

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 Regular Session, on July 20, 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 except Director Kelly. 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, 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, Chris Lane of Samco Capital Markets, Inc., the District's Financial Advisor, Lauren Barzilla of Burgess & Niple ("BN"), the District's engineer and Jesse Trevino of Sunscape Landscaping, the District's landscapers. Andy Barrett of Andy Barrett & Associates, PLLC, attended via telephone. Members of the public attending the meeting included Kathy Boyd, Vince Amore, Billy Dally, Ann Meier, Sherry Marlatt, Bryce Kearney, Justin & Stephanie Dennard and Theresa Perez.

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.

Mr. Dally thanked the Board for the benches. He saw them when he walked the trails and they look really good.

Ms. Meier noted that the water issues have happened since she has lived in the District and she questioned why the District isn't addressing the issue. She also questioned why the District is not in Stage 3 or Stage 4 watering restrictions. She does not believe that residents are taking advantage and watering when they are not supposed to. She also noted that she is upset that she had no water until 1:00 p.m. today.



The Board noted that they have been working with the WTCPUA for months now to try and solve the water pressure issue.

Mr. Kutac explained that, based on a KXAN news article he was shown immediately prior to the meeting, it appeared that the WTCPUA blamed the District and he noted that the WTCPUA did not speak to anyone from the District before issuing their press release regarding the water pressure issue.

Ms. Marlatt has the same issue. She heard the water needs to be transferred over. She asked the Board to let residents know if the Board is working with the WTCPUA on water issues. She also noted that she didn't realize she could sign up for texts to get District updates. She asked the Board to communicate more with the residents.

Ms. Dennard stated that someone in the meeting supposedly told a resident that the water issue was a resident issue. She also wanted to thank the Board for putting up the barriers to prevent cars and jeeps from getting on the trail. She would like to request that they put the same type barrier along the entrance of Mockingbird.

Mr. Kearney stated that he does not understand how the WTCPUA and the District do not know what the water needs are and thought they should be able to forecast how much water is needed during hot summer months. Mr. Kearney also inquired about how the WTCPUA is accountable to residents in Belterra.

In response, Director McGillicuddy and Ms. Barzilla noted that the District has been well under the maximum amount of water allocated to the District in its contract with the WTCPUA.

Mr. Kutac noted that the WTCPUA did not alert the District that there was any issues ahead of time. He also noted that the residents of the District are not able to vote directly in an election for the WTCPUA Board members because they are appointed. He briefly explained the organization of the WTCPUA, and explained that the residents could go to the WTCPUA meetings or go to the members of the WTCPUA Board of Directors that are appointed by Hays County to voice their concerns. In response to a follow up question from Mr. Kearney, it was noted that Scott Roberts and Walt Smith are the WTCPUA current WTCPUA Board members appointed by Hays County.

Ms. Perez questioned why there was not better planning with respect to how many residents there are in the District and how much water was needed. She asked why the District did not meet with other Boards to plan ahead.

Mr. Kutac mentioned that there are no further development phases for Belterra. He also noted that if you look outside Belterra there is still new development occurring that is served by the same system as Belterra.

Mr. Kutac also noted that the District did not blame the residents for the water issue. KXAN stated that irrigation by Belterra residents was responsible for the issue.

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



PUBLIC HEARING REGARDING ITEM 6(b)(ii):

The Board agreed to take up the public hearing Notice of Violation for 12081 Mesa Verde concerning violation of the District's greenbelt rules. Mr. Kutac noted that the residents were given a copy of the Notice of Violation, which was dated June 23, 2023. He then proceeded to give a background leading up to the violation. He noted that the resident accessed the open space without authorization to install a drainage berm and/or trees and vegetation without authorization and that this was not the first occurrence. The Notice of Violation also alleges the resident used heavy equipment and a motorized vehicle to do so. It was also noted that the resident had planted trees in the past and had agreed not to plant any more.

The resident spoke and stated that he is not disputing that he accessed the open space without authorization, installed a drainage berm and planted vegetation but he disputes that he used heavy equipment or a motorized vehicle. He noted that his gate is only 4.5' x 7' and he would not have been able to get heavy equipment through that gate. He is requesting that 7.01(c) and 7.01(e) be removed from the violations. He stated that he will not continue to make any improvements and that he has removed the berm, but that he left the weed grass seed to stop the erosion. He is not watering it but it is growing. He also noted that water is coming 20 feet into his yard. The Board then stated that he needs to come to the District when there is an issue so that the District can address the specific issue and correct the issue, if it is caused by the District, and not try to address it himself. The resident noted that he installed a French drain and extended it up to the rear fence. He also stated that he has left no debris in the area. The resident then mentioned that the only thing he will do if there is future runoff is put a straw mat behind his fence. The Board noted that Ms. Barzilla and MOC should look at it to determine if there is an issue of what can be done to correct the issue.

Upon motion by Director Bethke seconded by Director McGillicuddy 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 removed the fines set forth in 7.01(c) and (e) for \$100 and \$250 respectively) and ratified the penalty of \$350.

2. MEETING MINUTES: The Board reviewed the Minutes from the June 21, 2023 Special Board Meeting. Upon motion by Director Lee, seconded by Director Kopperud and unanimously carried, the Board approved such Minutes.

3. FINANCIAL:

- a) Accounting Report: Mr. Douthitt reviewed Bott & Douthitt's Accounting Report dated July 20, 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 payments and transfers were proposed for approval:

Approve director and vendor payments.



Approve transfers as follows:

- Approve transfer from TexPool Operating Account BancorpSouth Operating Account: \$100,000.00
- Approve transfer from TexPool Operating Account to BancorpSouth Manager's Account: \$7,500.00
- Approve transfer from TexPool Tax Account to TexPool Operating Account: \$21,397.38
- Approve transfer from BancorpSouth Service Collection Account to TexPool Operating Account: \$225,000.00
- Approve transfer from TexPool Operating Account to Hays County WCID No. 1 TexPool Operating Account: \$140,888.58
- Approve funds transfer from TexPool Operating Account to BancorpSouth Manager's Account (July 12, 2023): \$62,396.99.

- b) Storm Clean-up Budget: No action taken by Board.
- c) FYE 2024 Budget: Mr. Douthitt informed the Board that he would have a draft budget for the August Board meeting.
- d) Engagement of Auditor: With regard to engagement of an auditing firm to conduct the annual audit for the District, the Board was presented with an Engagement Letter from Maxwell, Locke & Ritter.
- e) Administrative and Action Items:
  - i) Upon motion by Director McGillicuddy, seconded by Director Bethke, the Board unanimously approved the Engagement Letter of Maxwell, Locke and Ritter for the District's annual audit as well as execution by the Board President
  - ii) Upon motion by Director Kopperud, seconded by Director Bethke and unanimously carried, the Board accepted the Accounting Report and authorized the disbursements and transfers as set forth therein.

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

- (a) Sunscape Report: Mr. Trevino reviewed his Landscaping Report.
- (b) Ice Storm Clean-up: Mr. Trevino noted that they are still working on the trails and that when they drove the trails they saw some debris that still needed to be addressed. He had the chipper team that Sunscape had in the District cleaning up some of the debris. There is no charge to the District. The Board discussed having a third-party contractor come in to complete the additional storm clean-up so Sunscape can concentrate on normal landscaping.



- (c) FEMA/TDEM Claim: No action taken by Board.
- (d) Trail Maintenance: Discussion regarding trail maintenance and repairs were discussed earlier during Sunscape's Report.

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 she received a draft of the Treated Effluent Fire Hydrant permit and forwarded it to Mr. Kutac to review.

With respect to the CPM pipe-liner project, Ms. Barzilla reviewed the construction schedule and completion date.

With respect to the drip skid repair, Ms. Barzilla noted that the parts have not come in yet but supposedly were shipped to Austin from Fresno on July 7<sup>th</sup>.

- 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:

With respect to the water pressure, Ms. Barzilla stated that she will put the data together and would like to share that data with the WTCPUA. She stated that she will discuss with Mr. Kutac before she shares any data with the WTCPUA. She mentioned that it seems that the pressure issue could have started when the WTCPUA changed the pressure planes three or four years ago. At that time the District requested that the WTCPUA put them back on their original pressure plane, but was informed that that was not possible. Ms. Barzilla explained that in an attempt to diagnose the problem, a pressure gauge was put on a fire hydrant inside the District and one was put on a fire hydrant outside the District. By installing a gauge on both hydrants the data would help determine whether the issue was a District issue or a WTCPUA issue. Mr. Kutac asked Ms. Barzilla if there are any solutions that would augment the pressure. Ms. Barzilla noted that a water tank would be the only option. The Board asked Ms. Barzilla to look into the issue and bring her recommendations to the Board at a future Board meeting.

When asked how long the Boil Water Notice would be in effect, Mr. Taylor then explained that with respect to the Boil Water Notice, the WTCPUA will take a sample. After that sample, MOC must take a sample and if there are no issues, they can rescind the Boil Water Notice. Director Bethke reminded the public not to drink the water as soon as the WTCPUA rescinds their Boil Water Notice because the District has a separate system and must do its own due diligence and test its internal system before rescinding the District's Boil Water Notice. Director Bethke thanked MOC for their speed in addressing this issue. Director McGillicuddy explained that the District is a customer of the WTCPUA and that the WTCPUA does not give the District a "head's up" when there is an issue. The District typically finds out there is a Boil Water Notice at the same time as the residents.



Mr. Taylor explained that the Boil Water Notice does not mean the water is contaminated. It just means there is a possible contamination.

Action Items: No action items.

Upon motion by Director McGillicuddy, seconded by Director Bethke 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:

When asked if the WWTP is keeping up with demand, Mr. Taylor responded that they are keeping up.

MOC confirmed that communications were sent to the residents informing them that the District's watering restrictions are now in Stage 3.

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

Ms. Wright noted that FEMA accepted the District's application but reminded the Board that it is a long process before the District will receive money from FEMA to reimburse it for the ice storm damages.

Ms. Wright presented photos in her report showing the new trail markers, benches and trash receptacles that were installed. She then discussed the water fountains and her receipt of a bid for \$5,326.70 for the fountains, with MOC connecting the lines. She will work with Ms. Barzilla to determine where the water connections are located.

Director Bethke gave an update with respect to engaging the Sheriff's department to provide ad hoc services to the District.

- b) Ongoing Matters:

- i) Rules Violations: Ms. Wright discussed the violations listed in her report. She discussed a tree that was reported leaning over and the resident was worried it would fall. The Board asked if Mr. Sanchez would take a look to determine it is a safety hazard.

With respect to 262 Encanto Place Notice of Violation, Mr. Kutac explained that the contractor was issued a citation for driving in the greenbelt. He noted that the District was prepared to issue another Notice of Violation to the residents in connection with the matter. However, the residents presented evidence that immediately upon noticing that the contractor was in the greenbelt, the residents went outside and asked the contractor to move his vehicle out of the greenbelt because they were not



authorized to use it. The contractor immediately moved the vehicle, so no Notice of Violation was issued.

The Board then discussed that, on July 4th, a resident drove their truck to the pergola to watch the fireworks. Mr. Sanchez approached the resident to request that the resident remove their vehicle and his request was disregarded. Later, there was an altercation between this resident and another resident. The Board stated that they praised Mr. Sanchez' actions and agreed that once he has approached and requested an action, he should remove himself from the situation. The Board asked Mr. Kutac to send a warning notice to the original resident who should not have driven the truck into the greenbelt. The Board discussed that if it happens again, they will likely issue a Notice of Violation.

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

c) Action Items:

- i) Remaining Storm Debris: Upon motion by Director Bethke seconded by Director Kopperud and unanimously carried, the Board engaged MOC to complete the storm debris clean-up and clean 10 feet on either side of the trails at a cost of \$5,400 a day not to exceed 10 days. The District will provide a list of the specific trails it would like MOC to work on to MOC.
- ii) Upon motion by Director Bethke, seconded by Director McGillicuddy and unanimously carried, the Board accepted the proposal by TF Harper for \$5,326.70 conditioned upon availability of a water connection. The Board also directed Ms. Wright that if the water is not easily accessible to return to the Board to discuss the issue.

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: Mr. Kutac noted that he will approach the WTCPUA about the KXAN article blaming Belterra for causing the low-pressure issues.
- b) Water Conservation and Drought Contingency Plan: Mr. Kutac reminded everyone that the WTCPUA has implemented Stage 3 watering restrictions.
- c) Legal Matters:
  - i) Modification of Landscaping Contract: The Board took no action.
  - ii) Order Adopting Amended Rules and Regulations: Mr. Kutac gave a history of the Rules and Regulations and noted that they were adopted 10 years ago when the District was still developing and that the Rules and Regulations



were aimed more at getting the developers to comply with the Rules and Regulations. Now, the District is having an issue with resident compliance as shown by the Hearings on Rule Violations earlier in the meeting. Mr. Kutac presented the proposed Order Adopting Amended Rules and Regulations and explained the revisions with respect to ensuring that residents comply with the Rules and Regulations. He also noted that such Order must be published before the Order will become effective.

iii) Order Adopting Schedule of Civil Penalties: Mr. Kutac explained that the Order Adopting the Civil Penalties is aimed at stopping greenbelt violations. He stated that the committee members involved in reviewing the matter recommend increasing the penalties for greenbelt violations to \$5,000 for the first day and \$1,000 thereafter.

iv) New legislation: Mr. Kutac reviewed the Order Adopting Updating Code of Ethics, Travel Expense Policy, etc. and explained that, effective as of June 13, 2023, the 88<sup>th</sup> legislature increased the Water Board Director's per diem from \$150 to \$221 which is reflected in such Order. He also explained that the legislature did not increase the cap of \$7,200 per year. Upon motion by Director Kopperud, seconded by Director Lee and unanimously carried, the Board adopted such Order.

d) Calendaring: The Board determined that the next Board meeting will be August 17, 2023.

8. EXECUTIVE SESSION: With regard to Item No. 6(b)(i), 7(c)(ii) and 7(c)(iii) on the posted agenda for the meeting, upon motion by Director McGillicuddy, seconded by Director Bethke and unanimously carried, the Board retired, along with Matt Kutac to Executive Session.

Following such Executive Session the Board reconvened in public session. No action was taken by the Board during Executive Session.

Upon motion by Director Kopperud, seconded by Director Bethke and unanimously carried, the Board adopted the proposed Order Adopting Amended Rules and Regulations.

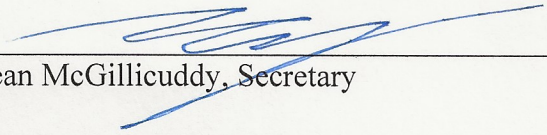
Upon motion by Director Kopperud, seconded by Director Bethke and unanimously carried, the Board adopted the proposed Order Adopting Schedule of Civil Penalties.



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

APPROVED AND ADOPTED on the 17<sup>th</sup> day of August 2023.



  
Sean McGillicuddy, Secretary