

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
August 25, 2011**

Board members present at commencement: Mary Stone, Gary Franklin, Craig Smith, Jack Goodman, and Bob Larsen. Staff present: Kirk Holland, John Dupnik, Dana Wilson, Brian Smith, Robin Gary 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 6:04 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 from the Board's August 11, 2011, Regular Board Meeting.**
- 3. Approval of the following dates for the single Board meeting in the end-of-year holiday months: Thursday, November 17; and Thursday, December 15.**
- 4. Approval of setting a Special Meeting and a Board Work Session on Saturday morning, September 10, 2011, to review FY 2011 operational goals, to establish FY 2012 operational goals, to establish any other specific objectives for the General Manager in FY 2012, to review performance of the General Manager in FY 2011, and to award incentive compensation to the General Manager for progress and achievement of FY 2011 objectives.**

5. Approval and selection of dates for the Groundwater Stewardship Awards Luncheon.

Mr. Smith moved approval of items 3.a.1 through 5 of the Consent Agenda noting that the Board is setting one Board meeting in November, on November 17th and one Board meeting in December, on December 15th; noting a change in the date of the Special Board Meeting and Work Session to September 17th; and setting the Groundwater Stewardship Awards Luncheon at Bowie HS on November 4th.

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

- 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.

- a. Personnel matters and utilization;
- b. Upcoming public events of possible interest;
- c. Aquifer conditions and status of drought indicators.

2. Special Discussion Topics, 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 monthly Status Update Report – at Directors' discretion.
- ii. Update on permitting and other regulatory activities.
- iii. Update on status of DOJ pre-clearance associated with HB 1060 and the District's de-annexation of Bastrop County.
- iv. Update on the status of DFC-reasonableness petitions for GMA 9 and GMA 10.

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

4. Public Hearing. The Board will hold a public hearing on proposed changes to the Rules, generally related to: modifying certain provisions applicable to non-public water supply fresh Edwards Aquifer Historical Production Permits during District-declared Emergency Response Period and applications approved during District-declared drought; clarifying eligibility requirements for authorizing nonexempt domestic use wells; clarifying provisions related to retirement of fresh Edwards Aquifer Historical Production Permits; modifying provisions related to the fresh Edwards Aquifer

Extreme Drought Withdrawal Limitation; and making other, more general administrative clarifications and corrections.

Ms. Stone opened the Public Hearing at 6:38 p.m.

Mr. Holland read public comment letters from LCRA and Susan Meckel, a private citizen, into the record.

Jennifer Walker, representing the Lone Star Chapter of the Sierra Club, stated that both the Sierra Club and Save Our Springs Alliance are not comfortable with using treated effluent on the recharge zone.

David Loftis of Centex asked the Board to approve the rules as revised in the backup.

Ms. Stone opened item 5a. while continuing the Public Hearing.

5. Regular Business: Board Discussion and Possible Actions.

5a. Discussion and possible action concerning approving the proposed changes to the Rules, generally related to: modifying certain provisions applicable to non-public water supply fresh Edwards Aquifer Historical Production Permits during District-declared Emergency Response Period and applications approved during District-declared drought; clarifying eligibility requirements for authorizing nonexempt domestic use wells; clarifying provisions related to retirement of fresh Edwards Aquifer Historical Production Permits; modifying provisions related to the fresh Edwards Aquifer Extreme Drought Withdrawal Limitation; and making other, more general administrative clarifications and corrections.

After a lengthy discussion, Mr. Smith moved to continue the Public Hearing until the September 17th Special Meeting and Work Session, and directed the staff to continue to discuss the parameters of the negotiated rule changes with Centex.

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

5e. Discussion and possible action on the staff analysis of the metrics associated with the Primary Performance Standards to be included in the prospective revision to the District Management Plan.

Mr. Smith moved to approve the incorporation of the recommended metrics presented by staff into the revised Management Plan to be submitted to the TWDB.

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

5b. Discussion and possible action related to amending the District's 2012 Budget.

After discussion, Mr. Smith moved to approve FY 2012 Budget Revision I as presented in the backup.

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

5d. 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 initiation of enforcement actions, as warranted.

Mr. Dupnik briefed the Board on excessive use of a particular residential exempt well in Rollingwood, mentioning that this and other such reports were becoming commonplace. The Board took no action, other than agreeing that the staff should continue to monitor such excessive use and constructively discuss the need to conserve shared resources with the pertinent owners, but not engage in discussing any enforcement language unless further directed by the Board.

5c. Discussion and possible action related to selecting one or more Illustrative Plans for director-precinct redistricting and setting public hearing(s) on that Plan.

Mr. Dugat briefed the Board on the four re-districting plans identified by the individual directors, but the Board was unable to come to consensus and identify one or more as Illustrative Plans. The Board set a work session for making some real-time boundary changes and discussing optional plans for Thursday night, September 29th, at 6 pm, when all directors can be present.

Executive Session

Ms. Stone opened agenda items 5f, 5g, and 5h, and the Board recessed into Executive Session as authorized under Government Code Section 551.071 (Consultation with Attorney) for items 5f and 5g, and under Section 551.074 (Personnel Matters) for item 5h, at 9:00 p.m. Ms. Stone stated that no decisions or actions would be made while in Executive Session.

The Board reconvened into open session at 9:42 p.m. noting that no decisions or actions were made while in Executive Session.

5f. Discussion and possible action related to developments concerning the District response to the results of the mediation of the Jeremiah Ventures TLAP contested case.

Mr. Smith moved to continue with settlement negotiations.

Mr. Goodman seconded the note and it passed unanimously with a vote of 5 to 0.

5g. Discussion and possible action relating to approval of a settlement agreement and an agreed final judgment concerning *City of Kyle v. Goodman et al. and the Barton Springs/ Edwards Aquifer Conservation District, Cause No. 10-1267, 22nd District Court, Hays County, Texas, including approval of amendments to the City of Kyle conditional-use production and transport permits.*

Dr. Larsen moved to approve the language contained in the draft Final Order by the Judge in the Kyle case, as presented by District Counsel, and also move to approve amendments to the Kyle

Conditional Class B Production Permit and Transport Permit for an additional 84,300,000 gallons annually, subject to the Special Conditions recommended by staff.

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

5h. Discussion and possible action related to approving the FY 2012 salary of the District's General Manager/Chief Operating Officer and reviewing the salary changes for the other District staff members.

Mr. Smith moved to give the General Manager a \$2760 cost of living raise and \$2000 merit increase to his current salary of \$100,359, giving him a salary of \$105,119 for FY 2012.

6. Adjournment.

Without objection, Ms. Stone adjourned the meeting at 9:46 p.m.

Approved by the Board:

By: Mary Stone
Mary Stone, President

Attest: Craig Smith
Craig Smith, Secretary