

MINUTES OF MEETING  
OF THE  
BOARD OF DIRECTORS

THE STATE OF TEXAS §

COUNTY OF HAYS §

HAYS COUNTY WATER CONTROL & 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, which included a monthly workshop session and regular meeting, on the 12<sup>th</sup> of November, 2020, at Belterra Centre, 151 Trinity Hills Drive, Austin, Texas, within the District. To mitigate the spread of COVID-19 and pursuant to the guidance provided by the Office of the Attorney General of the State of Texas, the meeting was open to the public both in-person and also by telephonic conference. 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

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

All members of the Board were present at Belterra Centre for the commencement of the workshop session. Also present in person were Matt Kutac of the law offices of Matthew B. Kutac, PLLC, Kristi Hester of Inframark, the District’s general management and operations contractor, Lauren Barzilla with CMA Engineering (“CMA”), the District’s engineers and in addition, joining via telephonic conference were Andy Barrett with Andy Barrett & Associates, PLLC, Judy McAngus, paralegal with Winstead PC, Chris Lane of SAMCO Capital Markets, Inc. (“SAMCO”), the District’s financial advisor, Allen Douthitt of Bott & Douthitt PLLC (“Bott & Douthitt”), the District’s bookkeeper.

Matt Kutac explained a few guidelines for the telephonic conference meeting regarding a request that each Board member confirm their name prior to making any motion or voting on such matters to insure that the public record of the meeting would be heard and accurately recorded. Notification to the public was given that the meeting was being recorded. The meeting was then called to order, and evidence was presented that public notice of such meeting had been given as required by law.

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 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, (see **EXHIBIT "A"**), review the current monthly Accounting Report (see **EXHIBIT "B"**), the current monthly CMA WWTP and 210 reuse irrigation engineering report (see **EXHIBIT "C"**) and the separate general engineering report (see **EXHIBIT "D"**). During the workshop session, no formal action was taken, but the following matters were discussed in detail:

General Manager's Report: Ms. Hester was asked to review current Inframark's General Manager's Report ("GM Report"). Ms. Hester reviewed and updated the Board with respect to the following summary of activities:

**1) Wastewater Treatment Plant**

- a) All facilities are in compliance for the Month of October
- b) Clarifier and EQ Basin Rehab Underway - 60% complete and expect completion by the end of November
- c) Blower Upgrade is underway and a meeting is scheduled onsite Tuesday Nov. 10 to review the data

**2) Re-Use Water System - Drip System**

- a) Nothing significant to report

**3) Distribution System – Billing**

- a) 300 AMI meters installed with 52 users on portal
- b) Installed 12 AMI meters in October

**4) Collection System**

- a) Retesting of the 2 collection system areas noted in survey are under review

**5) Drainage/Ponds**

- a) Duck pond fountain damaged to pump due to fishing line - repairs are underway
- b) Several ponds are on the schedule for cleaning in November

**6) Parks – Trails**

- a) Parks Committee to review updated landscaping map and present to Board
- b) Benches have arrived

**7) Construction**

- a) Several inspections for the commercial were completed
- b) 38 construction inspections completed in September
- c) MI Homes received fines for improper erosion control measures

**8) Customer Care**

- a) Facebook article on Winter Averages went out 11.4.2020
- b) Facebook article on Fall Yard Waste went out 11.9.2020

**9) Infrastructure Committee**

- a) Will be meeting prior to Board to review EQ tank project and Blower Repairs

**10) Facility Committee**

- a) Committee is working on bids for LED sign

Ms. Hester reviewed four (4) separate items that would need approval during the regular portion of the meeting, those being, upgrades to the EQ Blowers and Air Diffusers; a spare pump/submersible mixer; repair to the transfer switch on the generator and additional AMI meter purchasers to hold in inventory, which Ms. Hester confirmed were all included in the current budget.

Director Botts inquired as to whether Inframark was on schedule with the AMI meter replacement program. Ms. Hester noted that they had only been installing about 12 replacement meters a month but that they were moving towards increasing that to about 20 a month beginning this month. Ms. Hester also noted that they would be adding a Facebook post with regard to the AMI meters in the near future.

It was noted that Inframark is following up on a recommendation from Director Lucas and looking into adding a conduit that should improve the function and reliability of the fountain that is owned and maintained by the District.

Accounting Report: The Board called on Allen Douthitt to present the Bott & Douthitt Accounting Report. Mr. Douthitt reviewed the updated Accounting Report summary for November 12, 2020 as set out herein below:

**1) Review Cash Activity Report, including Receipts and Expenditures**

- a) Action Items:
  - Approval of director and vendor payments.
  - Approval of fund transfers

- From BancorpSouth Operating Account (Old) to BancorpSouth Operating Account (New)-Check #2646: \$500,000.00
- From BancorpSouth Operating Account (New) to BancorpSouth Manager's Account (New): \$14,700.00
- From TexPool Operating Account to TexPool SPA Account:
  - \$9,081.30
- From TexPool Tax Account to TexPool Operating Account:
  - \$4,624.22

## 2) **Financial Highlights:**

- a) The month of September came in ahead of plan by \$542,000. Favorable revenues made up \$151,000 and favorable expenditures made up \$391,000 of the favorable variance.
- b) Year-to-date the District is ahead of plan by \$650,000.
- c) Through September the actual charges to the Joint Maintenance CAP are \$85,000 less than the monthly billings to date.
- d) Through September the actual charges to the General Maintenance CAP are \$87,000 less than the monthly billings to date.
- e) Year-to-date the District has collection rate of 99.69% on property taxes.
- f) Started processing customer deposit refunds through the Manager's account as mentioned at last month's meeting.

In addition, Mr. Douthitt reported that they have cleared most all of the numerous ACH automated drafts and matters relating to builder deposits. He confirmed that Positive Pay had been set up and that it is adding an additional layer of security to the operations and managers accounts. It was confirmed that the detailed report of all financial activity for the month, as presented to the Board for review and approval had been reviewed in detail by the Finance Committee in advance of the meeting.

Engineering Reports: Lauren Barzilla presented the WWTP and 210 Reuse Irrigation Report, a summary of which follows:

## 3) **Potential action items for the meeting:**

- a) Approval of Pay Application No. 2 (\$34,650.70) - Drum Screen Replacement and Site Plan Revisions (*Report Item II.B*)

## 4) **Drum Screen Replacement**

- a) Construction updates
  - (i) The piers have been poured and the contractor is currently working on the pedestal foundation.
- b) Recommend approval of Pay Application No. 2 - \$34,650.70 which can be found on the google drive.
- c) Change Order
  - (i) We are waiting on pricing options for the bar screen removal as well as fencing prices.

Prior to presenting the formal District engineering report, Ms. Barzilla noted that she had just received a request earlier in the day for conditional final acceptance of the Belterra Village Multifamily Project and confirmed the following information with regard to such project:

- 1) All fees have been paid to the District.
- 2) Treated Effluent line will be inspected and any issues will be addressed.
- 3) Water line punch list will have to be cleared.
- 4) Easement for the treated effluent line will be approved and recorded.
- 5) 210 application submitted to Inframark.
- 5) Inframark's items:
  - a) Sewer lines cleaned
  - b) Lift station start up
  - c) CSI on each apartment in the building that is going to be opened first.

Due to the developer of the project having pending tenant leases and related move in dates, she proposed that the Board consider such conditional approval following both CMA's and Inframark's sign off on all related, pending open punch list items as noted above and the easement being recorded. The Board discussed the status of the project and numerous items that had not been completed and it was the consensus that the Board would prefer to set a special meeting within the next week to address such approval. It was noted that the matter would be further discussed in the regular meeting following the on-going workshop.

Ms. Barzilla next presented the General Engineering Report, a summary of which follows:

**5) Potential action items for the meeting:**

- a) Approval of Pad X Site Plan (*Report Item V*)

**6) Commercial Tract Development - No update from last month**

- a) The grease trap plans that have been approved to date are: Sky Cinema, Stiles Switch BBQ, Pieous Pizza, Torchy's Tacos, Jersey Mike's, Dunkin Donuts, The League/Fork & Spoon, Simply Pho, Backspin, and Hotel.
- b) The site plans that have been approved to date are Hat Creek, Chase Bank, Chick-fil-A, Building Y, IHOP, Belterra Multifamily, Pad S, and Hotel
- c) Plans currently under review -Pad X
- d) Grease Traps currently under review - none
- e) Water LUE determination review – none

**7) Belterra Village Multifamily**

- a) There are a few minor items left on the punch list that will have to be completed before acceptance.
- b) Final completion date for the entire project is set for June 2021.

**8) Hotel Site -No update from last month**

- a) The hotel has paused construction due to COVID-19 concerns.

**9) Pad X**

- a) All comments have been cleared. The site plan approval letter and the most to date set of plans can be found on the google drive.

**10) Building S**

- a) Construction Update - punch list has been issued, there are minor items.

**11) Landscaping Exhibit**

- a) The most up to date landscaping exhibit can be found on the google drive.

With regard to the construction update on Building S, Ms. Barzilla confirmed that the same steps will need to be followed as are being followed for the Multi-family project, but she noted that mostly likely the timeframe for Building S would not be as condensed as it was for the Multi-family project.

With regard to the proposed landscaping exhibit, the Board reviewed the map and requested minor corrections that Ms. Barzilla agreed to make and then provide the updated, final current landscaping map to the Parks Committee for one final look and once approved, the final would be provided to Kristi Hester for use by the Customer Care Committee in its Request for Proposal (“RFP”) the committee is working on finalizing with respect to RFPs for both landscaping and 210 irrigation services.

The record shall reflect that the workshop was closed and the Board next moved to its regular Board meeting.

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

Matt Kutac, general counsel for the District, confirmed that Directors Botts, Kelly, Robison, Dally and Lucas, along with Kristi Hester, Matt Kutac and Lauren Barzilla remained at Belterra Centre for the regular board meeting and were joined by Logan Brown and Chris Calvisi with WLE, LLC, the District’s landscape service provider and also Andy Barrett, Chris Lane, Judy McAngus and Allen Douthitt remained on the telephonic call for the regular portion of the Board meeting. The record shall reflect that additional persons might have been present on the dial in number made available to the public.

It was noted that no members of the public were present at Belterra Centre for such meeting. All directors present when votes were taken voted on all matters unless an abstention is set out in any such item. Mr. Kutac reminded the directors and consultants to state their name

prior to speaking and requested that motions/seconds be noted by name. In addition, he advised those present that the meeting was being recorded.

1. Matt Kutac confirmed that no members of the public had signed up for public comment in advance of the meeting by submitting an email. He further called for public communications and comments from any person, including any persons tied in the meeting via audio. There being no person participating in the meeting who wished to address the Board under this item, the Board proceeded to the next item of business.

2. Reports:

In connection with additional committee reports or additional consultant reports for presentation at this meeting, the Board next recognized Logan Brown, one of the owners of WLE, LLC who informed the Board that they had been acquired by BrightView Holdings (“BrightView”). They discussed the acquisition, the size and stability of BrightView and reassured the Board that they would still provide the same caliber of service that the Board is used to and expects. He also noted that Chris Calvisi would still be the District’s contact. Mr. Calvisi reviewed the current monthly landscaping maintenance report, noting that they would soon start cutting back the lantana and adding seasonal color to the flower beds.

3. Consent Agenda:

The Board reviewed the consent agenda items. Upon motion by Director Dally, seconded by Director Botts and unanimously carried, the Board approved the following consent items: October 5, 2020 Special Meeting Minutes, November 12, 2020 Accounting Report including the director and vendor payments, a listing of wire fund transfers, tax collection report and the August 31, 2020 interim financials, including, but not limited to, cash activity report, cash/investment activity report, collateral analysis schedule, monthly tax collections report, budget comparison, maintenance cap spending chart and debt service fund reporting.

4. Financial Items:

It was noted that the financial items had been approved in the consent agenda above and no additional action was needed on such matters.

5. Engineering and Development Items:

By motion of Director Botts, seconded by Director Lucas and unanimously carried, the Board confirmed review of and approved the Pad X Site Plan.

By motion of Director Botts, seconded by Director Kelly and unanimously carried, the Board approved Pay Application No. 2 under the Drum Screen Replacement and Site Plan Revision Project, as detailed in the Workshop discussion herein above.

Lauren Barzilla recapped the status of the Belterra Village Multi-Family proposed conditional acceptance as initially discussed above in the Workshop session with the Board deciding to postpone action until additional punch list items were completed and set a special meeting for 10:00 a.m. on Monday, November 23<sup>rd</sup> to address such matter further, it being understood that the developer requesting such approval should bear the costs of such special

meeting. Ms. Barzilla showed the Board the location of the placement of the proposed treated effluent line easement and requested approval of the Reclaimed Water Irrigation Easement in connection with the Multi-Family project on the District's standard form of easement, which, upon motion by Director Botts, seconded by Director Dally was unanimously approved. Ms. Barzilla confirmed that, once executed, the easement would be recorded. A copy of said easement is attached hereto as **EXHIBIT "E"**.

Next, Matt Kutac confirmed that Directors Botts and Kelly had met with Robby Callegari and Lauren Barzilla and reviewed the existing and proposed rate increases under the existing CMA Engineering Services Agreement dated September 23, 2010 it being noted that CMA had proposed no formal rate increases under the contract for the past five (5) years. The Board reviewed a November 12, 2020 letter from CMA, a copy of which is attached hereto as **EXHIBIT "F"**, containing revised billing rates under the existing agreement and following a full discussion and motion by Director Botts, seconded by Director Kelly and unanimous approval, the Board approved such revised billing rates and authorized the Board President to execute a letter approving such revised rates.

In addition, as detailed in the Workshop discussion herein above, upon motion by Director Botts, seconded by Director Lucas and unanimously carried, subject to minor changes being incorporated into the draft Landscape Map and a final review by the Parks Committee, the Board authorized Ms. Barzilla with CMA to provide the final map to the Customer Care Committee.

By motion of Director Kelly, seconded by Director Dally, the Board approved CMA's WWTP and 210 Reuse Irrigation Report and its General Engineering Report.

6. Management and Operations Items:

a. With regard to General Management related action items, Kristi Hester provided a detailed summary of the current WWTP EQ tank rehab work in progress and the estimated \$135,000 in additional costs for upgrades of the EQ blowers and air diffusers. As relate to odor concerns near the WWTP, Kristi Hester noted that this was the first major rehab done at the WWTP in its near twenty years of operation. It was noted that the increase in the size of the blowers (2 larger blowers each at 40 hp versus the existing 2 smaller blowers at 15 hp) and replacing the diffusers should help with odor control in and around the WWTP. Also, Matt Kutac confirmed that due to the nature of the parts required for the rehab being sourced by only one manufacturer, there are no requirements for bidding the project or any savings to be derived from such bidding due to the limited supply of necessary components.

Director Lucas inquired as to whether Hays County WCID No. 2 needed to separately approve and authorize such repairs and upgrades. Ms. Hester confirmed that the proposed rehab work was covered in the Maintenance Cap allowances (current budget for both districts) and the same report of the WWTP operations and actions were routinely included in each monthly report and discussed with Hays County WCID No. 2 and, if required under the existing amendment to the Joint Facilities Agreement, then an approval is requested. She noted that in this case, Hays County WCID No. 2 would be meeting the next week and she would be reporting that the District had approved (assuming that action is taken at today's meeting) and request their concurrence with such approval. Following a discussion and motion by Director Kelly, seconded by Director Robison and unanimously carried, the Board approved such expenditure



initially estimated at \$125,000 in the notice of meeting and Inframark's formal report, but updated at today's meeting to an estimated \$135,000.00.

In addition to such action, the Board considered and unanimously approved the following additional operational matters.

b. Upon motion by Director Botts, seconded by Director Kelly, the Board authorized the expenditure of \$4,900.00 for the purchase of a spare pump/submersible mixer.

c. Upon motion by Director Kelly seconded by Director Dally, the Board authorized the expenditure of \$3,500.00 for repair of the transfer switch on a generator.

d. Upon motion by Director Kelly, seconded by Director Botts, the Board approved an expenditure of \$50,000.00 to purchase additional AMI meter inventory.

e. Upon motion by Director Lucas, seconded by Director Robison with Director Kelly abstaining, the Board authorized Director Botts to work with Andy Barrett and the City of Dripping Springs to secure a variance for a proposed lighted District sign to be installed at Belterra Centre.

It was discussed that the Infrastructure Committee would be coming up with a maintenance plan as relate to the upgraded facilities.

Following a discussion and upon motion by Director Robison, seconded by Director Botts and unanimously carried, the Board approved the General Manager's Report.

#### 7. Rules, Policies and Agreements:

In connection with various rules, policies and agreements, the following updates were provided:

a. Matt Kutac presented a proposed Order Adopting Amended Rules and Regulations (November 12, 2020) and reviewed red-lined changes to the current amended order noting that the updated rules address the recent modifications to swimming pool inspection fees in the most recently adopted service rate order. Following a review and discussion, upon motion by Director Dally, seconded by Director Kelly and unanimously carried, the Board said amended order, a copy of which is attached hereto as **EXHIBIT "G"**.

b. Matt Kutac reviewed a proposed common representation letter and requested an acknowledgement of same in connection with his serving as an intermediary between the District and Hays County WCID No. 2 in connection with Belterra Centre use. Upon motion by Director Botts, seconded by Director Robison, the Board approved such common representation and authorized the Board President to execute the letter.

c. With regard to the use of Belterra Centre by Hays County WCID No. 2, Matt Kutac summarized the current discussions between the two districts (which he had been working on with Director Botts for the District and Director Samantha Bethke for Hays County WCID No. 2). Matt Kutac reviewed the most recent red-lined changes from the last proposal the Board had reviewed. Following a detailed recap of various proposals and status of current discussions,

the Board confirmed it would be good with a simple one year term, with a 30 day notice provision after the first year, and month to month thereafter in the amount of \$950 (which consists of the estimated \$450 per month ½ share of operating expenses for Belterra Centre and \$500 rent to help offset a share of the wear and tear and basic use of the meeting related facilities) to be effective January 1, 2021. Certain minor variations were suggested by Board members with respect to the timing of the agreement, with Matt Kutac being given the direction to relate the Board's flexibility on such minor point in delaying commencement of the arrangement until February 1<sup>st</sup>. It was the Board's current consensus that with such a simple proposal and such a drastic reduction in the proposed total fee (nearly ½ less that the District had initially proposed for the monthly use), there was not much room at all for any further discussions.

d. With regard to an update regarding delinquent review and inspection of deposits for commercial developers, Matt Kutac stated that he was still working with Bott & Douthitt to finalize a complete summary of various amounts due from certain developers. He stated that once the amounts were confirmed, he would be sending letters requesting payment for such amounts.

e. Matt Kutac further noted that it had been determined that ERG Belterra Ltd, one of the developers in the District, owes the District \$68,402.99 for unfunded review and inspection deposits and that he had prepared a proposed Set-Off Agreement whereby such amount would be applied to certain Tier 4 Reimbursement Rights that would otherwise be due to such developer (see Set-Off Agreement for related details). Following a review of such agreement and motion by Director Botts, seconded by Director Robison and unanimously approved, the Board authorized Matt Kutac to finalize such agreement and once finalized secure the signature of the Board President to such agreement, a final copy thereof to be attached hereto as **EXHIBIT "H"**.

f. In connection with the District's pending review of matters in connection with the misappropriation of funds by the District's previous bookkeeper, Matt Kutac noted that no action was needed at this time, but that Maxwell Locke & Ritter, LLC ("MLR"), the District's auditor, had completed their report and that he had forwarded such final report and his legal memorandum on such matters to the Board for their review. He further noted that a special meeting would be held on November 18<sup>th</sup> to take up such matters in detail.

g. In connection with the status of the remaining proceeds of the Series 2020 Utility Bond Issue "Series 2020 Bonds", proposed partial release related to such proceeds and supplemental agreed upon procedures report, Matt Kutac provided an update to the Board. He noted that it appears that Preston Hollow Capital and LH Belterra LLC were close to a decision on the amount of the proceeds from the Series 2020 Bonds that were due to each. He explained that LH Belterra LLC had proposed that the Board consider paying each of the parties the amounts upon which each of them agreed, with the amount still in dispute to be disbursed to a title company and held in escrow. Mr. Kutac noted that he had discussed such matter with Jimmy Romell and that both felt that was an acceptable solution. He noted that MLR will work on a Supplemental Agreed Upon Procedures Report for Board review and approval once the developers provided the amounts to be disbursed to each of them and approved certain related documents as may be necessary to formally the Board's approval of the payment of such funds. Upon motion by Director Botts, seconded by Director Dally and unanimously carried, the approved the proposed structure as discussed by Mr. Kutac and authorized Director Botts to

execute an instruction letter and release as presented by Mr. Kutac in connection therewith, and further authorized Mr. Romell to prepare a supplemental report when timely.

8. Water Supply Agreements:

With regard to WTCPUA matters, Matt Kutac noted that there was no action to be taken at this time.

9. District Calendar and Schedule.

The Board discussed various committee meetings and it was noted that Kristi Hester would be arranging any necessary Committee meetings, which included at this time, Customer Care, Parks and Infrastructure meetings. The Board confirmed a special meeting for 4:00 p.m. Wednesday, November 18, 2020 with regard to the review of reports and possible action on the misappropriation of funds by the District's previous bookkeeper; a special ZOOM video meeting at 10:00 a.m., Monday, November 23, 2020 for purposes of addressing necessary approvals in connection with the Multi-Family project, and its next regular meeting on Thursday, December 10, 2020 (workshop at 4:00 p.m. and meeting slated for 5:00 p.m.).

There being no further business to conduct, Director Lucas moved that the meeting be adjourned, which motion was seconded by Director Botts and unanimously approved, and the Board adjourned until further call.

APPROVED AND ADOPTED this 10<sup>th</sup> day of December, 2020.



  
Daniel B. Robison, Secretary