

**Barton Springs/Edwards Aquifer Conservation District  
Board of Directors Meeting Minutes  
Special Meeting  
Telephone & Videoconference  
December 10, 2020**

Board members present at commencement: Blayne Stansberry, Blake Dorsett, Craig Smith, Christy Williams, and Dan Pickens. Staff present included: Vanessa Escobar, Michael Redman, Dana Wilson, Brian Smith, Justin Camp, Erin Swanson, Jackie Vay, Kendall Bell-Enders, 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 Stansberry called the virtual meeting to order at 4:03 p.m., noting that a quorum of the Board was present.

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

There were no public comments of a general nature.

**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.)*

- a. **Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**
- b. **Approval of minutes of the Board's November 12, 2020 Special Meeting.**
- c. **Approval of an amendment extending the existing litigation-support contract with INTERA Inc.**

Director Smith moved approval of Consent Agenda Items 3.a. through c. noting invoices from Bickerstaff, Heath in the amount of \$14,675 and \$5569.

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

**4. Presentation.**

**Presentation by the District's financial auditor on the FY 2020 Annual Financial Audit Report.**

Mr. Archie Montemayor gave a report on the District's financials for FY 2020. He stated that the auditor's reported a clean audit. He said that in our opinion the financial statements are materially correct in accordance with the accounting principles.

**5. Discussion and Possible Action.**

**5a. Discussion and possible action related to the receipt and approval of the FY 2020 Annual Financial Audit report provided by the District's financial auditor.**

Director Smith moved approval of the FY 2020 Financial Audit report.

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

**5c. Discussion and possible action related to assessing excess pumpage fees to Permittees who exceeded their authorized annual production in FY 2020.**

Ms. Escobar gave an overview of the over pumpage fee language from the Fee Schedule and some evaluation criteria in regard to over pumping. She stated that at the end of each fiscal year we take a look to see if the permittees have stayed in their authorized volume. Ms. Delong creates a spreadsheet showing the permittees pumpage for each month. She said that there are many factors to consider when deciding on over pumpage fees during a non-drought period and that each circumstance is unique. See the list below.

- Extent of overpumpage
- Aquifer Conditions
- Occurrence of over pumpage
- Responsiveness
- Alternative sources
- Is the over pumpage primarily due to the permittee's choice of operation practices
- Other conservation measures could be implemented
- Financial limitations
- Permittee's noncompliance record
- Other water supply sources
- Permit amendment options
- Was this willful or intentional
- Did the permittee act in good faith to correct the issue

Mr. Redman, the Regulatory Team Leader, stated that there are seven permittees that have overpumped and that staff has looked at each of these factors.

Ms. Escobar stated that we will walk through each of the seven situations and give the permittee an opportunity to address the Board if present.

President Stansberry stated that after the presentation the Board will go into Executive Session to consult with our Attorney, and then make decisions when we return.

#### **Aqua Texas-Bliss Spiller**

Mr. Redman reported that they overpumped the last month of the fiscal year .83% or 107,000 gallons and the fee is \$18.19. They currently have an application to drill a lower Trinity well. Staff recommends the full amount. No one present to speak.

#### **Vance Lane**

Ms. Swanson reported that they overpumped by 101.69% or 132,200 gallons and the fee is \$22.47. They had pumped more than half of their permit by July and staff notified them about over pumpage fees. They later contacted us and said that they had silt and sand in their well and had to clear out the lines. They have been responsive. Staff recommends the full amount. No one present to speak.

#### **Bucks Backyard**

Ms. Swanson reported that they overpumped 34.16% or 341,620 gallons due to a break in the line back in April, and the fee is \$58.08. We had reached out to them and the break has been repaired, and they have been on target since. They have not paid their annual fee of \$220. Staff recommends the full amount. No one present to speak.

#### **Tindol Restaurant Group**

Ms. Swanson reported that they overpumped 63.31% or 506,453 gallons and the fee is \$2618.37. The permittee was contacted and they put in an application for an amendment that was approved in August. Staff recommends assessing the fee at the .17 cents rate for a total of \$86.10.

Austin Lavery stated that we have had an 8% increase in business on average. These increases are a huge part of our overpumpage, people washing their hands more this year.

Ms. Escobar stated that the restaurant had outgrown their permit and the overpumpage occurred during the amendment process.

#### **Industrial Asphalt**

Ms. Bell-Enders stated that they are a commercial use type permit and they have a Middle Trinity Well. They overpumped by 8.74% or 349,600 gallons and the fee is \$59.43. We notified them in July about overpumping and they committed to shutting down the well and hauling in water.

JR Manrique, the Health Safety Environmental Manager, stated that as soon as they were contacted about over pumping they did shut off the well as Kendall stated. The turn-over at that time was a factor, and we have remedied that situation.

Ms. Stanberry commended them for shutting down the well immediately when notified and being good stewards of the water.

### **Roy Seiders**

Ms. Bell-Enders stated that this is an irrigation well located in the City of Austin. They did not overpump until August so we did not see it until the end of the fiscal year. He overpumped 47.26% or 206,100 gallons and the fee is \$35.04. Mr. Seiders has overpumped the last four years, so staff recommends the \$35.04 fee, but starting pre enforcement procedures by sitting down and talking with him about dialing down his irrigation. No one present to speak.

Director Smith asked if it's a commercial operation or a lawn.

Ms. Bell-Enders stated that it is a lawn.

### **Onion Creek Country Club**

Ms. Bell-Enders reported that this is an irrigation permit for a golf course. They over pumped this well by 17.72% or 8,433,750 gallons. Because of the tier structure the fee assessed is \$85,771.24. On June 18<sup>th</sup> Ryan Crump the golf course manager, called us about a significant yield decrease in their Trinity well. He said they were not able to pump their allocated amount. They pulled the pump and it was deteriorated. They put in a new pump and the yield did not return. At that point Justin Camp went out and put in a transducer and did some mini pump tests. The well was drilled in 2015 when the aquifer was very high due to flooding. During the initial aquifer test they were pumping around 350 gpm and now they are down to around 200 gpm or less. The pump is set at about 657 ft. below ground surface and during the mini pump test they were seeing a massive draw down by 550 ft. plus in a matter of hours, and we don't understand why. They don't have a permit option due to no firm yield Edwards permits available. They have spread out their allocation more evenly knowing that in the summer months they will not be able to pump as much.

Director Smith asked if they have the option to buy water from the City of Austin.

Mr. Crump stated that the prior owners decided to remove the City of Austin water tap around 2017 after we had gone a couple of years with the Trinity well pumping fine. We had a 2" tap that supplied our upper pond. In 2013 when we had grey water, the city contract guaranteed us 40 million gallons and was pumped to ponds at the highest point of the property. After the flooding and the treatment plant was destroyed, we now have to pump all water into a smaller pond. We installed a new pump station so that we can monitor remotely with pond switches. We blend the water with our Edwards permit and our Trinity permit.

President Stansberry explained to the new Directors that after the 2015 flood that destroyed the treatment plant, the City of Austin paid the golf course about a million dollars to drill a Trinity well to take pressure off of the Edwards. In exchange the golf course reduced their 90 million gallon Edwards permit amount by half. Mr. Crump spoke to the Board in the July meeting explaining the current situation.

Ms. Escobar said that due to Onion Creek's record with the District and working closely with us to remedy the situation, as well as being a first time offender, staff recommends assessing the full fee, but to offer a full reduction at the end of August 2021 if they are able to carry out four specific commitments in an agreed order.

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 5:03 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 6:16 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

The Board took a brief recess from 6:17 to 6:25 p.m.

Director Smith moved to accept the staff recommendation to assess the fees of 17 cents per thousand gallons for overpumpage fees to Tindal Restaurant, Industrial Asphalt, Roy Seiders, Bucks Backyard, Vance Lane and Aqua Texas.

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

President Stansberry noted that that Onion Creek Golf Club has been very proactive in discussing this issue with the District when they first started having problems with the well. It is their first offense, it is a substantial amount but they have a substantial permit as well. She asked Mr. Crump what he thought about the pre-enforcement approach, where we are looking at ways to keep this from happening again. I understand the City of Austin has offered to perform a water audit without their original charge.

Mr. Crump said that he did reach out to the City of Austin, we are a little larger scale then what they work with, they are based off a half acre and we are 220 acres of golf course plus 150 acres of natural scrub land and vegetative area. He spoke of possible grants and other ideas where we can make the course more sustainable, and ways to reinvent how we go about golf in Central Texas. We are moving forward with acidization but we have to plan carefully. We are using moisture sensors, we painted all of the fairways and not watering so there are cracks in the ground right now. We are doing everything we can right now to prevent being where we were in August. I have also reached out to the City about reinstalling a tap.

Director Dorsett said that it sounds like they have started investigating everything we have asked about.

Mr. Scott Carrier with ARCIS, said that the issue is from three different fronts. With 60 golf courses across the country occupying a significant amount of acreage, when you are stewards of that much land you have to be environmentally conscious. We realize that you do not want

us to overpump the aquifer and we concur. We have to find a way to do it with some kind of fiduciary responsibly. Finding a way to work with the City and Board to find a real solution. Even if the acidization is very successful and we get our rates back up and we are not overpumping it still doesn't reach the ultimate goal of not even hitting our number. We want to pursue eliminating turf, eliminating irrigation, upgrading facilities, finding a way of storing more water on property and find a way to partner with every relevant stakeholder to get where we need to go.

President Stansberry said that she is pleased to hear some of these creative ways on how a typical golf course can be, and that one of our permittees is at the fore front.

Director Smith commended the Onion Creek Club for trying to take a constructive approach to this problem and would like to respond in kind by moving that the Board reduce the over pumpage fee for Onion Creek Club to \$1433.73 which is equal to 17 cents per thousand gallons in consideration of their commitment to investigate the options to address the overall problem. And for staff to pursue pre-enforcement action to prevent this from happening again.

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

President Stansberry thanked Ryan Crump and Scott Carrier for attending and being proactive.

Mr. Carrier thanked the Board, and said that he hopes they can work out a solution that works out for everyone long term.

**5f. Discussion and possible action related to a legislative update by Sledge Law Group.**

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 6:42 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 7:13 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

No Board action was taken in open session.

**5b. Discussion and possible action related to approving the District's FY 2020 Annual Report, including Appendix B, and submitting it to the TCEQ.**

Ms. Escobar gave a brief overview of the contents of the Annual Report.

After discussion, Director Smith moved approval of the District's FY 2020 Annual Report, including Appendix B, and to submit it to the TCEQ.

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

**5d. Discussion and possible action related to Drought Enforcement Procedures.**

Ms. Escobar gave a brief overview of the Drought Compliance report that was provided in the backup.

No action was taken by the Board.

**5e. Discussion and possible action related to the election of Board Officers and Board Committee appointments.**

Director Smith moved to keep the current Board officers and to approve the committee assignments as outlined.

President - Blayne Stansberry  
Vice President – Craig Smith  
Secretary – Blake Dorsett

- Budget and Finance Committee (Blayne /Blake)
- Rules & Compliance Committee (Christy/Craig)
- Legislative Committee (Blayne/Craig)
- Public Communications Committee (Dan/Christy)
- Personnel Committee (Blayne/Craig)

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

**6. 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 unless the topic is specifically listed elsewhere in this agenda for consideration. 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.)*

**Topics**

- a. Aquifer conditions and status of drought indicators.**
- b. Update on the GMA 10 and GMA 9 planning activities.**
- c. Review of Status Report and update on team activities/projects.**
- d. Upcoming public events of possible interest.**

The General Manager’s report was deferred to the next meeting due to the time.

**7. Directors’ 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 that had outside and Zoom meetings gave reports.

**8. Adjournment.**

Without objection, President Stansberry adjourned the meeting at 7:32 p.m.

Approved by the Board on January 14, 2021

By: Blayne Stansberry  
Blayne Stansberry, Board President

Attest: Blake Dorsett  
Blake Dorsett, Board Secretary