.



After discussion, Director Smith moved that the Board declares Stage II Alarm Drought.

Director Stone seconded the motion and it passed unanimously with a vote of 5 to 0.

5. Adjournment.

Without objection, President Stansberry adjourned the meeting at 8:57 p.m.

Approved by the Board on August 9, 2018

By: 
Blayne Stansberry, President

Craig Smith, Vice-president

Attest: 
Blake Dorsett, Board Secretary