

**Barton Springs/Edwards Aquifer Conservation District  
Board of Directors Meeting Minutes  
Regular Meeting  
September 14, 2023**

Board members present at commencement: Blayne Stansberry, Dan Pickens, Lily Lucas, and Vanessa Puig-Williams. Christy Williams arrived at 5:25 p.m. Staff present included: Tim Loftus, Kendall Bell-Enders, Erin Swanson, Jacob Newton, Justin Camp, Jeff Watson, and Tammy Raymond. 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 Stanberry called the meeting to order at 5:02 p.m., noting that a quorum of the Board was present.

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

There were no citizen communications on items not listed on the agenda.

**3. 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.)**

**3a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**

**3b. Approval of minutes of the Board's August 10, 2023 Regular Meeting and Two Public Hearings.**

**3c. Approval of amendment #3 to Brian Zavala's contract for website design.**

**3d. Approval of a memorandum of understanding with the City of Austin detailing the installation of monitor wells.**

Director Pickens moved approval of consent agenda items 3a. through 3d. noting invoices from Bickerstaff in the amount of \$5100, USGS in the amount of \$6750 and two \$9000 invoices from LRE Water totaling \$18,000.

Director Puig-Williams seconded the motion and it passed unanimously with a vote of 4 to 0.

**4. General Manager's Report. Discussion and possible action.**  
**Topics**

- a. Review of key team activities/projects.
- b. Aquifer status update.
- c. Upcoming events of possible interest.

Dr. Loftus and staff gave updates on the topics above.

**5. Discussion and possible action.**

**5a. Discussion and possible action related to the approval of an amendment to reconcile the FY 2023 Budget.**

After discussion, Director Puig-Williams moved approval of an amendment to reconcile the FY 2023 Budget including moving \$10,000 from elections to facility repairs and \$31,000 to the database.

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

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

Mr. Newton gave an update on the permittees UDCP curtailments as follows:

Tier 3 permittees not in compliance:

Creedmoor-Maha Water Supply Corporation  
Monarch Utilities

Tier 2 permittees not in compliance:

Aqua Texas, Inc. – Bliss Spillar  
Aqua Texas, Inc. –Sierra West  
Aqua Texas, Inc. – Bear Creek Park  
Hays Consolidated I.S.D.  
Cimarron Park Water Company

Tier 1 permittees

Cook-Walden/Forest Oaks  
Tindol Restaurant Group

He explained the procedure going forward for each permittee and reminded the Board that we have Agreed Orders with Creedmoor Maha and Aqua Texas Bliss Spillar. He said that staff would be meeting with the other permittees.

No action was needed by the Board.

**5c. Discussion and possible action related to a Report of Investigation, Notice of Alleged Violation, and Draft Agreed Order for initiation and resolving enforcement proceedings concerning Aqua Texas, Bear Creek Park.**

Ms. Swanson explained the investigation report on Aqua Texas – Bear Creek Park including their pumpage from July 2022 through August 2023. She said that staff reached out to Aqua Texas in attempts to participate in a first occurrence pre-enforcement meeting to discuss the reasons for the over pumpage and to ensure the implantation of their UDCP. This meeting was never scheduled after the first attempt on 4/24/23 and a second attempt on 7/27/23. Ms. Swanson said that penalties can range from \$200 to \$3200 daily and are based on three severity options within the specified ranges. The low range is \$12,800, mid-range is \$19,200 and the high range is \$25,600. In consideration of these factors, District staff recommends the low range due to a leak that caused the over pumpage and that this is Bear Creek Park’s first ever violation with the District. Staff also recommends that the Board defer the assessed penalty amount of \$12,800 for the over pumpage of the Aqua Texas’s Bear Creek Park production permit’s monthly drought curtailment volumes for the months of March, April, May, June, July, and August, and enter into an Agreed Order.

Dr. Loftus reminded the Board that when we enter into an Agreed Order with a permittee there are usually a number of special provisions that they have to meet, or they will be charged the full penalty. If they continue to over pump there will be a drought penalty levied for every month that they continue to over pump.

Director Puig-Williams asked if the leak has been repaired.

Mr. Rhea from Aqua Texas answered yes that they have a leak detection company called Miles and Miles of Texas that they use to find leaks and then they are repaired.

Ms. Savior the Environmental Compliance Specialist for Aqua Texas, said that she drove around the system earlier in the week and she noticed that there may be some customer service line leaks, so she reached out to staff, and they are knocking on doors to let the homeowners know since that is their responsibility.

President Stansberry asked, “what is your process if they do not repair their leaks.”

Ms. Savior said that they can install flow restrictors on their outdoor use, but they can’t control the indoor use.

After further discussion, 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 6:08 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 6:51 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

President Stansberry stated that when staff assessed the penalty, they were looking at this permit individually, but this is not the first Aqua permit that has over pumped during drought. She said that this is the fourth system. She said that the Board agreed that the mid-range penalty should be assessed but to defer that penalty if they meet the special conditions of the Agreed Order.

Director Pickens moved to assess the penalty at the mid-range level of \$19,200 but to follow the staff's recommendation to defer the penalty if the special conditions outlined in the Agreed Order are met.

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

**5d. Discussion and possible action on one combination nonexempt well drilling and Historical Trinity Production Permit application for the commercial use of up to 789,000 gallons of water per year filed by Jarica Investments, LLC for one well in the middle Trinity Aquifer to be located at 350 Lonesome Trail in Driftwood, TX 78619 including consideration by the Board of Directors of special conditions or delaying the effective date for an application submitted and/or considered during drought.**

President Stansberry stated that this item is a continuation from the last meeting where the Board asked staff to run a model using the 788,400 gallons of water per year to see if there would be any impacts on nearby wells.

Dr. Loftus explained that at the last meeting staff recommended approval of the application based on science, facts, and our knowledge of the aquifers along with the size of the permit in question. He gave a presentation of the number of wells in the Trinity and permitted volumes based on FY 2022 information, then turned it over to Mr. Watson.

Mr. Watson said that as Dr. Loftus stated, the Board directed staff to do a technical evaluation of this permit for unreasonable impacts. He went on to say that typically on a permit this small evaluation is not necessary because it's assumed that such a small pumping volume would have relatively minor impacts on water levels. He gave an overview of the geology in the upper and middle Glen Rose of the Trinity Aquifer. He said that they used analytical models where they take formulas that estimate an amount of draw down that would be caused by a specified amount of pumping, then plugging in our known aquifer parameters into that formula and run the model for a set amount of time. That will predict what various amounts of drawdown will be at various distances from the well. Typically, we run these models on wells that have already been drilled, along with an aquifer test where you would drive your aquifer parameters from the aquifer tests data, then plug those parameters into the model and run the model to predict the impact that pumping will be on drawdown. He said that this method is commonly used across the country. He said that we do not have the parameters that would have derived from the well because it doesn't exist yet, but we do have a wealth of data from the 2018 Electro Purification aquifer test. He said that they took the permitted volume that Jarica Investments is requesting and converted it into a constant pumping rate, that comes out to about 1.5 gallons per minute and ran the model for 30 years. He said that

they actually ran two models, one as if the well was completed in the lower Glen Rose and a second if they dug the well just a little bit deeper in the Cow Creek. The results showed that in the lower Glen Rose model after 30 years of pumping there would be a little less than four feet of drawdown. The Cow Creek model is more productive which means you would have slightly less drawdown than the lower Glen Rose. Therefore, this well will not anticipate unreasonable impacts to nearby wells.

Mr. Les Carnes urged the Board not to approve the commercial well drilling application and production permit filed by Jarica Investments. Among other things, he said that the well would be in a residential neighborhood where people do not water their lawns and conserve water on a consistent basis and wells are still going dry.

Director Puig-Williams stated that she understands the concerns that the citizens have, but that the District is trying to focus on aquifer wide management of the Trinity's sustainability. She said that she trusts the staff's recommendation.

After further discussion, Director Puig-Williams stated that due to the staff's recommendation, moved to approve the well drilling and Historical Trinity Production permit application for up to 789,000 per year filed by Jarica Investments, LLC.

Director Williams seconded the motion and it passed with a vote of 4 to 1. Director Pickens voted against the motion.

## **5. Discussion and possible action.**

### **5g. Discussion and possible action on a moratorium on accepting new permit applications.**

President Stansberry stated that Mr. Carnes had signed up to speak on this item.

Mr. Carnes urged the Board to declare a moratorium that is long overdue on new permit applications because it is their duty as Board members to protect the aquifer.

After discussion, 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 7:47 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 8:37 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

President Stansberry stated that this item would be postponed to a future meeting so that staff can gather additional information of management zones.

**5f. Discussion and possible action on the draft preliminary changes to the District's Rules and Bylaws.**

President Stansberry stated that The Board has rule changes in the backup that deal with adding language on how we assess drought penalties. She said that what we have now is a drought curtailment scheme in our Edwards and Trinity Aquifers that differs. The Board would like to direct staff to look at using our more stringent Edwards drought curtailments within the Trinity areas. We want to look at the management zones of Trinity because they are not the same. The eastern side has much more water where the western side is much more vulnerable.

She then paused this item to take up item 5h.

Director Puig-Williams left the meeting at 8:41 p.m.

**5h. Discussion and possible action on Petition filed by Hays Commons Land Investment LP at the Texas Commission on Environmental Quality to create the Hays Commons Municipal Utility District.**

President Stansberry stated that two citizens signed up to speak on this item.

Mr. Jim Camp stated that he lives in Southwest Territory on the Hays County line and that himself and others reached out to Director Dan Pickens and the General Manager about this potential permit over a year ago. We always knew that development would come when I-45 was extended but when Milestone took over, they have plans to develop in higher density. It went to a wastewater treatment plant disburseable at 200,000 gallons a day in an area that is karst filled with caves and sinkholes. Now the City of Hays turned down their MUD proposal and they have gone to the TCEQ. We hope that the Board can help us because we believe that it could impact our wells.

Mr. Tony Valdez a Civil engineer with Travis County, and a Council Member for the City of Hays, expressed his concern that Milestone proposed a TLAP and that drinking water could be contaminated.

Dr. Loftus gave background on the Hays Commons Land Investment LP.

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 8:54 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 9:07 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

President Stansberry stated that the District has never been involved with a MUD and with the uncertainty and challenges the Board would not get involved at this time.

**5f. Discussion and possible action on the draft preliminary changes to the District's Rules and Bylaws.**

Mr. Dugat went through the preliminary rules and the Board discussed additional changes, including Conflicts of Interest and drought enforcement penalties.

Director Pickens moved to accept the suggested changes to our rules and include them at the October 12<sup>th</sup> Public Hearing.

Director Williams seconded the motion and it passed unanimously with a vote of 4 to 0.

**5e. Discussion and possible action on declaring Stage IV Exceptional Drought.**

Dr. Loftus stated that we heard from Mr. Watson tonight that we have not crossed the threshold yet, but we are close. Without significant rain we may be there by next month.

**6. Director Reports.**

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Board committee updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

President Stansberry stated that Director's reports will be given at the next meeting due to the time.

**7. Adjournment.**

With no objection, President Stansberry adjourned the meeting at 9:18 p.m.

Approved by the Board on October 12, 2023.

By: Blayne Stansberry  
Blayne Stansberry, Board President

Attest: Christy Williams  
Christy Williams, Board Secretary