

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
October 13, 2022**

Board members present at commencement: Blayne Stansberry, Craig Smith, Dan Pickens, and Lily Lucas. Christy Williams was absent. Staff present included: Tim Loftus, Brian Smith, Justin Camp, David Marino, Jeff Watson, Erin Swanson, Kendall Bell-Enders, Alyssa Gilbert, 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 recognized Director Smith's 24 years on the Board and thanked him for all of his knowledge and service during his tenure at the District. She said it has been an honor to serve with him. Dr. Loftus presented him with a gift from the Board and staff.

President Stanberry called the meeting to order at 5:08 p.m., noting that a quorum of the Board was present.

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

Mr. Jim Camp and Ms. Carol Pennington expressed concerns about the proposed Hays Commons Development largely over the recharge zone in Hays County. They stated that the developer, Milestone Community Builders, wants to do a higher density development, build a sewage treatment plant, and pipe the effluent onto the recharge zone for aerial spray land application. They would like the District to conduct scientific investigations to see the ramifications.

3. Consent Agenda.

3a. 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 September 15, 2022 Regular Meeting.

c. Approval of two-year contract with SledgeLaw Group PLLC: September 1, 2022 through August 31, 2024 in the amount of \$48,000.

Director Pickens had questions regarding item 3c; therefore, President Stansberry stated that the item would be removed from the consent agenda and included in the discussion and possible action items.

Director Smith moved approval of Consent Agenda items 3a. and 3b., noting invoices from Bickerstaff Heath in the amount of \$5343.00, TML \$9083.62, and Montemayor \$5562.50.

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

6. Discussion and possible action.

3c. Approval of two-year contract with SledgeLaw Group PLLC: September 1, 2022 through August 31, 2024 in the amount of \$48,000.

Dr. Loftus phoned Mr. Sledge to consult with the Board in Executive Session.

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 5:31 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 6:07 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Director Smith moved approval of the two-year contract with SledgeLaw Group in the amount of \$48,000.

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

4. General Manager's Report.

Topics

- a. Review of Status Report and update on team activities/projects.**
- b. Aquifer status update.**
- d. Upcoming events of possible interest.**

Staff gave updates on the items above.

5. Public Hearing.

The Board will hold a Public Hearing on the proposed District Management Plan that has been updated to incorporate new planning data, address statutory requirements, and include goals and objectives that support the District's mission and commitment to sound management of all aquifers within the District.

President Stansberry opened the Public Hearing at 6:21 p.m.

Dr. Loftus gave a brief verbal presentation on the proposed Management Plan. He said that he had sent a draft to the Water Development Board for prereview, and they suggested a few changes that he incorporated. The Management Plan was back in the hands of the Texas Water Development Board for a second prereview.

There were no public comments; therefore, President Stansberry closed the Public Hearing at 6:28 p.m.

7a. Discussion and possible action related to adoption of the proposed Management Plan by Resolution #101322-01.

After discussion, Director Smith moved adoption of the proposed Management Plan by Resolution #101322-01 adding a third clause stating that if there are additional changes suggested by the Texas Water Development Board staff, the General Manager is authorized to incorporate those changes into the plan without returning for a decision of the Board.

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

7b. Discussion and possible action related to the declaration of a change to a more severe drought stage, from Stage II-Alarm drought to Stage III-Critical drought.

Mr. Camp explained that the Lovelady monitor well is very close to crossing over into Stage III Critical drought and expected it to be within the next week.

After discussion, Director Pickens moved to authorize the General Manager to declare Stage III-Critical drought when the monitor well crosses over the threshold.

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

7e. Discussion and possible action on acknowledgement of receipt of \$39,875 from INTERA and to confirm that the 2017 Master Technical Services Agreement and related work order to develop a web-based groundwater and water well management system is terminated as provided in the September 22, 2022 letter from Tim Loftus, General Manager, to Eric Markland, Chief Financial and Administrative Officer, INTERA, Inc.

Dr. Loftus explained that this item is to acknowledge receipt of the funds from Intera, Inc. and that the Master Services contract to develop a database has been terminated.

President Stansberry expressed her hope that the District's relationship with Intera remains strong despite the end result of this project.

Dr. Loftus said that our relationship is good, and that we will continue to work with them on other projects as we did before.

President Stansberry asked Dr. Loftus to express to Intera that we appreciate them working with us to resolve the issue and look forward to continuing the relationship.

No action was required.

7f. Discussion and possible action related to a recommendation by the General Manager to approve a Master Service Agreement with LRE Water and a Statement of Work (i.e., Task Order) to produce a new database for the District at a total first year cost of \$108,000.

Dr. Loftus recommended that the Board approve the Master Service Agreement with LRE Water to produce a new database. He said that we have reason to expect success. Their chief technology officer came and spent the day with us to get to know our current database, our needs, and expectations of our new database to come. They are well equipped, and we have confidence in them.

President Stansberry asked about the timeframe and budget for the project.

Dr. Loftus stated that they are ready to start work as soon as a contract is executed. He said that we budgeted \$50,000 along with the contribution from Intera totaling \$89,000 to go toward this fiscal year. If they finish early, we can do a budget amendment to cover the remainder.

Director Pickens moved approval of the General Manager's recommendation to enter into a binding contract with LRE Water to produce a new database.

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

6. Staff Presentation.

Aquifer Science Team presentation titled, "In-House Trinity Model Results: Update" to be followed by discussion.

Staff Hydrogeologist Jeff Watson presented a new Drought of Record predictive model developed as part of the BSEACD In-house Model Project. He also presented an update from his October 5th, 2022, presentation to the Technical Advisory Committee which is providing expert review of the In-house model."

President Stansberry commended Mr. Watson, and the Aquifer Science Team, for the hard work on the model at such a fast pace.

7c. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.

Ms. Swanson explained that our drought enforcement strategy is a phased approach. Months 1-3 with September being the last month we were looking at tier 3 permittees, and overpumpage at level C which is 100% or over. She said that as we move into October, we will be moving into the next phase incorporating tier 2 permittees and level B overages which is 25% and above.

President Stansberry asked why we wait to start looking at tier 2?

Ms. Bell-Enders said that we weren't around when the rules were written but that the thought is that the permittees need time to get things in order. The public water supplies have to get the information out to the end users and get into compliance.

Director Pickens stated that this should be addressed during the next rule change.

Ms. Swanson stated that when we are looking at certain permittees and if there is a first occurrence, we meet with them to talk to about what's going on and if there are any resolutions that we can reach. On the second occurrence we issue a Notice of Alleged Violation. She said that currently everyone is in compliance with their User Drought Contingency Plans.

No action was required.

7d. Discussion and possible related to the overpumpage of authorized annual permitted volume by District permittees Aqua Texas Bliss Spillar and Professional Contract Services, Inc. including the assessment of penalties and 30-day notice of payment of penalties.

Ms. Swanson stated that we use a point system to determine over pumpage fees, any permittees with over 11 points are deemed non-compliant and will go through the enforcement process. She went on to say that Aqua Texas accrued 19 points and overpumped by 31%. They were notified and we have had no response. She said that staff recommends assessing the full penalty amount of \$11,550 for the exceeded annual overpumpage of the Aqua Texas Bliss Spillar- Edwards permit and that the permittee be sent a 30-day notice to pay the penalty.

She reported that PCSI accrued 17 points and overpumped by 133%. They did respond and acknowledge that they were pumping a lot but did not make an effort to reduce it. Staff recommends a reduced penalty of \$11,480 from \$14,350, due to the fact that they have not overpumped in eleven years, and it was by a small amount.

After discussion, Director Smith moved that the Board assess Aqua Texas with a penalty of \$11,550 and for the General Manager to send them a letter giving them 30 days to pay.

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

Director Smith moved that the Board adopts the staff recommendation to assess PCSI with a reduced penalty of \$11,480 and that the General Manager send them a letter giving them 30 days to pay.

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

8. 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.

President Stansberry stated that Director Reports would be deferred to the next meeting due to the time.

9. Adjournment.

President Stansberry turned the gavel over to Vice-President Smith to close his last Board meeting.

With no objection, Vice-President Smith adjourned the meeting at 7:40 p.m.

Approved by the Board on November 10, 2022.

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