

MINUTES OF THE MEETING  
OF THE  
BOARD OF DIRECTORS

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 Special Session, on June 21, 2023 at 5:45 p.m. at the 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
Chris Kopperud	Assistant Secretary

All members of the Board were present at the commencement of the meeting. The record shall reflect that all Board members present voted on all matters that came before the Board. Also present were Matt Kutac of the Law Office of Matthew B. Kutac PLLC, Vicki Hahn, paralegal, with Winstead PC, Beth Wright, Lonnie Wright, Chris Sanchez, John Taylor and Sally Gomez of Municipal Operations and Consulting, LLC, the operations and management contractor for the District, Allen Douthitt with Bott & Douthitt, the District’s bookkeepers and Lauren Barzilla of Burgess & Niple (“BN”), the District’s engineer and Jesse Trevino of Sunscape Landscaping, the District’s landscapers. Members of the public attending the meeting included Joanne and Mike Doidge.

1. 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 deliberate 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. He then called for public comment. Hearing none, the Public Comment session was closed and the Board proceeded to the next item of business.

PUBLIC HEARING:

Mr. Kutac presented the background for the public hearing and reviewed the June 16, 2023 Notice of Violation for 262 Encanto Place. Mr. Kutac noted that the residents were given a copy of the Notice of Violation. He then proceeded to give a background leading up to the violation. He noted that Inframark granted the residents access to the greenbelt in September 2021 to install a pool. In February 2023, after it was brought to their attention that the greenbelt continued to be accessed by the residents, the Board gave the residents an additional 30 days to complete their pool and revoked access to the greenbelt after 30 days. In April 2023, the residents requested an additional two days

to remove topsoil from their pool project. The Board granted such access. In May 2023, the residents came to the Board Meeting and requested an additional day to access to the greenbelt to install palm trees by their pool. The Board denied that request. On May 27, 2023, the residents proceeded with their plan to install palm trees and accessed the greenbelt without authorization. A video of the violation was sent to the Board for review. Mr. Kutac asked the residents if they wished to respond.

The residents informed the Board that Ceejay from Inframark had given them the right to access the greenbelt to install a pool. After reviewing his e-mails, he believes the e-mail from Ceejay is a contract and that he was granted access until the pool project was complete. He hasn't received his pool deposit back yet so he believes the pool project isn't complete and that he still has access to the greenbelt because the contract was not terminated. He believes that the contract has to be terminated by both parties and he didn't agree to terminate. The Board informed the resident that the Board disagrees that this was a contract. The Board noted that access to the greenbelt is not indefinite and mentioned that they revoked access to the greenbelt in February 2023 of which the resident was aware. The Board also asked why the residents attended the Board Meeting in May to request an additional day to access to the greenbelt to install the palm trees if they believed they still had the right to access the greenbelt,. The resident responded that he believed he had a contract and still had access.

Upon motion by Director Bethke seconded by Director Lee and unanimously carried, the Board moved to close the Public Hearing.

Upon motion by Director Lee, seconded by Director Bethke and unanimously carried, the Board ratified the penalty of \$1,250.00.

It was then noted that the pool deposit will be returned after the final inspection of the pool, less the penalty of \$1,250 and the cost of any damages identified during the final inspection of the pool.

2. MEETING MINUTES: The Board reviewed the Minutes from the May 18, 2023 Regular Board Meeting. Upon motion by Director McGillicuddy, seconded by Director Kopperud and unanimously carried, the Board approved the Minutes for the May 18, 2023 Regular Board Meeting.
3. FINANCIAL:
  - a) Accounting Report: Mr. Douthitt reviewed Bott & Douthitt's Accounting Report dated June 21, 2023 with the Board, which included a review of the Cash Activity Report and expenditures to be approved at the Board Meeting that same day. Such Cash Activity Report included director and vendor payments, fund transfers and the Financial Statements for April 30, 2023 for review and approval by the Board. With respect to transfers, Mr. Douthitt noted that the following transfers needed approval:

Approve director and vendor payments.

Approve transfers as follows:

- Approve funds transfer from TexPool Operating Account to Hays County WCID No. 1 TexPool Operating Account: \$239,928.15.
- Approve transfer from TexPool Operating Account to TexPool Debt Service Account: \$200,000.00.
- Approve transfer from TexPool Operating Account to BancorpSouth Manager's Account: \$15,000.00.
- Approve funds transfer from TexPool Operating Account to BancorpSouth Manager's Account (June 5, 2023): \$56,324.32.

Mr. Douthitt mentioned to the Board that Inframark was depositing checks but not posting to customer accounts. It has been difficult getting customer files from Inframark. Ms. Wright noted that they have received some random checks and don't know where to credit them. They will call the customers to confirm the account. It was also mentioned that Bott & Douthitt holds the pool deposits. Mr. Douthitt stated that they put the pool deposits in a liability account and they confirm that the final inspection is complete before they return the deposit.

Mr. Douthitt also mentioned that he received Inframark's pro-rated invoice for April for \$12,142.66. He also noted that MOC still hasn't received certain regulatory reports.

- b) Budget Amendment: The Board discussed the budget amendment with respect to the increase in expenses for the ice storm clean-up.
- c) Tax Exemption for Disabled or 65 and older: The Board discussed an increase of \$5,000 for the disabled and 65 and older exemption. This would increase the current exemption from \$30,000 to \$35,000.
- d) Homestead Tax Exemption: The Board discussed an increase from 10% to 12% for the homestead exemption.
- e) Order Adopting Exemptions: The Board reviewed the Order Adopting the Residential Homestead Exemptions.
- f) FYE 2023 Amended Budget: The Board discussed the amended Budget for FYE 2023.
- g) Preliminary Budgetary Matters for FYE 2024: The Board will discuss in a future meeting.
- h) MSRB Rule G-42(b) and (c) Disclosure: The Board acknowledged receipt of the Disclosure Statement from SAMCO Capital Markets, Inc.

i) Administrative and Action Items:

- i) Upon a motion by Director McGillicuddy, seconded by Director Lee, the Board approved the Accounting Report and related disbursements, excluding the check to Inframark. The Board authorized signature on the Inframark check but asked Mr. Douthitt to hold the check until he gets approval from the Board that all of Inframark's obligations are completed. The Board also authorized Mr. Douthitt to issue a check to Texas Disposal Systems.
- ii) Upon motion by Director Bethke, seconded by Director Kopperud and unanimously carried, the Board authorized an increase in the tax exemption for the disabled and over 65 by \$5,000 which would increase the current exemption from \$25,000 to \$30,000.
- iii) Upon motion by Director Bethke, seconded by Director Lee and unanimously carried, the Board authorized an increase in the homestead exemption from the current rate of 10% to 12%.
- iv) Upon motion by Director Bethke, seconded by Director Kopperud and unanimously carried, the Board approved the Order Adopting Residential Homestead Exemptions and authorized signature thereon.
- v) Upon motion by Director Kopperud, seconded by Director Lee and unanimously carried, the Board approved the budget with an adjustment of \$20,000 to the trail project.

4. LANDSCAPING: Mr. Trevino's Landscaping Report is included in the Board Packet.

- (a) Sunscape Report: Mr. Trevino from Sunscape noted that Sunscape feels they are catching up with normal maintenance. He feels that by the end of the month, Sunscape will be caught up. Sunscape still has a way to go with respect to trail work. The crews are working on Mockingbird and Sand Hills Parks. The logs that are too big for a chipper will be picked up soon. Right now, he feels that they are jumping around too much, and would prefer to start in one area and complete it before moving on. However, he thinks the trails are safe from hazard. He noted that if the District would like, he can bring the same 6 man chipping crew back. Director Bethke mentioned that she walked the Live Oak Trail and the scraper went so deep that there are roots that came up and need to be trimmed. She also noted that at Valley Oaks and Mesa Verde there are some branches under the berms. There are also rocks covering the culvert. Mr. Trevino replied that he will look at these issues. The Board then noted that when Sunscape is mowing in certain areas, they are just mowing around big branches and grass is growing tall around those big branches. They requested that the branches be removed so that the areas can be mowed properly. Ms. Barzilla mentioned that she has not gotten out to see the berms yet, but she will take Jesse out and show him where they are. It was also noted that at the pergola where there is a bench by itself, Sunscape missed the loop when they scraped. The Board told Mr. Trevino that there are a lot of chip piles. Mr. Trevino stated that he will get them spread out or removed. The Board then discussed that HCWCID No. 1 is not satisfied with Sunscape. However, the Board discussed that it is possible that Sunscape was overtasked and that

they were pleasantly surprised with the progress this month.

- (b) Ice Storm Clean-up: The Board discussed that the Terrain agreement for 100 days is scheduled to end on July 7. The Board proposed to have MOC work on areas 50, 51 and 52. The Board considered having multiple companies working on the ice storm clean-up so that they can get it completed as soon as possible. The Board acknowledged that there is still a lot of work to be done and reviewed Terrain's proposal to extend for an additional 50 days at \$2,400 per day. They also discussed MOC bringing in equipment and a 2-man crew at \$5,260 per day which includes a dump truck and skid steer. Mr. Wright thinks it would take approximately 7 days to complete areas 50, 51 and 52. Ms. Wright stated that it would be safe to say it would assume 10 days. It was also mentioned that if Terrain finishes before the end of the 50 days, they would spend the remaining days working on other projects for the Districts. It was re-iterated that this is a 51%/49% split cost with HCWCID No. 1 and the reason being that the 210 irrigations areas are a split cost. Mr. Kutac stated that he has drafted an amendment for Terrain's services extending the time frame.
- (c) The Board discussed the Sunscape invoices for submittal with the TDEM and FEMA claims.
- (d) Discussion regarding trail maintenance and repairs were discussed earlier during Sunscape's Report.

Action Items:

- i) Upon motion by Director Bethke, seconded by Director McGillicuddy and unanimously carried, the Board approved an additional 50 days for Terrain to complete the project. The District's cost would be approximately \$65,000 and will include roll-off boxes.
- ii) Upon motion by Director McGillicuddy seconded by Director Lee and unanimously carried, the Board authorized Director Bethke to sign the Terrain amendment.
- iii) Upon motion by Director Bethke, seconded by Director McGillicuddy and unanimously carried, the Board approved MOC's proposal to clean up areas 50, 51 and 52 at a cost of \$5,260 per day not to exceed 14 days.

5. ENGINEERING:

- a) WWTP Joint Facility Report: Ms. Barzilla presented B&N's monthly Joint Wastewater Treatment Plant ("WWTP") and 210 Reuse Irrigation engineering report. A summary of the report is included in the Board Packet:

Ms. Barzilla noted that the Treated Effluent Fire Hydrant permit is in administrative review. She mentioned that she had to spend quite a bit of time gathering treated effluent agreements for the permit application so she will be asking for an amendment to the B&N Task Order.

With respect to the CPM pipe-liner project, she is having a pre-construction meeting with the contractor tomorrow and will review concerns regarding draw down of the effluent level in the tank to prepare for the pipe liner installation.

- b) District Report: Ms. Barzilla then moved on to Burgess & Niple's general District Engineering Report. A summary of the report is included in the Board Packet:

Ms. Barzilla mentioned that she received the survey with respect to the trail drainage issues and hopes to have a recommendation for the Board at the next meeting.

With respect to the water pressure issue, MOC placed pressure gauges on two fire hydrants. They would like to have a month's worth of data before reporting the findings to the Board. With a month's worth of data, they should be able to determine if the water pressure problems are a District issue or a PUA issue.

- c) Action Items: No action items.

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

## 6. MANAGEMENT AND OPERATIONS:

- a) Operations Report: Mr. Taylor reviewed MOC's Operations Report. The Operations Report is included in the Board Packet. In addition to the items listed on the reports, he mentioned that:

- i) A lighting strike hit an antenna and blew it apart. There is a lightning arrester on the building but the lightning went right through it. He will look to see if there is a different lightning arrester that is better than the one that was destroyed. They are shoring everything up and hope to prevent this from happening in the future. He mentioned that Mr. Sanchez was out there working on repairs from 4 a.m. to 7:30 p.m.
- ii) With respect to the irrigation valve at Lift Station 6, the whole gabion wall was pushed over and they were not able to lift it to get it back in position. MOC would like to transfer the rock to new wiring and restore the gabion wall.
- iii) Mr. Taylor noted that there are 107-meter endpoints not reporting. The number is down from almost 300. He also mentioned that he sent some of the meter box lids back for warranty.

Manager's Report: Ms. Wright reviewed MOC's Management Report. The Management Report is included in the Board Packet.

The Joint Customer Care Committee met with the Sheriff's Department. They recommend starting with a conservative schedule, maybe 20 shifts. The Board mentioned that HCWCID No. 1 is hesitant to cancel the contract with the Constable's office in the event that it doesn't work out with the Sheriff's Department. It was stated that the Sheriff is offering a more

flexible schedule. The Sheriff's Department told the committee that it would be easier to get the shifts staffed if they were paid the same night. Mr. Douthitt noted that it is very difficult to pay on the same night from an accounting perspective. The Board discussed payment options and taxes on those payments. Again, it was noted the Board wants to be consistent with HCWCID No. 1 so they will discuss with them and come back to the Board next month with recommendations.

b) Ongoing Matters:

i) Rules Violations:

- Ms. Wright informed the Board that the resident at 12081 Mesa Verde planted trees and bushes in the greenbelt between Pinnacle and Mesa Verde and this was not the first time. It was reported that last year, the same resident was caught planting trees and was told not to do it again, and he agreed. The same resident has now planted 5 or 6 more trees, created a berm and planted bushes in the greenbelt. He claims that they are native trees and that once they are established, they don't need to be watered anymore. However, at the moment, he has a water hose hanging on his fence and is watering the area. MOC asked him to come to the Board meeting to discuss. Ms. Barzilla looked at the berm and it looks like the berm is meant to funnel water into his yard or his neighbor's yard. The Board considered having the District's attorney send the resident a cease and desist letter. They also discussed removing everything the resident installed at his cost. MOC stated that it would take a day of work to remove the trees, bushes and berm. The Board then considered setting penalties for accessing the property at \$5,000 for the first day and then \$1,000 per day thereafter. The Board stated that if they set the fines that high, they will notify the residents. Mr. Kutac noted that the authority to fine a resident is limited to the jurisdiction of a Justice Court under Texas law. It was noted that HCWCID No. 1 committee members told the HCWCID No. 2 Customer Care committee that they will work together to set the fines so that they are consistent.
- The resident at 11881 Mesa Verde Drive has requested authority to add stones to the greenbelt side of his property. The Board denied the request and noted that there has been too much damage to the greenbelt and for that reason they are no longer allowing greenbelt access.
- The resident at 12134 Mesa Verde requested greenbelt access to install an above ground pool. The Board denied the request and again noted that there has been too much damage to the greenbelt and for that reason they are no longer allowing greenbelt access.
- The resident at 682 Meri Lane was issued a warning for watering at the wrong time.
- The Board asked Ms. Wright if the resident at 11435 paid the reduced fine. Ms. Wright informed the Board that he has not.
- The Board then moved on to discuss whether e-bikes should be allowed on the trails. Mr. Kutac confirmed that e-bikes are classified in the same category as traditional

bicycles under current Texas law. He will give a report at the next Board meeting regarding details.

- ii) Public Hearing for Violations of District Rules: The Public Hearing was conducted earlier in the meeting.

c) Action Items:

- i) Upon motion by Director McGillicuddy, seconded by Director Bethke and unanimously carried, the Board authorized MOC to repair the gabion wall at a cost not to exceed \$20,000.
- ii) Upon motion by Director Bethke, seconded by Director McGillicuddy and unanimously carried, the Board authorized a penalty against the Mesa Verde resident of \$1,100, plus the costs for removal of the berm. The Board also authorized MOC to inform the resident that if he plants anything or makes any modifications on District property in the future, whatever he has planted or modified will be removed and/or restored at his cost. In addition, the District will levy further penalties.

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

7. ADMINISTRATIVE AND LEGAL:

- a) Water Contract Items: No update.
- b) Water Conservation and Drought Contingency Plan: No update.
- c) Legal Matters:
  - i) Modification of Landscaping Contract: The Board discussed the possibility of switching landscaping companies, but determined that they do not want to change landscaping services in the summer because it would create too many issues. They would also like to give Sunscape a chance to catch up. They will look at MOC's proposal in the future. It was noted that MOC wants to mow the ponds. Mr. Kutac will draft a pond mowing amendment for the Board to review next month.
  - ii) District Rules: Updating the District's rules and regulations were discussed earlier in the meeting.
- d) Calendaring: The Board determined that the next Board meeting will be July 20, 2023.

8. EXECUTIVE SESSION: No Executive Session was required.



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

APPROVED AND ADOPTED on the 20<sup>th</sup> day of July 2023.



  
Sean McGillicuddy, Secretary