

MINUTES OF THE MEETING  
OF THE  
BOARD OF DIRECTORS  
April 28, 2022

THE STATE OF TEXAS §

COUNTY OF HAYS §

HAYS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2 §

The Board of Directors (the "Board") of Hays County Water Control and Improvement District No. 2 (sometimes referred to herein as the "District") met in Regular Session, on April 28, 2022 at Belterra Centre, 151 Trinity Hills Drive, Austin, Texas and the roll was called to-wit:

Samantha E. Bethke	President
Lynn J. Lee	Vice President
Sean McGillicuddy	Secretary
William Carroll Kelly IV	Treasurer/Assistant Secretary
Vacant	Assistant Secretary

All members of the Board were present for the commencement of the meeting except for Director Kelly. It should be noted for the record that all Board members present voted on all matters that came before the Board. Also present were Matt Kutac of the law offices of Matthew B. Kutac, PLLC, Allen Douthitt of Bott & Douthitt, the District's bookkeepers (who due to a conflicting meeting was a little late to this meeting), Kay Olsen and Ceejay Jackson of Inframark, the District's general management and operations contractor, Lauren Barzilla of Burgess & Niple ("BN"), the District's engineers and Vicki Hahn, paralegal with Winstead PC. In addition, Andy Barrett of Andy Barrett & Associates participated via telephone conference. Mr. Dustin Dennard, Mr. Chris Kopperud, Mr. Conrad Torrez and Eagle Scout Candidate Zach Johnson, all members of the public, also attended portions of the Board Meeting.

1. PUBLIC COMMENT: Mr. Kutac called for public communications and comments from any person and 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 responses are limited to statements of fact, recitation of current policy, clarifying questions and requesting that items be added to a future Agenda.

Mr. Dennard, a resident in the District, stated that he sent e-mails to the Board questioning why the Board did not invite public comment for 30 days as required by the TCEQ for the trail approval and requested that the e-mails be answered. For the record, this question is answered in Section 4(b) below.

Mr. Johnson, who is working on his Eagle Scout project by designing and installing trail signs in HCWCID No. 1 and the District, presented the new map that he plans to post on the signs. He noted that Ms. Barzilla worked with him to create the map. He plans to add a few more roads to the sign so that residents will know what street they are near when they exit the trail. He also mentioned that the signs will be 3' x 3' and will be posted by the Recreation Center, the 4-way stop by the HCWCID signs, the Mesa Verde Park, Torrington and Aspen Hills. In addition, he presented the four categories that he will address

on the signs; (i) clean up after pets; (ii) information regarding protecting your dog while walking on hot days; (iii) information to help identify snakes; and (iv) a scan code that directs the user to the HCWCID No. 1 and the District's website. The Board confirmed that they had, at a prior meeting, approved matching the funds raised by Mr. Johnson, up to \$500. Mr. Johnson then explained that the signs will be made out of 2 large oak posts on each side of the sign and will have 2" x 6" pieces of wood to support the back of the sign. The Board informed Mr. Johnson that they would like the Parks Committee to review the signs before they are posted.

Mr. Kutac called for further public comment. Hearing none, the Public Comment session was closed and the Board proceeded to the next item of business.

2. MEETING MINUTES: The Board reviewed the Minutes from the March 24, 2022 Regular Board Meeting and the April 7, 2022 Special Board Meeting. Following a review thereof, upon motion by Director Lee, seconded by Director McGillicuddy and unanimously carried, the Board approved the Minutes from the March 24, 2022 Board Meeting. Upon motion by Director Kelly, seconded by Director McGillicuddy and unanimously carried, the Board approved the Minutes from the April 7, 2022 Special Board Meeting.

3. LANDSCAPING: No Sunscape representative was in attendance. Per Ms. Olsen, they were seeing off a colleague and will attend the next meeting. Ms. Olsen gave the following update during her General Manager's Report.

**Service Start Date April 1, 2022**

**Services preformed –**

Full-Service Turf Maintenance (high visibility areas) / mow, edge, string trim, blow, trash pick-up, spot treat ant mounds

4/6/2022, 4/13/2022, 4/20/2022 and 4/26/2022

Full-Service Bed Detail / trim, pull weeds, spot treat weeds and ants,

pre-emergent and fertilizer.

4/9/2022 and 4/23/2022

Planted trees 4/14/2022

Three Crape Myrtles at Pinnacle entrance

Two Red Buds at entrance of gated section of Belterra

Work to start next week

Color install and monthly mowing areas (Red mowing)

4. ENGINEERING:

a) WWTP Joint Facility Report: Ms. Barzilla presented CMA's monthly Joint Wastewater Treatment Plant ("WWTP") and 210 Reuse Irrigation engineering report. A summary of her report is as follows:

I. Potential action items for the meeting: EQ Tank Blower Replacement – Approval of Pay Application No. 2 for \$83,375.10.

II. **EQ Tank Blower Replacement:**

- a) Construction updates can be found below.
- b) Recommend approval of Pay Application No. 2 for \$83,375.10.

III. **100 Acre 210 Warranty Items:**

- a) Multiple emails have been sent to Brightview requesting an update on when they would complete the punch list items. No response has been received.

IV. **Wastewater Summary:**

- a) Average Daily Wastewater Usage (February 2022) = 272,000 gpd
- b) 75% of Permitted Capacity= 375,000 gpd
- c) Number of consecutive months over 75% - 0
- d) 90% of Permitted Capacity= 450,000 gpd
- e) Number of consecutive months over 90% - 0

A summary of the ongoing WWTP projects was presented as follows:

<b>Wastewater Treatment Plant Project Status - April 2022</b>				
<b>Project</b>	<b>Status</b>	<b>Budget Amount</b>	<b>Amount Billed</b>	<b>Project Status</b>
Drum Screen Replacement Project - CMA Task Order 60	100%	\$ -	\$ 680,233.00	Project was complete June 2021
EQ Blower Replacement - CMA Task Order 65	90%	\$ 125,000.00	\$ 186,531.46	The first blower is in place and operational, the second blower is currently being installed. The contractor believes they will be ready for final completion around April 15, 2022 as planned.
Weir Overflow - CMA Task Order 67	0%	\$ 80,000.00	\$ 26,502.50	On hold
EQ Tank Rehab and Diffuser Installation - Inframark	100%	\$ 25,000.00	\$ 360,174.00	Project was complete June 2021
Replacement of Dissolved Oxygen meters at the EQ Tank and the MBR - Inframark	0%	\$ 36,000.00	\$ 25,944.00	The DO meters have been purchased and will be installed once the EQ Blowers are replaced.
Drip Field Inspection - Inframark	0%	\$ 20,000.00	\$ -	On hold



Ms. Barzilla informed the board that the Contractor is installing the blower and working on installing the garage door. She mentioned that the second blower is cosmetically damaged. The Contractor sent her pictures. She, Zach and the representative from the manufacturer looked at the blower. They started the blowers during their review. The manufacturer's representative thinks that the damage is purely cosmetic and noted that it is not very noticeable. Both blowers are now installed and operating. The back portion of the blowers are open so that the heat created by the motors can escape. The backs of the blowers will be closed once the safety measures for fire prevention are installed.

- b) District Report: Ms. Barzilla then moved on to CMA's general District Engineering Report. A summary of her report is as follows:

I. Potential action items for meeting: Recommend Final Completion of ESD No. 6.

- a) Fire Station (ESD): Recommend Final Completion. Ms. Barzilla noted that the ESD No. 6 completed all of the requested items. The revegetation looks pretty good.

II. Trail Extension Project:

- a) Project update:  
(i) Hays County – Driveway Permits have been approved;  
(ii) City of Dripping Springs – Project has been approved; and  
(iii) TCEQ – CZP Modification has been approved.  
(b) Discuss next steps.

III. District Water Tracking:

- a) Approximate Max Daily Usage (February 2022) = 370,000 gpd.  
b) Max allowed = 1,137,024 gpd.

c) Action Items:

- i) Upon motion by Director McGillicuddy, seconded by Director Kelly and unanimously approved, the Board acknowledged final completion on ESD No. 6.  
ii) Upon motion by Director McGillicuddy, seconded by Director Lee and unanimously carried, the Board authorized issuance of a Letter of Completion for the ESD and approved said letter.  
iii) Upon motion by Director \_\_\_\_\_, seconded by Director \_\_\_\_\_ and unanimously carried, the Board and unanimously carried, the Board accepted the engineering report dated March 24, 2022.

Director Kelly asked about the Parks Committee meeting with the residents regarding the trail extension. Director Bethke noted that the meeting went well but there were questions about the public notice. Mr. Kutac explained that there was a TCEQ 30-day public comment period, but the District was not required to post or publish notice of the comment period. Instead, the TCEQ publishes the notice, and the TCEQ receives any comments submitted. The Board then questioned if motorized bicycles would be allowed on the trails. Mr. Kutac stated that at this time, motorized bicycles are not allowed. Director Kelly then questioned whether hybrid bicycles would be allowed. The Board also questioned if a hybrid bicycle is considered motorized. The Board decided to ask the Parks Committee to review this issue and bring their recommendation to the Board at a future meeting. Director Lee noted that several residents have told her

that they are looking forward to the new trail.

Let the record reflect that Allen Douthitt entered the meeting.

Director Kelly questioned whether any changes to the trail extension can be made now that the permit has been issued. Ms. Barzilla responded that only insubstantial changes can be made and that the trail cannot be enlarged. She stated that moving the trail just enough to avoid an irrigation head or something similar is acceptable, but anything beyond that scope is not. Ms. Barzilla suggested that they stake the trail and then the Board and other interested persons can identify on the ground where the trail will actually be located. Mr. Kutac reminded the Board that if any directors intend to view the location of the trail, only two can be present at one time in order to avoid the appearance of an Open Meetings Act violation.

The Board then discussed that there is a road in the District that is not being maintained by the County. It was noted that the county told Ms. Barzilla that the developer, Crescent, did not complete the paperwork that was required to turn the road over to the county. Mr. Kutac mentioned that in speaking with the County Attorney, there were two possible explanations. It was possible that paperwork was overlooked or not submitted, and it was also possible that the punch list was not completed by the developer or contractor, and that the County had refused acceptance. He also noted that the County told him that they would look into the matter further, but he hasn't heard back. Ms. Barzilla noted that there was a punch list. Mr. Kutac asked Ms. Barzilla if she could try to get a copy of the punch list to see what remains to be completed and to solicit bids to complete the punch list so that the Board will know what might be required if there are additional punch list items to be addressed.

Upon motion by Director Bethke, seconded by Director Kelly and unanimously carried, the Board accepted the Engineering Report.

5. FINANCIAL:

- a) Accounting Report: The Board recognized Allen Douthitt who presented Bott & Douthitt's Accounting Report dated April 28, 2022, which included a review of the Cash Activity Report including subsequent activity through March 24, 2022 and expenditures to be approved at this Board Meeting. Such Cash Activity Report included director and vendor payments, fund transfers and the Financial Statements for January 31, 2022 for review and approval by the Board. Mr. Douthitt then gave a brief update with respect to the Cash/Investment Activity Report, the Governmental Funds Balance Sheet and the Statement of Revenues, Expenditures and Changes in Fund Balance. With respect to transfers, Mr. Douthitt noted that the following transfers need approval:

Approve transfers as follows:

- Approve funds transfer from TexPool Tax Account to TexPool Operating Account: \$89,085.43.
- Approve funds transfer from TexPool Tax Account to TexPool Debt Service Account: \$250,000.00.
- Approve funds transfer from TexPool Operating Account to Hays County WCID No. 1 TexPool Operating Account: \$65,110.27.

- Approve funds transfer from TexPool Operating Account to BancorpSouth Manager's Account (LCRA/PUA): \$53,553.32.

During his report, Mr. Douthitt noted that most of his other districts have decided to do dispense with the maintenance caps because it is very time-consuming to prepare the true-ups. When the District first decided to use a true-up system, the decision was made to use the cap system for cash management purposes but it is no longer an issue. He would recommend that the District revise the agreement with Inframark to delete the caps and just carry on with a straightforward invoicing payment system for all services. Mr. Kutac and Ms. Olsen confirmed that they are amenable to this idea. The Board agreed. No action was necessary.

The Board discussed that Brightview did not mulch before their contract ended and discussed a credit. Director Bethke also mentioned that the limbs that Brightview cut and left were still not completely cleaned up. Ms. Olsen noted that when she spoke to Brightview they told her the mulching was due until December. However, in the past, the mulching was always done in March or April. Mr. Kutac noted that, per their contract, Sunscape was supposed to mulch in April. The Board then determined that Sunscape should mulch. Mr. Douthitt will discuss a credit with Brightview for the mulching. Upon motion by Director McGillicuddy, seconded by Director Bethke and unanimously carried, the Board authorized Mr. Douthitt to pay Brightview \$9,000 with the intention of receiving a credit of \$6,000 for the mulching, which was determined by the number of months completed in Brightview's contract and then dividing the service charge by that number of months.

- b) Administrative Items: Upon motion by Director Bethke, seconded by Director McGillicuddy and unanimously carried, the Board approved the above-referenced Accounting Report, and authorized all disbursements and transfers set forth therein, with the revised amount for Brightview's March services as stated above.
- c) Budget and Tax Matters: Mr. Kutac reminded the Board that Ms. Lane will be on vacation in June and that the Board needs to start thinking about budget and tax matters. He also noted that the Board will likely be lowering the tax rate this year in light of the 3.5% cap. Mr. Kutac also noted that the District has not received the county tax appraisals yet.

6. MANAGEMENT AND OPERATIONS: Ms. Olsen reviewed Inframark's General Manager's Report, and in particular, the executive summary memorandum for the month of March 2022. Ms. Olsen gave the following updates:

- **Wastewater Treatment Plant:**
  - a) All the facilities were compliant for the Month of March. Total flows of 11.5 million gallons with daily average flows of 371,000 gpd at 74% capacity.
  - b) LS4 roof (new) – see Multivolt quote.



- c) LS7 pump 2 failure (new) – overheating; new phase monitor installed to report.
- **Distribution System – Billing:**
  - a) Water accountability, residential and commercial consumption numbers are off for March due to Sawyer Ranch PUA master meter issues.
  - b) Digital meter conversion – LCRA is willing to extend the deadline to install past July, if needed.
  - c) 27 delinquent letters mailed; 13 red tags hung; 2 disconnects; \$0 write-offs.
- **Collection System:** Nothing to report.
- **Reuse and Drip System:** Nothing to report.
- **Drainage/Ponds:** Nothing to report.
- **Parks /Trails/Customer Care:**
  - a) WLE/Brightview (update) – Contract ended 3/31
    - i. Mulch– fulfilled contracted applications; Spring mulching was going to be comp'd.
    - ii. Trail regrading – completed last week of March, see pictures.
    - iii. Trail debris – branch trimmings removed per Brightview.
  - b) Sunscape:
    - i. Finishing trail work now (update);
    - ii. 5 replacement trees (update) – 3 (45-gallon) Crepe Myrtles in Pinnacle median + 2 Red Buds outside Cove gates (approved last month) and installed 4/14.
    - iii. Sunscape District Tour (new) – completed 4/16 with parks Committee and Inframark.
  - c) Park equipment (update) – Kay checking into Fun Abounds orders of benches, playground bolt-on seats, trash cans, and drinking fountains. Will schedule a tour with Parks Committee to confirm locations.
  - d) Boy Scout Zach Johnson's Eagle Project (update)
    - i) See Google Docs presentation
    - ii) Per District 1 request, Burgess & Niple are updating maps for kiosks.
  - e) Tues 4/19 Trails Public Forum (new)
    - i) Inframark directed Touchstone to create email sign up portal on District website and add missing email addresses to distribution list.
    - ii) Inframark posted Trail Extension plans to District website Fri 4/22
    - iii) Inframark contacting 4 homeowners adjacent to retention pond + 2 on Mesa Verde.
    - iv) Inframark contacted Mr. and Mrs. Torrez, no garage flooding after last rain event but will investigate general drainage around their property.
    - v) eBikes on Trails will be discussed by Joint Parks & Trails. Committee

- **Infrastructure Committee:**
  - a) Annual Sidewalk Survey (new)
    - i) Included in Base Fee if performed by Dedicated Staff.
    - ii) Began in Dec 2020; will enter a WO for 2022.
    - iii) Will include known sidewalk issues on Catalina Lane and Mesa Verde Drive.
- **Customer Care:**
  - a) Security contracts (update)
    - i) March Security Report attached.
    - ii) Ad-Hoc shift schedule being finalized for May, June & July.
  - b) Spring Clean up (new) – TDS pick-ups scheduled for Mon. 4/18 and Mon. 5/9; eBlast reminders will go out.
  - c) Newsletter (new) – Ceejay drafting; topics:
    - i) Spring planting plans and transition to Sunscape.
    - ii) Trail Extension.
    - iii) Mesa Verde Park new seating.
    - iv) ADA crosswalks.
    - v) Green Belt vs. Trail use.
  - d) Drennan Lane resident complaint (new) – first complained October 2021, Inframark can address their erosion issues for approximately \$100 of materials +2 hours labor by Dedicated Tech.
  - e) District website calendars – removed per Board request.
- **Construction:** Nothing to report.
- **Other:**
  - a) Contract Amendments (update) – Inframark legal counsel reviewing.
  - b) Google Drive – Another Account Manager helped resolve access issues and folder organization.

Topics discussed during the General Manager's Report included the following:

Ms. Olsen provided a quick update as to the services performed by Sunscape.

Ms. Olsen informed the board that with respect to the LS4 roof, Inframark is putting a roof over the electric panel to protect it from the sun. The new roof would be installed by Multivolt for \$8,500.

With respect to Drennan resident's complaint about erosion issues, Ms. Olsen presented the pictures for the Board's review. The resident stated that water and debris is coming through the drainage holes at the bottom of the wall on the back of his property and he believes that the debris is coming from property owned by the District. The Board reviewed the photos and determined that the wall is owned by the resident and therefore, the District is not able to install anything on the resident's wall. The Board also noted that during a rain event, debris flows into several of the Directors yards but they clean it up themselves as they feel it is a homeowner problem. The Board did determine that it can edge around the mail kiosk and mulch it to try and keep the mulch in place.



Such action will be on a non-precedential basis and the District will not be responsible for any future issues.

With respect to Mr. And Mrs. Torrez, Inframark spoke to them after the last rain event and they had no issues.

Action Items:

Vendor	Amount	Budgeted	Description	Work Order #
Multivolt Electric	\$8,500		LS4 roof over electrical control panels	

- a) Upon motion by Director McGillicuddy, seconded by Director Lee and unanimously carried, the Board approved Multivolt's proposal for \$8,500.

7. ADMINISTRATIVE AND LEGAL:

- a) Water Items: Per Mr. Kutac there are no updates;

- b) Legal Matters:

- i) Mr. Kutac noted he has received a fully signed lease from the Belterra Community Association ("HOA") for HCWCID No. 1 but for some reason, the HOA's attorney decided to revise the lease for the District even though the proposed leases were identical. The revision the attorney made relates to liability. He noted that the revision is unlikely to result in tremendous risk for the District, but that certain liability protections had effectively been removed and he wanted to note the disparity between the leases. After a brief discussion, upon motion by Director McGillicuddy, seconded by Director Kelly and unanimously carried, the Board authorized execution of the HOA lease without the revision requested by the HOA's attorney.
- ii) Mr. Kutac noted that this matter would be discussed in Executive Session.
- iii) Mr. Kutac stated that Director Bethke had reviewed and suggested changes to the customer communications policy, and that he had reviewed such changes and proposed additional changes. After reviewing the changes, upon motion by Director McGillicuddy, seconded by Director Kelly and unanimously carried, the Board approved the Order Adopting the Revised Communications Policy. It was also noted that, in addition to Ms. Olsen and Ms. Jackson having authorization and access to social media, Inframark now has a third person who will assist in the event Ms. Olsen and Ms. Jackson are unavailable.
- iv) With respect to the vacancy on the Board, it was determined that matters related to the appointment process would be discussed in Executive Session.

- v) The Board was reminded of HB 3834 which requires the Board of the cybersecurity training requirements.

8. CALENDARING: The Board determined that for May, it will have its meeting on the 4<sup>th</sup> Thursday, June, 23<sup>rd</sup> and will discuss moving the Board meeting to the 3<sup>rd</sup> Thursday of the month when the new Board member has joined the Board.

9. EXECUTIVE SESSION: With regard to Items 7(b)(ii) and 7(b)(iv), upon motion by Director McGillicuddy, seconded by Director Bethke and unanimously carried, the Board retired, along with Matt Kutac to Executive Session at 7:30 p.m. Following such Executive Session, upon motion by Director McGillicuddy, seconded by Director Bethke and unanimously approved the Board reconvened in public session at 7:58 p.m. Mr. Kutac noted that no action was taken with respect to Item 7(b)(ii). With respect to Item 7(b)(iv), upon motion by Director McGillicuddy, seconded by Director Bethke and unanimously carried, the Board appointed Mr. Chris Kopperud to the Board.

10. ADJOURNMENT: There being no further business to conduct, Director McGillicuddy moved that the meeting be adjourned, which motion was seconded by Director Bethke and unanimously approved, and the Board adjourned until further call.

APPROVED AND ADOPTED on the 19th day of May 2022.



  
Sean McGillicuddy, Secretary