

MINUTES OF MEETING  
OF THE  
BOARD OF DIRECTORS

THE STATE OF TEXAS §

COUNTY OF HAYS §

HAYS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 §

The Board of Directors (the “Board”) of Hays County Water Control and Improvement District No. 1 (sometimes referred to herein as the “District”) met in regular session, open to the public, at Belterra Centre, 151 Trinity Hills Drive, Austin, Texas, the District’s office within the District, for the purposes stated herein, on May 9, 2024 at 4:00 p.m. The roll was called of the members of the Board of Directors, (herein referred to as the “Board”) to-wit:

Douglas L. Botts	President
Paul Kelly	Vice President
Daniel B. Robison	Secretary
Bill Dally	Treasurer/Asst. Secretary
Rick Lucas	Assistant Secretary

All members of the Board participated in the meeting and were present at the commencement of the meeting. Also present at the meeting were Matt Kutac of the Law Offices of Matthew B. Kutac, PLLC, Vicki Hahn, paralegal with Winstead PC, Lonnie Wright, Beth Wright and Chris Sanchez of Municipal Operations and Consulting, LLC (“MOC”), the operations and management contractor for the District, Lauren Barzilla of Burgess & Niple, the District’s engineers, Chris Lane of Samco Capital, the District’s financial advisor and Jesse Trevino and Greg Alford of Sunscape Landscaping, the District’s landscapers. Allen Douthitt of Bott & Douthitt, the District’s Bookkeeper attended the meeting by telephone. In addition, Walter Almon and David Welty attended the meeting.

1. Public Comment: The Board called for public comment. Hearing none, the Board moved to the next item on the Agenda.
2. Re-Elected Directors: Mr. Kutac discussed the director election with the Board, noting that the Statement of Officer and Oath of Office are administered at the beginning of each new term of office. Ms. Hahn then confirmed that the Oaths of Office and Statements of Officer have been completed by Director Botts, Director Kelly and Director Robison.

3. Consent Item: The Board reviewed the Minutes of the April 11, 2024 Regular Meeting and April 30, 2024 Special Meeting. Upon motion by Director Lucas, seconded by Director Botts, and unanimously carried, the Board approved the Board Minutes.

4. Landscaping Report:

- a) Landscaping Report: Mr. Trevino reviewed the landscaping report with the Board. He also gave a summary of the last irrigation walk through. He then mentioned that seasonal flowers will be planted soon, but they have been held up a bit because the flowers were not available. He is hoping they will be available in the next week or two. The Board asked if staging mulch by the school worked out well and Mr. Trevino replied that it had.
- b) Action Items/Landscaping:
- i) Action Items will be addressed during General Manager's Report.

5. Management and Operations Items:

General Manager's Report: Ms. Wright presented the General Manager's Report.

Ms. Wright noted that MOC has made contact with the customer and issued the \$500 fine with respect to the non-profit organization that entered the greenbelt with a truck and trailer when picking up a donation on Monarch.

Ms. Wright mentioned that there are two new pool build requests. It was confirmed that the requests were made after May 1<sup>st</sup>. She confirmed that MOC will tell both homeowners that they need solar covers. The Board then requested that MOC obtain a \$2,000 deposit and receive water truck receipts for filling the pools before returning the deposit.

Ms. Wright informed the Board that MOC issued a fine to a resident who was washing his truck. The resident is disputing the fine because MOC did not witness the violation. The Board determined that it would not pursue the fine based on the adopted drought contingency plan.

The Board then discussed the Sunscape proposals with respect to changing the monument landscaping. The Parks Committee has reviewed the proposals and is recommending that the District move forward with changing one monument to see how the District likes the new landscaping with native plants and perennials before moving on to the next monument. They are recommending that Sunscape start with the monument across the street from the school because it has more visibility and they are hoping they will get more feedback. Mr. Trevino's idea would be to eventually make all of the monuments in both the District and HCWCID No. 2 more consistent when it comes to the types of plants used, etc. Mr. Trevino has recommended drought resistant native plans and has also recommended that the District move away from annuals and move to perennials. The Board discussed the landscaping budget in detail to determine if the landscaping budget would cover the \$8,581.82 cost for

this monument. The Board also noted that if they move towards perennials that the Sunscape agreement would need to be amended because it includes a seasonal color change.

The Board discussed the proposal to remove two dead trees for the cost of \$1,107.00.

With respect to Sunscape's Proposal No. 29333 to repair damage caused by a lightning strike, the Board discussed the two options included in that proposal. The Board also acknowledged that they will not know if there is any additional damage down the line until they get this repair completed.

The Board then discussed that departing renters on Torrington who used a U-Haul in the greenbelt. Mr. Kutac mentioned that he will look into the possibility of holding the owner responsible for greenbelt violations.

Operations Report: Mr. Wright then reviewed the Operations Report with the Board.

Mr. Wright noted that the VFD needs to be replaced. He reviewed Alterman's Proposal to replace the VFD, install a remote door mount kit and provide programming for the VFD.

Mr. Wright then discussed the membrane issue the District has been having. He stated that Chamber 2 and Chamber 3 are not performing as well as they should be, and that each of those chambers has a mix of old and new membranes. The new membranes were purchased in 2023 with the membranes used to replace those in Chamber 1, and the older membranes were those replaced in 2019 when the District replaced all of the membranes simultaneously. He met with Kubota to discuss rebuilding the membranes and noted that Kubota has a supply chain issue and would need approximately 16 weeks to get the membranes. Mr. Wright noted that Kubota's proposal would be approximately \$416,952 for new membranes with an additional cost of \$15,000 to \$20,000 in labor costs for MOC to rebuild the new chambers. Mr. Wright mentioned that he got a quote from MMBR who installed the original membranes. They do not have a supply chain issue like Kubota, and they would acquire membranes that are the same as, or compatible with, those the District is now using. In addition, MMBR would assemble the cartridges with the membranes already installed which would reduce cost of labor for MOC. MMBR's cost would be \$498,222. In addition, MBR will include a Tier 2 service plan, which would include alarm notifications that go to both MOC and MMBR if there is an issue. MMBR would also include one full year of monitoring. Mr. Wright stated that he is not concerned about the stability of MMBR because they are a large company. Mr. Wright has forwarded MMBR's proposal to Robby Callegari to review. Mr. Wright clarified that the total "turnkey" cost if the District goes with MBR would be \$498,222 plus approximately \$8,500 in MOC labor costs. The Board discussed that MMBR stated that they could have the two cassettes for each chamber ready to go in four to six weeks, whereas it would take Kubota approximately 16 weeks. Mr. Wright explained that timing of installation was important for compliance and operational reasons, and stated that he considered this to be an emergency condition. Mr. Kutac asked if the membranes are interchangeable. Mr. Wright replied that you can swap a rack but you cannot take pieces out of the rack. You have to take the whole rack. Mr. Kutac then mentioned that ordinarily a rehabilitation project would require a public bid, unless the manufacturer was a sole source supplier or the Board declared that the situation constituted an emergency.

Mr. Wright replied that it has to be done and he thinks it should be declared an emergency and the District should request a variance with respect to public bids. Mr. Kutac then noted that if the Board declares the project an emergency, the District still needs a full contract for this work which could be based on the CPM agreement. The Board also noted that this is a shared cost with HCWCID No. 2, and Director Lucas confirmed that the District has the budget capacity to pay for their portion of the project. The Board asked if the price included maintenance and warranty bonds and then asked Ms. Barzilla to work with Mr. Wright on a maintenance bond and a warranty bond for the project.

a) Action Items/Management and Operations:

- i) Upon motion by Director Botts, seconded by Director Robison and unanimously carried, the Board approved both pool builds on the condition that MOC get a \$2,000 pool deposit for each pool and, before returning the pool deposit, obtain receipts from each homeowner showing that the pool was filled by a water truck and not with District water.
- ii) Upon motion by Director Botts, seconded by Director Lucas and unanimously carried, the Board authorized removal of two dead trees for \$1,107.00.
- iii) Upon motion by Director Botts, seconded by Director Dally and unanimously carried, the Board authorized Sunscape's proposal to replace the landscaping at the monument across from the school for \$8,581.82 contingent upon the Parks Committee meeting with the members of the Hays County WCID No. 2 Parks Committee to devise a master plan. The Board also asked the Finance Committee to determine the remaining landscaping budget.
- iv) Upon motion by Director Botts, seconded by Director Kelly and unanimously carried, the Board approved Option 1 of Sunscape's Proposal No. 29333 for \$9,280.16 and authorized an additional amount not to exceed \$10,000 to diagnose and correct any other potential issues. In addition, the Board approved Sunscape's Proposals No. 29334 for \$1,737.63, No. 29335 for \$4,124.86 and No. 29336 for \$1,418.67.
- v) Upon motion by Director Dally, seconded by Director Lucas and unanimously carried, the Board approved Sunscape's Proposal No. 29433 for \$3,945.19 and No. 29438 for \$5,616.08.
- vi) Upon motion by Director Botts, seconded by Director Kelly and unanimously carried, the Board approved Alterman's Proposal No. 733 for \$3,260.00 for the VFD replacement.
- vii) Upon motion by Director Botts, seconded by Director Robison and unanimously carried, the Board adopted a Resolution declaring the membrane performance issue an emergency and authorized Director Botts to sign a Resolution to that effect.
- viii) Upon motion by Director Botts, seconded by Director Robison and unanimously carried, the Board authorized up to \$525,000 to purchase membranes from MMBR and the additional cost for the bonds. In addition, the approval is contingent upon notifying HCWCID No. 2.

6. Public Comment – Item No. 1: The Board re-opened public comment for those who arrived after the start of the meeting.

Mr. Welty stated that he has lived in the District since 2012 and he is concerned about the air quality around the WWTP. He mentioned that a neighbor of his is trying to sell his house and is having a hard time due to the odor. He also noted that another neighbor is advocating going to the TCEQ to complain because the smell has gotten worse. This year, the odor has been the worst it has ever been. He wanted to make it clear that he is the spokesperson for several of his neighbors since they could not attend the meeting. He asked how the District is addressing this issue and why there is an increase in the smell. He also asked if the TCEQ is the governing body who monitors and controls air safety. Mr. Wright responded and stated that MOC has been working on the odor issues. He noted that they are taking steps to address the issue and have done some work on the EQ Basin. The Board noted that MOC has only been at the District for a short period of time. Mr. Wright asked that anytime there is an issue, that Mr. Welty give him a call and he will check it out. The Board voiced their appreciation that Mr. Welty came to the meeting to express his concerns.

The Board called for additional public comment. Hearing none, the Board moved to the next Agenda item.

7. General Manager's Report – Item No. 5: The Board returned to the discussion regarding the renter on Torrington who entered the greenbelt without authorization and whether the District can hold the owner responsible for his renter's use of the greenbelt without authorization. Mr. Kutac stated that the District can hold the owner responsible and can issue a violation notice and fine to the owner. Upon motion by Director Botts, seconded by Director Robison and unanimously carried, the Board authorized MOC to issue a Notice of Violation with a \$2,500 fine to the owner on Torrington.

MOC requested guidance on when to start imposing the District's Drought Surcharge. Mr. Kutac stated that the WTCPUA can impose their Drought Surcharge after being in Stage 2 restrictions continuously for six months. He also noted that he would expect that the WTCPUA will give Notice before imposing the Drought Surcharge of 20%. The Board then discussed the timing for imposing the District's Drought Surcharge. The Board mentioned that they would prefer that the District implement its own Drought Surcharge after the WTCPUA. The Board also noted that before they implement the District's Drought Surcharge, they would like to discuss with HCWCID No. 2.

Upon motion by Director Lucas, seconded by Director Botts and unanimously carried, the Board accepted the General Manager's Report.

8. Engineering and Development Items – Item No. 6: Ms. Barzilla of Burgess & Niple reviewed the General Engineering Report and the Joint Facilities WWTP and 210 Reuse Irrigation Engineering Report.

The Board confirmed that Ms. Barzilla can remove the Well Permit Amendment from her report in light of last month's discussion that a permit is not needed due to clarification by the LCRA that its rules will allow the school to use water for its vegetable garden.

With respect to the Belterra Centre Pond, Ms. Barzilla confirmed that the pond is a water quality pond and explained its operational design. After a certain volume of water is reached, the water is supposed to exit the pond via a 6" pipe and irrigation pump. Ms. Barzilla noted that the pipe is clogged and needs to be unclogged so that the required irrigation can occur. Mr. Wright mentioned that, in order to correct the problem, they need to unclog the pipe, exercise the irrigation system and determine why the 4" valve is not functioning properly. The Board asked that MOC get a proposal to repair the valve after they get the pipe unclogged.

With respect to the Treated Effluent Fire Hydrant, Ms. Barzilla stated that there is not much happening at the moment. She has followed up with the ESD to see where they think the best fill station would be and she believes that the ESD would prefer to fill at the station and not at the Fire Hydrant. Mr. Wright recommends that the District install the Treated Effluent Fire Hydrant and then do a pressure test. The Board would like to see the Fire Hydrant located by the school and asked Ms. Barzilla to notify HCWCID No. 2 to see if they have any objections and if they do not object, they requested that Ms. Barzilla move forward.

Ms. Barzilla informed the Board that the water model is up and running. She has gone over the results and discussed her concerns with MOC. MOC would like to get cost estimates and work on pricing. Ms. Barzilla also mentioned that she thinks the first site scenario will work. The Board then discussed the size of the tank and the costs associated.

With respect to the 8" and 12" Treated Effluent Liner, Ms. Barzilla reviewed an e-mail she received from CPM. CPM has some recommendations for next steps and asserted a claim that the video camera might have damaged the pipe liner. Ms. Barzilla stated that the CPM response was somewhat concerning. She and the Board discussed that they feel it is unlikely that the camera could have damaged the pipe liner as CPM suggested in their e-mail. Mr. Kutac agreed that it was unlikely the camera damaged the pipe liner because it is an accepted practice to televise a pipeline if it is suspected there is damage. Upon motion by Director Botts, seconded by Director Dally and unanimously carried, the Board authorized the District's attorney and the District's engineer to work together to draft a response to CPM's e-mail.

a) Action items/Engineering:

- i) Upon motion by Director Lucas, seconded by Director Botts and unanimously carried, the Board accepted the Engineering Report.

9. Financial Report – Item No. 7: Mr. Douthitt reviewed the May 9, 2024 Accounting Report and related disbursements, including the Monthly Financials, Cash Activity Report, Cash/Investment Activity Report, Monthly Tax Collection Report, Budget Comparison, Check Register and wires, Bond Reporting and Budgets and other financial reporting.

- a) Approval of Accounting Report: Upon a motion by Director Lucas, seconded by Director Dally, the Board approved the Accounting Report and the related disbursements and transfers.

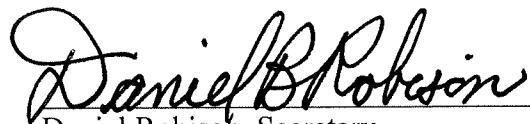
10. Administrative, Legal and New Business – Item No. 8:

- a) Order Designating Office Locations: The Board reviewed the Amended Order Designating Offices Outside the District. Mr. Kutac mentioned that the Amended Order is necessary because Winstead's Austin office has moved. Upon motion by Director Lucas, seconded by Director Kelly and unanimously carried, the Board adopted the Amended Order Designating Offices Outside the District and authorized the necessary publication
- b) Rate Order Consultant: Mr. Kutac mentioned that the last time a Rate Order Consultant was hired, the cost for the service was split between the District and HCWCID No. 2 and that the cost was approximately \$15,000. Mr. Kutac also noted that Mr. Douthitt has recommended Jay Joyce to conduct the Rate Study. Upon motion by Director Kelly, seconded by Director Robison and unanimously carried, the Board authorized Mr. Kutac to contact Mr. Joyce and to further discuss with HCWCID No. 2.
- c) Prior Director Property: Mr. Kutac explained to the Board that the original developer representatives for Belterra notified him that he has been paying property taxes every year on the original Director lots for the District and for HCWCID No. 2 and he does not want to pay them any longer. The Director Lots are currently owned by the original Developer and previous Directors of both districts, and are located near the WWTP. Mr. Kutac stated that the property would be ideal for irrigation disposal and other wastewater operations given its proximity to the WWTP, and recommended that the District acquire the Director lots for both districts. He stated that Ms. Hahn did some research to see if the Directors would sign documentation to return their interests in the property to the developer or convey them to the District, but she found that two of the previous Directors (one from each district) have passed away. In addition, the original development entity no longer exists. As a result, he recommends that the District contact an eminent domain attorney to evaluate the possibility of condemning the property for a public purpose. Upon motion by Director Botts, seconded by Director Lucas and unanimously carried, the Board authorized Mr. Kutac to get a proposal from an eminent domain attorney and bring it to the Board.
- d) Variances/MOC Authority: The Board discussed giving MOC the authority to grant variances for swimming pool builds, irrigation hours and pressure washing. Ms. Wright mentioned that she gets calls from residents that are having issues with their irrigation system and need to test it, outside of their approved irritation time, so that the system can be repaired. After a discussion, upon motion by Director Botts, seconded by Director Lucas and unanimously carried, the Board authorized MOC to grant variances as needed at MOC's discretion contingent upon MOC's bringing any variances that are outside the "normal" variance requests to the Board for discussion. In addition, the Board requested that MOC report to the Board monthly on variances it has approved.

- e) Curtailment Plan: Mr. Kutac informed the Board that he has submitted the Curtailment Plan to the LCRA and in that plan, is the District's consultants have attempted to increase the baseline water volume that the LCRA proposed using due to development that is still in progress for the St. David's Urgent Care, Active Adult and Pad ZZ properties.
11. District Calendar and Schedule: The Board's next meeting is tentatively scheduled for June 13, 2024 with the Board acknowledging that it may schedule a special meeting before June 30, 2024 to discuss the Homestead Exemption and the Disabled and Over 65 Exemption.
12. Executive Session: Upon motion by Director Botts seconded by Director Kelly and unanimously carried, the Board adjourned to executive session at 6:32 p.m. to consult with legal counsel regarding Item 8(f) on the posted meeting notice. The Board reconvened at 6:40 p.m. and it was noted that no action was taken during executive session.
- Upon motion by Director Botts, seconded by Director Robison and unanimously carried, the Board authorized Mr. Kutac to accept the 55% settlement with Inframark contingent upon execution of in a form approved by Mr. Kutac.
- Upon motion by Director Botts, seconded by Director Kelly and unanimously carried, the Board authorized Mr. Kutac to discuss pursuing the warranty claim against Kubota with potential litigation counsel.
13. Adjournment. Upon motion by Director Lucas seconded by Director Botts and unanimously carried, the Board adjourned until further call.

APPROVED AND ADOPTED on the 12<sup>th</sup> day of June 2024.



  
Daniel Robison, Secretary