

**Barton Springs/Edwards Aquifer Conservation District  
Board of Directors Meeting Minutes  
Regular Meeting & Public Hearing  
December 16, 2010**

Board members present at commencement: Mary Stone, Bob Larsen, and Jack Goodman. Craig Smith arrived at 6:04 and Gary Franklin arrived at 6:07 pm. Staff present: Kirk Holland, Brian Smith, John Dupnik, and Dana Wilson. Bill Dugat of Bickerstaff, Heath also participated. 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 6:01 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.

**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 November 18, 2010, Regular Meeting.**
- 3. Recognition of professionalism of BSEACD staff.**

Dr. Larsen expressed his appreciation for the professionalism shown by the staff and thanked them for making the District a great example of an excellent public agency, and asked his fellow directors to join him in recognizing such professionalism..

Mr. Goodman moved approval of items 3.a.1, 2 and 3 of the consent agenda, noting an invoice from Bickerstaff Heath in the amount of \$6250.30.

Dr. Larsen seconded the motion, and it passed unanimously with a vote of 4 to 0.

**Public Hearing. (6:15 pm)**

**The Board will hold a Public Hearing on proposed revisions and amendments to the District's Well Construction Standards that are generally related to: well location, management zone-specific well construction, geophysical logging, and well plugging requirements. The District is also proposing to incorporate those revised Standards into the Rules and Bylaws as Rule 5, Volume 2.**

Ms. Stone opened the Public Hearing at 6:18 p.m.

Mr. Dupnik explained that the Well Construction Standards created in 1991 had never been updated. He went on to say that Stakeholder meetings have been held to update them for the past four years. He also stated that the standards will be incorporated into the District's Rules and Bylaws, rather than just being District guidelines..

Mr. John Mikels noted that he had submitted his recommended changes, and made a request to make the Standards' language as plain-English as possible..

After discussion, Ms. Stone closed the Public Hearing at 6:30 p.m.

**5. Regular Meeting: New Business.**

**5d. Discussion and possible action on amending the FY 2011 budget.**

Ms. Wilson and Mr. Holland outlined the proposed changes to Budget Revision I.

After discussion, Mr. Smith moved approval of Budget Revision I.

Mr. Franklin seconded the motion and it passed unanimously with a vote of 5 to 0.

**5a. Discussion and possible action on approval of the proposed Well Construction Standards rules.**

Mr. Dupnik stated that staff recommends approval of the Well Construction Standards as proposed. Mr Holland noted that much of the language in the proposed standards was purposefully verbatim from either the Texas Department of Licensing and Regulation or the American Water Works Association .

Mr. Goodman moved approval of the proposed Well Construction Standards.

Dr. Larsen seconded the motion and passed unanimously with a vote of 5 to 0.

**5b. Discussion and possible action related to initiation of rulemaking on other rule changes.**

Mr. Dupnik gave a power point presentation outlining the pending changes.

After discussion, Mr. Smith moved on Rule# 3-1.23A to change the maximum pumpage during an Extreme Drought Withdrawal Limitation (EDWL) for the Western and Eastern Freshwater

Edwards Management Zones from 7.5 cfs to 6.0 cfs. In addition to the retirement of historical permits, the District will seek additional pumping restrictions as emergency measures during an EDWL from all permittees to conform to the applicable Desired Future Condition.

Mr. Franklin seconded the motion and it passed unanimously with a vote of 5 to 0.

Mr. Smith moved on Rule# 3-7.3G to change “and” to “or”.

Mr. Franklin seconded the motion and it passed unanimously with a vote of 5 to 0.

Mr. Smith motioned for a 60 day phase in period and 90% curtailment of non-PWS permittees during an Emergency Response Period..

Mr. Goodman seconded the motion it passed unanimously with a vote of 5 to 0.

Mr. Franklin moved to authorize these rule changes as the basis for proposed rulemaking and to set a public hearing at the regularly scheduled Board meeting on Jan 27<sup>th</sup>.

Mr. Smith seconded the motion and it passed unanimously with a vote of 5 to 0.

#### **6. Regular Meeting: Continued Business.**

##### **6b. Update, discussion, and possible action on progress concerning the District’s legislative agenda and on other relevant legislative initiatives of other groups that potentially affect the District.**

Ms. Claudia Russell briefed the Board on the progress on the specific bills that are part of our legislative agenda. Mr. Holland offered some additional comments about the initiatives of the landowner lobby to legislatively change the definition of groundwater ownership rights, and a somewhat related initiative by EAA to remove EAA from Ch. 36.

No Board action was needed.

##### **6c. Discussion and possible action related to the HCP grant project schedule and contractual commitments.**

Mr. Holland briefed the Board on the status of the HCP grant project and the near impossibility of completing the project within the term of the current grant and the unlikelihood of a meaningful grant extension.

Mr. Holland and Dr. Kent Butler, the HCP lead consultant, presented a proposal that would maximize progress and minimize out of pocket cost to the District in getting the project to a point where it will enter into a less-controlled federal review/notice/comment-and-respond process, while recognizing that the District would be using its own resources in that likely protracted federal process.

No Board action was needed.

**6d. Discussion and possible action related to the change in TCEQ's recommended approach to providing GCD protection in unprotected areas of the Hill Country PGMA.**

Mr. Holland and Mr. Dugat briefed the Board on the recent developments with the TCEQ hearing process on the Hill Country PGMA, including a new recommendation, a new preliminary hearing, and a postponement of the actual hearing until probably late summer.

No Board action was needed.

**6e. Discussion and possible action related to the Jeremiah Venture TLAP contested case.**

Mr. Dugat briefed the Board on the Jeremiah Venture contested case and settlement discussions, reporting on joint activities with the protestants and discussions with the applicant, but without any real resolution so far.

No Board action was needed.

**5. Regular Meeting: New Business.**

**5e. Discussion and possible action related to a proposed amendment to the KBDJ Water Pollution Abatement Plan.**

Mr. Dupnik and Mr. Holland briefed the Board on the District's concerns and response to TCEQ concerning the proposed change to the KBDJ Water Pollution and Abatement Plan, and the implications associated with the District letter's arrival at TCEQ after the comment deadline.

No further Board action was required.

**5c. Discussion and possible action related to an amendment to the Agreed Order for Ridgewood Village Water System.**

Mr. Holland briefed the Board on the status of the annexation.

After discussion, Dr. Larsen moved to authorized the General Manager to extend the 12/31/2010 deadline for submitting an application to close and plug the Ridgewood Village Water System well until a time after resolution of the Water District 10 annexation applications by the RVWS residents was reached, and to re-consider the need for terminating or further modifying the Agreed Order to sometime once the final annexation resolution occurs.

Mr. Goodman seconded the motion and it passed unanimously with a vote of 5 to 0.

**5f. Discussion and possible action related to the format, content, and style of future Board meetings, backup documentation, and agendas.**

The Board tabled this item until the January 13, 2010, Board meeting.

### **3. Routine Business.**

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.

1. **Personnel matters and utilization;**
2. **Upcoming public events of possible interest;**
3. **Aquifer conditions and status of drought indicators.**
4. **Discussion related to current staff work areas and specific activities of staff teams and directors.** Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. 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.
  - i. **Review of Status Update Report – at Directors' discretion.**
  - ii. **Update on recent regulatory activities and discussions.**
  - iii. **Update on grant projects and proposals.**

Mr. Holland and staff updated the Board and answered directors' questions on the teams' activities concerning the items listed above.

#### **6a. Discussion and possible action relating to *City of Kyle vs. Goodman et al. and the Barton Springs Edwards Aquifer Conservation District, Cause No. 10-1267, 22<sup>nd</sup> District Court, Hays County, Texas.***

The Board adjourned into Executive Session at 9:06 p.m. under Texas Government Code Section §551.071 (Consultation with Attorney). Ms. Stone stated that no decisions or actions would be taken while in Executive Session.

The Board reconvened in Open Session at 9:21 p.m. Ms. Stone stated that no decisions or actions were made while in Executive Session.

Dr. Larsen motioned that it was the Board's intent to seek mediation on the basis of and reflected in a previous settlement letter sent to the City of Kyle, and in the unlikely event that Kyle did not voluntarily want mediation, to force such mediation in the court, with Board President Mary Stone and Craig Smith designated as conferees for the Board in that process; and 2) unanimously approved directing counsel, in the event mediation was unsuccessful, to pursue all reasonable courses of action necessary to resolve the matter in a fashion acceptable to the District.

Mr. Smith seconded the motion and it passed unanimously with a vote of 5 to 0.

#### **6. Adjournment.**

Without objection, Ms. Stone adjourned the meeting at 9:37 p.m.

Approved by the Board:

By: Mary Stone  
Mary Stone, President

Attest: Craig Smith  
Craig Smith, Secretary