

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Two Public Hearings
November 19, 2009**

Board members present at commencement: Robert Larsen, Gary Franklin, Jack Goodman, and Mary Stone. Craig Smith was absent. Staff present: Kirk Holland, Brian Smith, Brian Hunt, Robin Gary, Guy Rials, and Tammy Raymond. Bill Dugat of Bickerstaff, Heath also participated. 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.

Dr. Larsen called the meeting to order at 6:05 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 October 22, 2009, Regular Meeting.**
3. **Approval of setting a joint Special Called Board Meeting, to assess and declare progress toward objectives as part of the District's Annual Report, and Board Work Session, to conduct tactical and strategic planning for 2010, at 9:00 AM - 12:00 Noon, Saturday, January 23, 2010.**

Mr. Goodman moved approval of the consent agenda as stated above noting an invoice from Bickerstaff in the amount of \$7147.74.

Mr. Franklin 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. Personnel matters and utilization;
2. Upcoming public events of possible interest;
3. Aquifer conditions and status of drought indicators.
4. 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 Board's discretion.
 - ii. Update on grant projects.
 - iii. Update on GMA-9 and GMA-10 progress in establishing DFCs.
 - iv. Update on progress in developing the 2009 Annual Report.
 - v. Update on discussions with legislative community about recent TCEQ reports, recommended actions, and proposed rulemaking.
 - vi. Update on logistical arrangements, including time and location, for contested-case hearing on City of Kyle permit applications.
 - vii. Update on progress and developments related to establishing the feasibility of a desalination facility in the eastern part of the District.

Mr. Holland and staff updated the Board and answered directors' questions on the teams' activities concerning the items listed above. No Board action was taken.

4. Public Hearing (6:15 p.m.)

The Board of Directors will hold a public hearing on an application filed by Ruby Ranch Water Supply Corporation, P.O. Box 1585, Buda, Texas, on September 29, 2009, for authorization to drill a new Middle Trinity aquifer well to serve as a Public Water Supply well. The proposed well will be located at 2033 Ruby Ranch Road, Buda, Texas. The Ruby Ranch Water Supply Corporation will operate the well as a Public Water Supply well to provide water to residents within their Certificate of Convenience and Necessity (CCN) service area. This application, if approved, does not allow for the production of groundwater.

Dr. Larsen opened the Public Hearing at 6:15 p.m. After a brief discussion and no public comments, Dr. Larsen closed the Public Hearing at 6:18 p.m.

7. Regular Meeting: New Business.

7a. Discussion and possible action on an application filed by Ruby Ranch Water Supply Corporation, P.O. Box 1585, Buda, Texas, on September 29, 2009, for authorization to drill a new Middle Trinity aquifer well to serve as a Public Water Supply well. The proposed well will be located at 2033 Ruby Ranch Road, Buda, Texas. The Ruby Ranch Water Supply Corporation will operate the well as a Public Water Supply well to provide water to residents within their Certificate of Convenience and Necessity (CCN) service area. This application, if approved, does not allow for the production of groundwater.

Mr. Rials stated that staff recommended approval of the Well Drilling Authorization (WDA), and, upon questioning, summarized the special conditions in the WDA.

Ms. Stone moved approval of the Middle Trinity public water supply well WDA by Ruby Ranch Water Supply Corp. with the special permit conditions listed in the backup package.

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

7d. Discussion and possible action related to pumping of non-flood flows of Onion Creek by a private individual in the contributing zone to fill a large reservoir for uses that appear to be other than domestic and livestock or wildlife conservation.

The Board discussed the pumping of non-flood flows from Onion Creek in the contributing zone to fill a large reservoir that diminishes recharge to the aquifer, and authorized the General Manager, accompanied by Craig Smith, to meet with LCRA and with the landowner to discuss the District's concerns.

6. Regular Meeting: Briefings (6:30 p.m.)

6a. Presentation and discussion of the South I-35 Water and Wastewater Project, Austin Water Utilities Project Team

The Board heard a presentation by representatives of the Austin Water Utility and their contractors on the progress and completion schedule of elements of the South I-35 Water and Wastewater Project. The Board asked questions about the ability of the new system to provide interconnects to existing systems using groundwater, which for the most part seemed to have more institutional rather than physical barriers. No Board action was required.

5. Public Hearing (7:00 p.m.)

The Board of Directors will hold a public hearing on an application filed by Oak Forest Water Supply Corporation, P.O. 1493, Buda, Texas, on October 8, 2009, for

authorization to drill a new Middle Trinity aquifer well to serve as a Public Water Supply well. The proposed well will be located at the 300 block of Woodlands Oak Trail, Buda, Texas. The Oak Forest Water Supply Corporation will operate the well as a Public Water Supply well to provide water to residents within their Certificate of Convenience and Necessity (CCN) service area. This application, if approved, does not allow for the production of groundwater.

Dr. Larsen opened the public hearing at 7:10 p.m. With no public comments, Dr. Larsen closed the public hearing at 7:12 p.m.

7. Regular Meeting: New Business.

7b. Discussion and possible action on an application filed by Oak Forest Water Supply Corporation, P.O. 1493, Buda, Texas, on October 8, 2009, for authorization to drill a new Middle Trinity aquifer well to serve as a Public Water Supply well. The proposed well will be located at the 300 block of Woodlands Oak Trail, Buda, Texas. The Oak Forest Water Supply Corporation will operate the well as a Public Water Supply well to provide water to residents within their Certificate of Convenience and Necessity (CCN) service area. This application, if approved, does not allow for the production of groundwater.

Mr. Rials stated that Oak Forest was in need of a well, and briefly summarized the Well Drilling Authorization's elements.

Mr. Phil Suit stated that it was critical to drill a Trinity well because their Edwards well could not produce enough water. He said that the subdivision has been receiving water from the City of Hays - Elliot Ranch and were anxious to move forward.

Mr. Holland stated that staff recommended approval of the Well Drilling Authorization, subject to the special permit conditions listed in the backup package.

Mr. Smith moved approval of Oak Forest Water Supply drilling a Middle Trinity well to serve as a public water supply.

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

8. Regular Meeting: Continued Business.

8a. Discussion and possible action on staff recommendations concerning the District's evaluation and conclusions concerning use of treated municipal wastewater as an alternate water supply for Centex and Texas Lehigh.

Mr. Holland stated that there were no updates since the prior meeting.

Ms. Stone stated that she supports the project to eliminate washing rocks with aquifer water and asked that the item return to the next agenda.

8b. Discussion and possible action related to the Alarm Stage Drought management program of the District, including 1) compliance by District permittees with their User Drought Contingency Plans, and 2) developments concerning ongoing enforcement actions for non-compliant permittees and possible initiation of additional enforcement actions as warranted.

Mr. Rials reported that all permittees were 100% compliant this month and that UDCPs were being updated.

Mr. Holland and Mr. Smith gave an update on the progress of Water District #10 taking over the service area of Ridgewood Village Water System and shutting down the RVWS Edwards well. No Board action was taken.

7. Regular Meeting: New Business.

7c. Discussion and possible action related to re-consideration of the recent rulemaking provisions requiring complete curtailment of certain permittees during ERP, and to authorizing new deadlines for submitting revised UDCPs by affected permittees. (7:30 pm)

Mr. Holland stated that staff had been working with Centex and Texas Lehigh for the better part of a year on the need for an alternative water supply. Because the drought rule put in place in September required 100% curtailment during an Emergency Response Period, this issue was coming to a head. He said that the permittees did not agree that they should bear the brunt of ERP curtailment or that the rule should take effect immediately when an ERP was declared, not one year after the declaration. He then stated that staff recommended the Board consider making a change in the new rule, for example to a 75% curtailment for historical permit holders for industrial and non agricultural irrigation uses and for it to be effective 3 months after ERP declaration.

The Board elected to go to the last remaining agenda item 8c. before going into Executive Session for consultation with our attorney.

8. Regular Meeting: Continued Business.

8c. Discussion and possible action related to status and progress on the contested-case SOAH proceedings associated with the TCEQ preliminary decision on the TLAP for Jeremiah Venture, L.P.

Mr. Dugat gave an update on the status of the Jeremiah Venture TLAP contested case, and reported that there had been some agreement between the Applicant and Hays County. The parties have agreed to have a third-party geologist, Dr. Chock Woodruff, make an independent assessment of the karst features in the area, with a view to defining what project elements need to be modified to protect recharge. The abatement of the case at this point appears justified. No Board action was required.

7. Regular Meeting: New Business.

7c. Discussion and possible action related to re-consideration of the recent rulemaking provisions requiring complete curtailment of certain permittees during ERP, and to authorizing new deadlines for submitting revised UDCPs by affected permittees. (7:30 pm)

The Board adjourned into Executive Session at 8:19 p.m. under Texas Government Code section 551.071 Consultation with Attorney. Dr. Larsen stated that no action would be taken while in Executive Session.

The Board reconvened at 9:27 p.m. Dr. Larsen stated that no action was taken while in Executive Session.

Mr. Smith moved to suspend the requirement for submitting new UDCPs by those historical-use non-public water supply wells affected by complete curtailment to reflect the recent rule amendment until 8/1/2010, and have the General Manager propose a series of meetings with Texas Lehigh and Centex on rule amendments and the potential use of treated water.

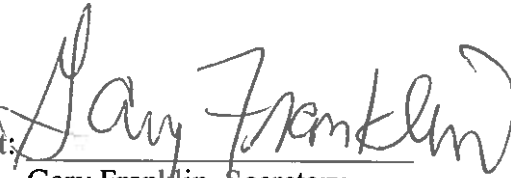
Ms. Stone seconded the motion and it passed unanimously with a vote of 5 to 0.

9. Adjournment.

Dr. Larsen adjourned the meeting at 9:32 p.m.

Approved by the Board:

By: 
Dr. Robert Larsen, President

Attest: 
Gary Franklin, Secretary