

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
October 12, 2023**

Board members present at commencement: Blayne Stansberry, Lily Lucas, Vanessa Puig-Williams, and Christy Williams. Dan Pickens arrived at 5:09 p.m. Staff present included: Tim Loftus, Dana Wilson, Kendall Bell-Enders, Erin Swanson, Jacob Newton, Justin Camp, 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 5:01 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 September 14, 2023 Regular Meeting.

Director Puig-Williams moved approval of consent agenda items 3a. and 3b. noting invoices from Bickerstaff in the amount of \$8404.40, Vintage IT the amount of \$5289.77 and TML in the amount of \$9324.70

Director Lucas 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. Public Hearing.

The Public Hearing concerns proposed revisions to the District Rules and Bylaws related generally to: Registration, Authorization, and Permits; Exempt Wells; Drought including enforcement; Notice and Hearing Process; Emergency Approvals; Timing of Drought Notification; Regulatory Fees; Reserve Accounts; Hearing Continuance; Request for Rehearing or Finding of Fact and Conclusions of Law; Decision when Final after a Contested Case before SOAH; Rules of Procedure for Rulemaking; Conflict of Interest; and Well Construction Standards.

President Stansberry opened the Public Hearing at 5:28 p.m.

Dr. Loftus gave a presentation on proposed changes to the following Rules:

- 3-1.5
- 3-7.7
- 3-7.8
- 3-7.11
- 4-9.7
- 4-10.3

There were no public comments.

President Stansberry closed the Public Hearing at 5:33 p.m.

6. Discussion and possible action.

6a. Discussion and possible action related to the approval of the proposed revisions to the District Rules and Bylaws.

Director Pickens moved approval of the proposed rule changes as discussed in the Public Hearing.

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

6b. 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.

Tier 1 permittees

Cook-Walden/Forest Oaks

Mr. Newton stated that staff have been in contact with the permittees.

No action was needed by the Board.

6d. Discussion and possible action related to the overpumpage of authorized annual permitted volume by District permittees, 1) Aqua Texas Bliss Spillar, 2) Hays City Holdings, 3) Roy Seiders, and 4) Stripe-Susser Corp./7-Eleven.

Ms. Swanson stated that the District uses a point system to calculate triggers and penalties. Twelve or more points triggers more penalties. She showed the following calculations for the four permittees.

1) Stripe-Susser Corp/7-11 – 16 points - 91 days overpumped for a total of \$5195.00
Staff recommended a 30% reduction for a new penalty total of \$3636.50

2) Aqua Texas Bliss Spillar – 15 points - 27 days overpumped total of \$4050.00
No reduction recommended.

3) Hays City Holdings – 18 points - 143 days overpumped total of \$9295.00
Staff recommended a reduction amount to be determined by the Board, explaining that they could use that money towards conserving additional water by installing a rainwater harvesting system.

4) Roy Seiders – 18 points - 91 days overpumped total of \$5915.00
No reduction recommended.

Mr. and Mrs. Cox from Hays City Holdings explained that they have two wells, one is an exempt use domestic well and the other is a commercial well for their liquor store. Lighting struck and disabled the pump on their exempt well, so they had to use water from their commercial well for their household needs and livestock. That is why they overpumped, and the pump has been replaced and this should not be a problem in the future.

After discussion Director Lucas made a motion to take staff's recommendation to reduce 7-11 to \$3636.50, to waive the total of \$9295 for Hays City Holdings and keep Aqua Texas Bliss Spillar at \$4050 and Roy Seiders at \$5915.00

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

6c. Discussion and possible action related to a Report of Investigation, Notice of Alleged Violation, and Draft Agreed Order for initiation and resolving enforcement proceeding concerning Tindol Restaurant Group's failure to reduce pumping during District declared drought.

Ms. Swanson reported that Tindol Restaurant Group is a Tier 1 permittee using less than two million gallons per year, although staff has been assessing compliance of their drought target volumes since month seven of drought the Board would have to initiate the enforcement process for non-compliance. She shared a table showing their compliance history throughout this drought. She then went over the details of the investigation report and explained how penalties are assessed and showed a range based on significance of overpumpage, permitted volume, and drought stage. She also explained the list of factors to adjust penalties if necessary. She said that staff recommended the mid-range penalty in the amount of \$4200 and that the penalty be deferred if both parties agree to the terms of the Agreed Order.

President Stansberry stated that they would take up item 6e. before going into Executive Session.

6e. Discussion and possible action related to a moratorium on accepting new permit applications.

Mr. Eddie McCarthy stated that the District has no authority to issue a moratorium, but if they did it should be through a rule change.

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) on items 6c. and 6e. at 6:58 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 8:09 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Director Pickens moved to assess the maximum penalty of \$6600 but to defer \$1400 of that which would reduce the penalty to \$4200 if the owners of Tindol Restaurant Group will sign an Agreed Order.

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

6e. Discussion and possible action related to a moratorium on accepting new permit applications.

The Board took no action.

6f. Discussion and possible action on declaring Stage IV Exceptional Drought.

Mr. Camp explained that the Lovelady monitor well is hovering right over the Stage IV threshold and with the expected rain in the forecast would likely keep water levels above that. He said staff recommended waiting to see the response to the rains.

Director Lucas moved to continue to give the General Manager the authority to declare Stage IV Drought if the triggers fall below the threshold.

6g. Discussion and possible action on a potential second meeting of the Board of Directors on the fourth Thursday of the month.

After discussion no Board action was taken.

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.

Board members gave reports on activities they have been involved with since the last meeting.

7. Adjournment.

With no objection, President Stansberry adjourned the meeting at 8:28 p.m.

Approved by the Board on November 9, 2023.

By: Blayne Stansberry Attest: Christy Williams
Blayne Stansberry, Board President Christy Williams, Board Secretary