

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 Directors" or "Board") of Hays County Water Control and Improvement District No. 1 (sometimes referred to herein as the "District") met in regular session, which included a monthly workshop session and regular meeting, all open to the public, at Belterra Centre, 151 Trinity Hills Drive, Austin, Texas, the District's office within the District, on September 14, 2023, at 4:00 p.m. The roll was called of the members of 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

**WORKSHOP SESSION 4:00 P.M.:**

All members of the Board participated in the meeting and were present at the commencement of the workshop session. Also present at the workshop were Matt Kutac of the Law Offices of Matthew B. Kutac, PLLC, Lonnie Wright, Beth Wright, John Taylor, Chris Sanchez and Sally Gomez of Municipal Operations and Consulting, LLC ("MOC"), the operations and management contractor for the District, Lauren Barzilla and Bill Ball of Burgess & Niple, the District's engineers, Vicki Hahn, paralegal with Winstead PC, Jesse Trevino and Sinjon Merrick of Sunscape Landscaping, the District's landscapers. In addition, Allen Douthitt of Bott & Douthitt, the District's bookkeeper and Andy Barrett of Andy Barrett & Associates attended the meeting by telephone. In addition, Christian Dietz, Marsha Chadwick, Helen Anderson, Kathy Frakes and Alka Shaw attended as members of the public.

The purpose of the Workshop Session was to review details pertaining to the consent items and agenda items on the posted Agenda for said meeting, hear updates on committee reports, review of the monthly General Manager's Report, which report includes operations updates and a summary of activities since the last regular Board meeting and recommended action items for the regular meeting, and review of the current Accounting Report. During the workshop session, no formal action was taken, but the following matters were discussed in detail:

1. Management and Operations: Ms. Wright reviewed MOC's Management and Operations Report. In addition to the updates in the report, Ms. Wright provided the following updates:

Ms. Wright noted that they have encountered some issues with some of the workers from Terrain. MOC was looking for the workers and couldn't find them. When they did, one was sitting in the truck and the other was taking a break. MOC did not feel that the workers were getting as much work done as they should be. MOC spoke to Chad Geeslin at Terrain and informed him that he will owe more time to the District at the end of the week due to this issue. From now on, Mr. Geeslin will check in with Mr. Sanchez and Mr. Sanchez will oversee the work. Two of the Directors on the Board expressed their disappointment as well because they saw the same thing MOC did. The Directors mentioned that Terrain has not been responsive to MOC so they may have to discuss this issue in more depth before using Terrain in the future.

Ms. Wright noted that MOC is issuing watering restriction violations. The customers are not happy about the fines but the District is getting better compliance. When the District first started issuing watering violations, they were issuing approximately 25 a night and now they are issuing approximately 9 a night. It was noted that Steiner Ranch is also fining their customers for violating watering restrictions.

Mr. Taylor mentioned that MOC has cleaned out basin 2 at the WWTP, the membranes have been replaced, and it is running smoothly. He noted that the WWTP still needs 500 more membranes. Mr. Wright stated that the Kubota representative indicated to him that the membranes were in very bad condition.

2. Landscaping Report: Although Mr. Trevino did not review his written report with the Board in detail, it was noted that his written report was posted on the Google Drive for review prior to the meeting.

Mr. Trevino noted that he and Ms. Wright got together regarding the trails. He feels good about the trails now. Ms. Wright mentioned to him that there are some other areas and beds that need work and he will see it gets done. There has been no growth in the drip fields so they have not mowed there. Next month they are installing the fall colors. Mr. Trevino mentioned that he is leaning towards pansies, snap dragons and dianthus because they are somewhat deer resistant. The Board requested that Sunscape use mixed colors. Mr. Trevino mentioned that when Sunscape plants the fall colors in, they will also put out deer repellent in the mulch. Director Kelly requested that Mr. Trevino remind his workers that if they knock over the watering restriction signs while they are mowing that they make sure and put them back up.

Ms. Wright noted that she needed irrigation Zone 56 and Zone 58 proposals for repair in order to keep the water level down at the WWTP. She has requested that Arturo at Sunscape provide an irrigation summary but she has not received it.

Director Botts asked Sunscape if there was damage in the 100-acre drip field due to the ice storm clean-up. Mr. Merritt replied that they repaired any damage they found in that area at Sunscape's cost because they could not be sure what caused the damage and if their equipment causes damage, it is in their contract that they will repair at their cost.

3. Financial Report: Mr. Douthitt was delayed by another meeting but will review the report during the regular Board Meeting. It was mentioned that there was an invoice for \$44,000 to install flow meters and the Board was reminded that this expense was approved and completed months ago. Mr. Merritt is not sure why the District is just now receiving the invoice. It was also noted that Mr. Douthitt met with the Finance Committee and the budget now incorporates all of the changes that were discussed during the last meeting.
4. Committee Reports: The Parks Committee mentioned that there is a resident in the District that has created a GoFundMe page to rescue the ducks in the District. Her idea is to rehome all but 8 ducks. She would also like to have cameras installed to see who is dumping ducks. Mr. Kutac recommended that the Customer Care Committee or the Parks Committee meet with this group to work with them and get answers on how they would collect the ducks without hurting them or damaging the detention pond. The Board determined that they would need an exact plan before they can agree.

Engineering Report:

- a) Ms. Barzilla briefed the Board on the meeting that was held with the fire department and outlined the next steps in the process. Director Kelly asked about the timing of the fire hydrants. Ms. Barzilla responded that she doesn't know what the timing is because she hasn't heard from the fire department yet on where they would like to locate them. Ms. Barzilla asked when MOC could connect the 12" and 8" lines at the school and Mr. Taylor replied that they could do it anytime.
- b) With respect to the drip skid repairs, Ms. Barzilla mentioned that Proscape was originally supposed to complete the replacement by September 15<sup>th</sup> but they pushed completion back by one week. The next step after that repair is complete is to check to see if any portions of the drip irrigation system are in need of repair.
- c) With respect to the inquiry into a water tank to help solve the water pressure issues, Ms. Barzilla stated that it is an ongoing project. The TCEQ has a rule that a water tank cannot be within 500 feet of the spray fields. When asked if the TCEQ would give a variance, Mr. Kutac replied that the TCEQ is usually very strict on the distance between a water source and wastewater facilities. The Board then discussed where the potential water tank could be located.

**REGULAR MEETING - 5:00 P.M.**

The Board convened the regular meeting at 5:00 PM. All members of the Board present remained for the regular meeting, and all consultants present for the workshop remained present for the meeting, except Mr. Trevino and Mr. Merrick who left after they completed his landscaping report. All directors present when votes were taken voted on all matters unless an abstention is set out in any such item.

5. Public Comment: Mr. Kutac reviewed the following rules for public comment; (i) comments are limited to 3 minutes per person; and (ii) the Board cannot dialog or take any actions during public comment and is limited to statements of fact, recitation of current policy,

clarifying questions and requesting that items be added to a future Agenda. Mr. Kutac called for public comment.

Christian Dietz, a resident in the District mentioned that she started a Facebook group that has 70 participants so far. The group recognizes that there is a duck problem in the District and would like to rescue and rehome some of the ducks. She mentioned that she believes people are dumping domestic ducks in the District. There are approximately 39 ducks in a detention pond that is only large enough to healthily support 10 ducks, at most. Having too many ducks in the pond is bad for water quality. She noted that they would like signs discouraging dumping ducks in the District and that they have created a GoFundMe account to rescue and rehome the ducks as well as put up all of the signs. She knows the District is about to spend a lot of money to clean the pond and if they do not do anything about the duck situation, the pond will go right back to an unhealthy quality because there are too many ducks. Director Kelly asked how they would make sure that they didn't split up duck families. Mr. Dietz explained that they have someone from Dreamtime Rescue that is going to help with that. Dreamtime Rescue has experience and can determine which ducks belong to each family and which are couples to avoid splitting them up. Director Botts noted that the Joint Customer Care Committee should get together to review the plan to ensure the pond is not damaged and the ducks are rescued safely. He also noted that this group needs to be aware that there is electrical equipment in the pond if they are allowed the rescue the ducks. The Board then discussed how to communicate the duck rescue to the District's residents. Ms. Dietz mentioned that she has not had any negative comments on the Facebook page so she is hoping that everyone in the District realizes that there is a duck problem. She also mentioned that 4 ducks were killed by predators recently. The Board then discussed mentioning the potential to the HOA so that the HOA knows what is going on and can respond to residents accordingly. The Board expressed its hope that the project could improve the appearance and operations of the pond.

Ms. Shaw stated that she has received a Notice of Violation for violating the watering restrictions. She gave a little background on herself. She is a realtor and was born and raised in Bombay where there was a water shortage. She wanted the Board to know that she is very water conscious. She teaches her children not to waste water. However, she has had a foundation issue and the repair company told her that in order not to violate her repair warranty, she has to water her foundation and yard, and the foundation repair company requires that she water a set number of times per week. Mr. Kutac asked if she had documentation from the foundation repair company stating the warranty restrictions. She noted that she does and he asked that a copy of that warranty be given to the Board. He also noted that the District is required to enforce the watering restrictions under their contract with the WTCPUA and that the District's policy restricts landscape watering, not foundation watering. He also stated that according to the Notice of Violation, Ms. Shaw is not only watering her foundation but is watering her entire yard. He asked if she has considered other options for watering her foundation, like a soaker hose, and she stated that the foundation repair company requires that she water her entire yard. In closing, Ms. Shaw indicated that if the fine is not rescinded, she will have to hold the District responsible for her foundation.

Mr. Kutac called for additional public comment. Hearing no public comment, the Board proceeded to the next item on the Agenda.

6. Public Hearing on 2023 Tax Rates: Upon motion by Director Lucas, seconded by Director Botts and unanimously carried, the Board opened the Public Hearing on the 2023 Tax Rate. The Board called for public comment. Hearing none, upon motion by Director Lucas seconded by Director Botts and unanimously carried, the Board closed the Public Hearing on the 2023 Tax Rate.
7. Consent Items:
  - a) Minutes: The Board of Directors reviewed the Minutes of the August 10, 2023 Regular Meeting, the August 31, 2023 Special Meeting and the September 6, 2023 Special Meeting. Upon motion by Director Robison, seconded by Director Botts, and unanimously carried, the Board approved such Board Minutes.
  - b) Accounting Report: The September 14, 2023 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. Mr. Douthitt noted that he is still holding Inframark's payment until MOC has all of the information and files they have requested. He is recommending that the Inframark checks be voided but he will keep the obligation on the books. Upon motion by Director Dally, seconded by Director Lucas and unanimously carried, the Board approved the Accounting Report and related disbursements and agreed that the Inframark checks should be voided but the obligation kept on the books until such time as Inframark has fulfilled all of their commitments.
8. Reports: No action was taken by the Board.
9. Engineering and Development Items: Lauren Barzilla of Burgess & Niple presented the General Engineering Report which is posted on the Google Drive.

Ms. Barzilla reviewed the commercial water usage summary and noted that a few people were over their maximum but she is not worried that the District will exceed its maximum usage.

The Board discussed Mr. Daniel Campbell's previous request for water and noted that his request appears to have been placed on the WTCPUA agenda so this item can be struck from the agenda and Ms. Barzilla can return his remaining deposit for B&N's services.

- a) Pipe-Liner Project: Ms. Barzilla noted that the project is complete and the punch list items have been addressed. She recommends final acceptance of the 12" and 8" treated effluent line repair by CPM and also recommends approval of Pay Application No. 3 (Final) for \$243,750.
- b) Drip Field Irrigation Repair: This item was discussed during the workshop.
- c) Renewal of Well Operating Permit: Ms. Barzilla noted that she is continuing to work with the groundwater district regarding renewal. The District is requesting a separate amendment for agricultural use but they may not be willing to grant such use. Ms. Barzilla also noted that under current restrictions of the groundwater district, the

District is not authorized to fill the pond from the well but if it is to avoid damage to the clay liner, that it may be possible. The Board asked if the District could use reclaimed water to refill the pond to avoid clay liner damage and Ms. Barzilla stated that she will check. In the meantime, the Board discussed using potable water from the hydrant to fill the pond to protect the clay liner.

- d) Reclaimed Water Fire Hydrants: This item was discussed during the workshop.
- e) Water Storage Tank: This item was discussed during the workshop.
- f) Action Items:
  - i) Pipe-Liner Project: Upon motion by Director Botts, seconded by Director Kelly and unanimously carried, the Board accepted the 12" and 8" Treated Effluent Line Repair by CPM.
  - ii) Pipe Liner Project: Upon motion by Director Lucas, seconded by Director Robison and unanimously carried, the Board approved Pay Application No. 3 (final) for CPM for \$243,750 for completion of the 12" and 8" Treated Effluent Line repair.
- g) Upon motion by Director Lucas seconded by Director Botts and unanimously carried, the Board accepted the Engineering Report.

10. Financial Items: The Board called on Allen Douthitt of Bott & Douthitt to present the Accounting Report dated August 10, 2023. Such report is posted on the Google Drive.

- a) Operating Budget: Upon motion by Director Dally, seconded by Director Lucas and unanimously carried, the Board adopted the Resolution Approving the Operating Budget for the fiscal year ending September 30, 2024 as proposed;
- b) Debt Service Budget: Upon motion by Director Botts, seconded by Director Dally and unanimously carried, the Board adopted the Resolution Approving the Debt Service Budget for the fiscal year ending September 30, 2024 as proposed.
- c) Order Setting Tax Rate: Upon motion by Director Dally, seconded by Director Lucas and unanimously carried, the Board approved the Order Setting Tax Rates for 2023, authorized filing and posting of same provided that the Tax Rates are changed to a \$0.7100 total tax rate, reflecting a \$0.2783 Operating and Maintenance Tax Rate and a \$0.4317 Debt Service Tax Rate.
- d) Arbitrage Reports: Upon motion by Director Dally, seconded by Director Lucas and unanimously carried, the Board reviewed and accepted the Arbitrage Rebate Calculations for the Series 2015 Unlimited Tax Bond and the Series 2020 Unlimited Tax Refunding Bond.
- e) Administrative Items: No action was taken by the Board.

11. Management and Operations:

The Board thanked MOC for all of their work and for taking care of items that were neglected for years.

The Board discussed that Ms. Barzilla came up with a water schedule for IHOP, Chase Bank, Chick Fil A and Hat Creek. Their watering day will be Saturday. They did not know what their watering schedule was but now they have one, they were all receptive to following the watering schedule.

Ms. Wright mentioned that they are doing some graffiti clean-up in the District.

Mr. Wright reviewed the Sidewalk Survey and photos of damaged sidewalk panels with the Board. It was noted that \$30,000 was put into the budget for sidewalk repairs. The Board determined that they would not do aesthetic repairs this year and would add such repairs to next year's budget.

The Board noted that there was an artificial turf request but that it was not in the Board's purview so no action was necessary.

With respect to Ms. Shaw's request for a variance to water her foundation, Mr. Kutac suggested that she could use a soaker hose to water the foundation because watering the foundation is a legitimate purpose. Mr. Kutac advised the Board to weigh the precedent it would be setting if the Board granted a variance to Ms. Shaw. The Board noted that it would like to see a structural engineer's report stating that Ms. Shaw's request for a variance was necessary. The Board also noted that they have never heard that it was necessary or required that the entire yard be watered to protect your foundation.

Mr. Wright reviewed the Asset Management Plan noting that everything highlighted yellow is critical and MOC will maintain those assets properly and will do their best to keep them running as smoothly and as long as possible. Director Botts requested that Mr. Wright prepare a one page summary each month stating what maintenance is planned for that month and what maintenance was performed the previous month.

- a) Law Enforcement: No action was taken by the Board.
- b) Ice Storm Clean-up: No action was taken by the Board.
- c) FEMA/TDEM Update: In progress.
- d) Landscaping Map and Mowing Schedules: In progress
- e) TDS Solid Waste Collection Contract: No update was given.
- f) Belterra Centre Repairs: No update was given.
- g) Emergency Authorization of Replacement Membranes: The Board discussed that the membrane failure constituted an emergency repair, and given the cost, it is necessary to ratify the expenses incurred during that repair.

- h) Water Conservation/Drought Contingency Plan: No action was taken by the Board.

Standing Items:

- i) Customer and Billing Matters: The Board discussed slowly moving the due date for water bills from the current date to the 15<sup>th</sup> of the month.
- j) Requests for Use of Belterra Centre: No action was taken by the Board.
- k) Violations of District Policy: Discussed in MOC's Report.
- l) Recommendations for Non-Compliance with Agreements: No action was taken by the Board.
- m) Customer Communications: No action was taken by the Board.
- n) Action items: See below.
- o) Acceptance of General Manager's Report: See below.

Action Items:

- i) Upon motion by Director Lucas, seconded by Director Kelly and unanimously carried, the Board approved Aquatic Features proposal to cut the cattails and reeds the pond and treat them for \$6,210.
- ii) Upon motion by Director Botts, seconded by Director Lucas and unanimously carried, the Board approved up to \$30,000 for sidewalk repairs because they were a a potential hazard. Upon motion by Director Botts, seconded by Director Lucas and unanimously carried, the Board authorized such work beginning October 1, 2023.
- iii) With respect to Ms. Shaw's request during public comment, upon motion by Director Botts, seconded by Director Robison and unanimously carried, the Board confirmed that the fine will not be waived and any variance requested to use the landscape watering system to water the foundation and the yard would require a licensed structural engineer's statement that it was necessary to prevent damage to the foundation. If a structural engineer issues such statement, the Board will reconsider granting the variance requested.
- iv) Upon motion by Director Lucas, seconded by Director Botts and unanimously carried, the Board authorized slowly moving the due date for water bills to the 15<sup>th</sup> of each month.
- v) Upon motion by Director Dally, seconded by Director Botts and unanimously carried, the Board authorized Hyperion's proposal for \$30,015 for the new SCADA servers, etc.



- vi) Upon motion by Director Botts, seconded by Director Kelly and unanimously carried, the Board authorized MOC to connect the 12" and 8" lines at the school for \$16,500.
- vii) Upon motion by Director Botts, seconded by Director Kelly and unanimously carried, the Board ratified the emergency expenditure for the replacement membranes.
- viii) Upon motion by Director Kelly, seconded by Director Lucas and unanimously carried, the Board authorized MOC to reconnect the pipe to the fire hydrant and refill the pond to protect the clay liner.

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

12. Administrative and Legal Items:

- a) Pond Mowing Agreements with Sunscape and MOC: This project is ongoing. Mr. Kutac received the numbers from Sunscape and will work with MOC on the WWTP and Lift Station numbers.
- b) Committee Assignments and Resolution: No action was taken by the Board.
- c) Membrane Warranty Claim: Mr. Kutac submitted a claim to Kubota even though Kubota had already indicated the claim will be denied. He explained to the Board that the District needed to submit a claim to Kubota as a matter of diligence and to receive a basis for denial.
- d) Litigation: Mr. Kutac noted that it is premature to hire litigation counsel and it is better to hear from Kubota first.
- e) Election: Upon motion by Director Lucas, seconded by Director Dally and unanimously carried, the Board authorized the Belterra Centre to be used as a polling location only on November 7, 2023, subject to compliance with the District's Belterra Centre Use Policy.

13. Water Supply Agreements: No update.

14. District Calendar and Schedule: The Board's next meeting will be October 12, 2023.

15. Executive Session: No Executive Session was required.

16. Adjournment. Upon motion by Director Lucas seconded by Director Kelly and unanimously carried, the Board adjourned until further call.

APPROVED AND ADOPTED on the 12<sup>th</sup> day of October 2023.



*Daniel Robison*  
Daniel Robison, Secretary