

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
May 26, 2011**

Board members present at commencement: Mary Stone, Gary Franklin, Jack Goodman and Craig Smith. Bob Larsen was out of town. Staff present: Kirk Holland, John Dupnik, Brian Smith, Robin Gary, and Tammy Raymond. Bill Dugat of Bickerstaff, Heath 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 7:33 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.

4. Award Ceremony

The Board will hold an award ceremony for college scholarship winner Isaac Riley and camp scholarships for Brigid Hardy and Tyler Mellring.

The Board awarded scholarships and certificates to our recent contest winners: Isaac Riley for the college scholarship and Tyler Mellring for the five-day Aquatic Camp scholarship. Brigid Hardy the winner of the two-day camp scholarship was unable to attend. Ms. Stone called a brief recess to take pictures with the winners and their families.

5. Public Hearing:

The Board will hold a Public Hearing concerning Ruby Ranch Water Supply Corporation (WSC), P.O. Box 1585, Buda, Texas, which filed an application on March 3, 2011 with the Barton Springs/Edwards Aquifer Conservation District for a Historical Trinity Production Permit to withdraw a volume of 20,300,000 gallons per year of groundwater from a water well producing from the Middle Trinity Aquifer. The Ruby Ranch WSC 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. The volume of water requested was based on a reasonable water demand volume to accommodate system growth within the CCN and, if approved, would be designated as Historical Trinity water subject to all the applicable permitting provisions.

Ms. Stone opened the Public Hearing at 7:41 p.m.

Mr. Dupnik stated that Ruby Ranch requested a new Trinity Production Permit to withdraw an annual permitted pumpage volume of 20,300,000 gallons for Public Water Supply. The Production Permit, if approved, would be subject to the rules related to pumpage from wells completed in the Middle Trinity management zone.

There were no public comments; therefore, Ms. Stone closed the Public Hearing at 7:44 p.m.

6. Board discussions and Possible Actions.

6a. Discussion and possible action on approval of a Historical Trinity Production Permit to withdraw a volume of 20,300,000 gallons per year of groundwater from a well producing from the Middle Trinity Aquifer.

After discussion, Mr. Goodman moved approval of a Historical Trinity Production permit to Ruby Ranch Water Supply Corporation for 20,300,000 gallons per year of Middle Trinity Aquifer water.

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

6e. Discussion and possible action related to the status of the Hummingbird House well in the Arroyo Doble subdivision.

Mr. Dupnik explained that the District had received complaints related to alleged excessive water use for landscape irrigation in and around areas of the property used for weddings and other events. Staff wrote a letter to Mr. Tinguely, owner of the home, and he welcomed staff to visit and verify the well use.

In the Board meeting Mr. Tinguely explained that he has owned the home since 1985 and that it is his primary residence. He said that he started allowing use of the property for weddings about a year ago.

Mr. Dupnik stated that as long as Mr. Tinguely continued to use the home as his or his family member's primary residence and the majority of the well use was for domestic purposes, with only a *de minimus* amount for commercial uses, the well could maintain an Exempt status. He indicated Mr. Tinguely had committed to installing rainwater harvesting equipment, replacing non-native plants with more drought tolerant plants and to limit and reduce irrigated areas, repairing the wellhead to contain artesian flows, and installing a meter for self-monitoring of water use and allow District staff to periodically collect meter readings.

After discussion, Mr. Smith moved to direct staff to consider the Hummingbird House well as an Exempt well, have it registered and repaired to comply with well construction standards and prevent waste, and furnish at District expense a suitable water meter, provided the well owner allows access for District staff to read the meter at a mutually convenient time.

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

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 May 12, 2011, Regular Meeting and May 19, 2011 Board and staff work session.**

Mr. Goodman moved approval of items 3.a.1 and 2 of the consent agenda.

Mr. Smith seconded the motion, and it passed unanimously with a vote of 4 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.

- i. Review of monthly Status Update Report – at Directors' discretion.
- ii. Update on regulatory and compliance activities.
- iii. Update on Bickerstaff's re-districting process and requests for information.
- iv. Update on status of the negotiated rulemaking with Centex.
- v. Update on the status of the PHMSA-related environmental assessment of Magellan Midstream Partners' Longhorn Pipeline Conversion project.

Mr. Holland and staff updated the Board and answered directors' questions on the teams' activities concerning the items listed above. At the request of the staff and after consultation with the directors, Board President Stone set a work session for Monday, June 20th, at 6:30 p.m. for the re-districting assessment briefing by Bickerstaff, conditioned on all directors being able to be in attendance.

6c. Discussion and possible action related to the District's co-sponsoring the Second Rainwater Revival, in Dripping Springs, on October 8, 2011.

Mr. Smith moved to authorize sponsoring the Second Rainwater Revival at a financial support level of \$2000.

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

6d. Update, discussion, and possible action related to developments concerning the District's

legislative agenda and other relevant legislative initiatives that potentially affect the District.

Mr. Holland updated the Board on legislation that potentially affects the District.

6f. Discussion and possible action related to direction to the staff regarding the revision of the District Management Plan.

Staff recommended continuing to develop the Objectives and Strategies per the result of the most recent work session, to be presented and further discussed in the next work session in June. Mr. Holland announced his intent, without objection, to send one of the revised objectives, showing organizational structure and granularity, to the TWDB for their review and comment on the new structure (not content) for this part of the Management Plan. The Board directed the staff to include review and comment on Round Two of the Management Plan objectives and strategies in the June 20, 2011 work session.

6g. Discussion and possible action related to the mediation of the Jeremiah Venture TLAP contested-case.

Mr. Dugat stated that there are no new developments in the case.

6a. Discussion and possible action related to the District's sponsoring a sustaining memorial to Dr. Kent Butler.

After discussion, Mr. Goodman moved to change our college essay contest scholarship by increasing the amount to \$2500, and re-naming it the Kent S Butler Memorial Groundwater Stewardship Scholarship, and to direct staff to explore co-sponsoring with the City of Austin, Envision Central Texas, and LCRA a biennial symposium on sustainable development and natural resources management in the Barton Springs Zone, named after Dr. Kent Butler, and to apprise Kent's family of the approved actions.

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

6h. Discussion and possible action relating to *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.*

The Board adjourned into Executive Session under Texas Government Code Section 551.071 (Consultation with Attorney) at 8:52 p.m. Ms. Stone stated that no final decisions or actions would be made while in Executive Session.

The Board reconvened in Open Session at 9:23 p.m. Ms. Stone stated that no final decisions or actions were taken while in Executive Session.

Mr. Smith moved to authorize Mr. Dugat to make a proposal to the City of Kyle to enter into a settlement in which the District would grant them the 185,000,000 gallon permit that they applied for, that this approval is made in a manner consistent with the District's previous interpretation of its rules but specifically includes a requirement or provision that the District

should consider the alternative water available to Kyle from the City of San Marcos in addition to that that was considered in a previous hearing, and that this additional alternative water satisfies requirements under the previous interpretation of the District rules, and that both Kyle and the District waive an appeal and collection of any attorney fees, all to be included in an Agreed Judicial Order.

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

7. Adjournment.

Without objection, Ms. Stone adjourned the meeting at 9:26 p.m.

Approved by the Board:

By: 
Mary Stone, President

Attest: 
Craig Smith, Secretary