

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 December 15, 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
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, Kay Olsen and Ceejay Jackson of Inframark, the District's general management and operations contractor, Allen Douthitt with Bott & Douthitt, the District's bookkeepers, Chris Lane of SAMCO Capital Markets, Inc. ("SAMCO"), the District's financial advisor, Lauren Barzilla of Burgess & Niple ("BN"), the District's engineers, Jesse Trevino of Sunscape Landscaping, the District's landscaper.

1. PUBLIC COMMENT: Mr. Kutac called for public communications and comments. 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 November 17, 2022 Regular Board Meeting, and upon motion by Director McGillicuddy, seconded by Director Kelly and unanimously carried, the Board approved the Minutes from such Board Meeting.
3. FINANCIAL:
  - a) Accounting Report: Mr. Douthitt reviewed Bott & Douthitt's Accounting Report dated December 15, 2022 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 September 30, 2022 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 Tax Account to TexPool Operating Account: \$89,041.69
- Approve funds transfer from TexPool Tax Account to TexPool Debt Service Account: \$200,000.00
- Approve funds transfer from TexPool Operating Account to Hays County WCID No. 1 TexPool Operating Account: \$44,049.88
- Approve funds transfer from TexPool Operating Account to BancorpSouth Manager's Account (December 7, 2022): \$49,039.17

Mr. Douthitt mentioned during his report that the maintenance account reconciliation is almost complete. The amount of the disparity between Inframark's calculations and those of the District appears to be off by one or two checks. He is hoping that this gets resolved tomorrow.

He also noted that he received an invoice from Texas Community Propane for \$9,000 for three propane tanks and a generator. Per Mr. Kutac, the invoice should be allocated \$6,000 to HCWCID No. 1 and \$3,000 to the District. Upon motion by Director McGillicuddy, seconded by Director Kelly and unanimously carried, the Board approved payment of \$3,000 to Texas Community Propane.

b) Administrative Items: Mr. Douthitt also noted that TexPool has a prime account that is paying 4.1% which is a little higher than the account the District has its investments in. He noted that HCWCID No. 1 wanted him to have TexPool review the district's Investment Policy to ensure that the prime account complies. The Board discussed opening a prime account. Mr. Douthitt assured them that they do not have to use the account if they decide not to, but they can always open the account if the application is approved. Upon motion by Director Lee, seconded by Director McGillicuddy and unanimously carried, the Board authorized Mr. Douthitt to apply to open a TexPool prime account.

Upon motion by Director Bethke, seconded by Director Lee and unanimously carried, the Board approved the above-referenced Accounting Report, and authorized all disbursements and transfers set forth therein.

4. LANDSCAPING: Mr. Trevino with Sunscape presented the following report:

- i) The full-service turf maintenance of the high visibility areas was performed three times in the month of November.
- ii) Full-service bed detail was performed two times in November.
- iii) Work Order 24525 to remove the dead tree behind 300 Sand Hills and removal of fallen tree across the Live Oak Trail were completed
- iv) Limb trimming on the trails was completed on November 30, 2022.

Mr. Trevino noted that Sunscape is looking into some irrigation heads that are spraying onto the new trail. They are working on the issue and will adjust the heads.

Ms. Barzilla mentioned that Sinjon is sending a Sunscape proposal regarding moving and adjusting the heads. She also noted that coordination of the location of the irrigation heads was in Myer's contract but not the actual work to do place and/or adjust the irrigation heads.

Mr. Trevino informed the Board that the rutted area in the trail that was mentioned at last month's meeting was repaired. However, there are still other rutted areas that need to be addressed.

Director McGillicuddy mentioned that they came upon an area in the greenbelt where someone trimmed a tree. He also noted that after the tree was cut near Mendocino, the residents moved the tree stumps to direct traffic in the direction of the trail. A discussion ensued regarding residents taking it upon themselves to plant trees, trim trees, or, in this case move tree stumps, in the greenbelt areas. They also discussed the District's responsibilities when residents plant trees and other vegetation in the greenbelt. Mr. Kutac noted that the District should avoid setting a precedent allowing residents to ignore District rules. Director Bethke responded that the District is seeing an increase in residents violating District rules by trimming and/or planting vegetation in the greenbelt areas. The Board decided that it would like Inframark to add a paragraph addressing this issue in the next newsletter notifying residents that the District, on a going forward basis, will remove illegally planted trees and vegetation and any other restricted items from the greenbelt.

5. 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 the report is as follows:

- 1) Potential action items for the meeting: None
- 2) 100 Acre 210 Warranty Items:
  - A) Sunscape has completed this work.
- 3) Treated Effluent Fire Hydrant:
  - A) The 210 Beneficial Reuse Permit amendment is ongoing.
- 4) 12" Treated Effluent Line:
  - A) Discuss options for replacement/rehab of the lines.
- 5) Wastewater Summary:
  - A) Average Daily Wastewater Usage (October 2022) = 348,000 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.

Ms. Barzilla reported that Burgess & Niple, Inframark and the Infrastructure Committee are still discussing the options for replacement/rehab of the lines and hope to have a recommendation to bring to the Board in January.



b) District Report: Ms. Barzilla then moved on to Burgess & Niple's general District Engineering Report. A summary of the report is as follows:

- 1) Potential action items for the meeting: Approval of Hays 2 Trail Extension Pay Application No. 3 for \$55,575.00.
- 2) Trail Extension Project:
  - A) The project is close to completion. A walk through was completed with the contractor with minor items being added to the punch list.
  - B) Recommend approval of Pay Application No. 3 for \$55,575.00. The pay application can be found on the Google Drive.
- 3) Hays 2 Water Tracking:
  - A) Approximate Max Daily Usage (October 2022) = 839,800 gpd.
  - B) Max allowed = 1,137,024.

Ms. Barzilla mentioned to the Board that the trail extension is almost complete, and there are only a few punch list items left, including some minor grading and a manhole cover. She feels comfortable approving Pay Application No. 3 for Myers Concrete because the District still has \$30,000 in retainage.

Director Bethke asked Ms. Barzilla to look at the area of the trail, discussed in last month's Board meeting, where water is puddling and determine if a culvert or any other type of solution is required.

Director Bethke also asked Ms. Barzilla to have Myers fill in the post hole they left by the pergola where they were going to install the dead-end sign. She noted that Myers dug the post hole by the pergola but then moved the sign to another location without filling in the original post hole. She noted that this is a safety issue and someone could step in that hole and get hurt. Ms. Barzilla stated that Tim Propes, an inspector with Burgess & Niple, had placed some sticks or branches in the hole as a temporary measure to help prevent someone from stepping in the hole before it is repaired. Mr. Kutac requested that orange roadway cones or some other warning device be placed on or near the post hole until it is repaired.

Action Items:

- a) Upon motion by Director McGillicuddy, seconded by Director Kopperud and unanimously carried, the Board approved Payment Application No. 3 for Myers.

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

6. MANAGEMENT AND OPERATIONS: Ms. Olsen reviewed Inframark's General Manager's Report, and in particular, the executive summary memorandum dated December 15, 2022. Ms. Olsen gave the following updates:

- a) Zach Johnson's Eagle Scout Project: Ms. Olsen stated that Mr. Johnson had a medical issue and had to postpone the project until he recovers.
- b) General Manager's Report: The General Manager's Report is attached as Exhibit "A".

With respect to the Texas Utility Help program, Ms. Olsen noted that it is more involved than she originally thought and when she looked into the program, it appears that the majority of the residents in the District would not qualify. She recommends that Inframark not proceed with the application and handle any resident who needs help on a case by case basis.

With respect to the LS 5 shade structure, Mr. Olsen informed the Board that she is having difficulty with Multivolt who says that they are waiting for parts but have been uncommunicative. She is seeking other bids and will proceed with another vendor if Multivolt does not complete the job before the end of December.

With respect to Lift Station 6, Ms. Olsen noted that it almost overflowed on October 31<sup>st</sup> but the WWTS was not called and a report was not required. Director McGillicuddy responded that he got an e-mail that Mr. Black sent to Mr. Kutac about a 15-gallon spill. Ms. Olsen requested that Director McGillicuddy forward that e-mail so she can look into the matter.

Mr. Kutac then noted that he has a revised agreement with respect to Inframark's repairs to the drip skids but he would like to table the discussion until he has a chance to speak with the Directors.

Ms. Olsen stated that a resident whose request was not approved for vegetative screening in connection with the trail extension project has objected to the decision. Director Bethke then mentioned that the resident was suggesting arbitration if the District continues to refuse their request to install vegetation to screen their home from the trail. Mr. Kutac responded that there is no basis for arbitration and that the resident's course of action would be to come to a Board meeting and address the Board.

Ms. Olsen then discussed the different vendors and the availability and pricing for the trash cans, picnic table seats and water fountain the Board would like installed. Mr. Kutac noted that the District has used T.F. Harper in the past. Ms. Olsen noted that they have the lowest quote and even though they weren't responsive in the beginning, they are more responsive now. With respect to the water fountain, the proposal has increased because the plumber said that the line is too far away and would require engineering services, but Ms. Olsen stated that she could have the quote lowered if the District's engineers provided these services.

When discussing the playground mulch, Director Bethke noted that the District used Fun Abounds in the past on the Bitterroot Park, but there were quite a few problems. She also noted that the mulch replenishment project is for playground mulch, which is not the same as landscaping mulch, and that the playground mulch is needed as soon as possible because it is not up to the fill line. She stated that if the mulch falls below the sticker fill line which was installed for this purpose, the mulch needs to be replenished immediately. The Board then discussed the quotes for the playground mulch and the discrepancies in the price due to the vendors not quoting for the same amount of cubic yards.



With respect to the resident who requested that his contractor have access to the greenbelt to install a pool and was turned down, Inframark noted that the resident asked Inframark to request that the Board to reconsider and brought up the fact that the neighbor had a deer feeder behind his home. The Board declined to reverse their prior decision because too many contractors have damaged the greenbelt and it would disturb other neighbors in the area. The Board asked Inframark to e-mail the resident's neighbor and ask him to remove the deer feeder by January 15<sup>th</sup>.

Ms. Olsen noted that she received an email earlier this morning that was sent by a resident of another community downstream from the District on Bear Creek. The person sent photos of Bear Creek near her residence that appeared to show algae growth. The Board discussed the issue. Per Mr. Kutac, he asked Ms. Olsen to e-mail and let the resident know that the District is looking into this matter and will get back to her, but that the District has had no ongoing projects or recent changes that would be expected to cause or contribute to such a problem. Mr. Kutac also noted that he spoke to the President of HCWCID No. 1 and the Districts' engineers to inquire as to whether any possible projects or recent operational changes might be worth examining in greater detail before his suggestion to Ms. Olsen. Ms. Olsen mentioned that she also spoke to Jesse Black and he went out immediately. Mr. Black reported to her that there is a flower farm between the District and Bear Creek, and that the proprietor told Mr. Black that there has been no change in the characteristics of the water exiting the District's property and entering his property. It was noted that the flower farm may require quite a bit of fertilizer, which could increase algae growth. Upon motion by Director McGillicuddy, seconded by Director Lee and unanimously carried, the Board authorized Ms. Olsen to respond via email as discussed and asked that the District's consultants monitor the matter.

c) Ongoing Projects:

- i) The Board discussed the sidewalk repairs and the proposal by Myers Concrete and Lone Star Paving to repair the damaged sidewalks in the district. There are 32 spots that need repair. The Myers Concrete proposal is not based on each repair, but based on 800 sf of sidewalk demo and replacement. Lone Star Paving's proposal is to remove and repair 25 areas of damaged concrete sidewalk based on one mobilization. The Board discussed the proposals at length and determined that they should get all of the sidewalk repairs handled at one time.
- ii) No action was taken by the Board.
- iii) No action was taken by the Board.

d) Action Items:

- i) Upon motion by Director McGillicuddy, seconded by Director Lee and unanimously carried, the Board approved the Fun Abounds quote for \$3,203 for Mesa Verde Park and \$4,488 for the Sand Hills Park mulch.
- ii) Upon motion by Director Bethke, seconded by Director Kelly and unanimously carried, the Board approved the T.F. Harper proposal for \$26,753.51 to install three trash receptacles and 5 benches.

- iii) Upon motion by Director Bethke, seconded by Director McGillicuddy and unanimously carried, the Board authorized Kay Olsen to move forward with getting the picnic benches installed with the price not to exceed \$5,000.
- iv) Upon motion by Director Bethke, seconded by Director McGillicuddy and unanimously carried, the Board approved Myers Concrete's proposal to repair all 32 sidewalk repairs.
- v) Upon motion by Director Bethke, seconded by Director Kopperud and unanimously carried, the Board requested that Ms. Barzilla update the District's maintenance map to include the small area on Mockingbird that was discussed at last month's Board meeting and to request an amendment from Sunscape adding that area to the landscaping agreement.

7. Administrative and Legal:

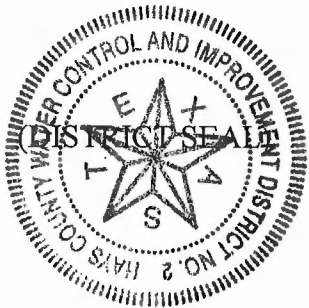
- a) Water Contract Items: No action was taken by the Board.
- b) Water Conservation and Drought Contingency Plan: No action was taken by the Board.
- c) Legal Matters:
  - i) Brightview: Mr. Kutac stated that the District has received the settlement fee of \$2,000 from the surety.
  - ii) Inframark Amendment: Mr. Kutac mentioned that he asked Ms. Olsen to put a hold on the amendment proposal because the joint management committee was considering sending a simple request for staffing and pricing information to Inframark and the other contractor being considered.
  - iii) Alternative Operations: No update was given.
  - iv) Mr. Kutac presented the Joint Resolution Regarding Operations and Management Services. He explained that the purpose of the Resolution is to allow members of the joint management committee to share more information with the members from HCWCID No. 1 in furtherance of their common interests. . Such Resolution also authorizes the joint management committee to negotiate with the interested contractors in order to present final proposals and recommendations to each board of directors. Upon motion by Director McGillicuddy, seconded by Director Kopperud and unanimously carried, the Board approved such Resolution.
- d) Calendaring: The next Board meeting will be January 19, 2022.

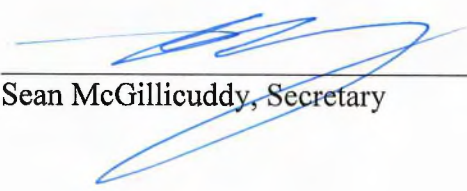
8. EXECUTIVE SESSION: Upon motion by Director Lee seconded by Director Kopperud and unanimously carried, the Board retired along with Mr. Kutac at 7:48 p.m. to Executive Session to discuss Item No's 7(c)(ii), 7(c)(iii) and 7(c)(iv) of the posted Agenda for the meeting. At 8:14 p.m. the Board reconvened to public session. No action was taken by the Board during Executive Session.

With respect to items 7(c)(ii) and 7(c)(iii), upon motion by Director Bethke, seconded by Director Kopperud and unanimously carried, the Board requested a formal staffing plan and formal pricing be submitted by the contractors under consideration.

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

APPROVED AND ADOPTED on the 19<sup>th</sup> day of January 2023.



  
Sean McGillicuddy, Secretary