

**MINUTES OF MEETING OF
THE BOARD OF DIRECTORS OF THE
WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

June 20, 2019

Present:

Scott Roberts, President
Don Walden, Vice President
Ray Whisenant, Secretary
Bill Goodwin, Assistant Secretary

Staff and Consultants:

Jennifer Riechers, Agency Interim General Manager
Jennifer Smith, Agency Controller
Keli Kirkley, Agency Accountant
Reuben Ramirez, Agency Engineer Technician
Curtis Jeffrey, Agency Lead Water Operator
Stefanie Albright, (Lloyd Gosselink Rochelle & Townsend, P.C.), Agency General Counsel
David Klein, (Lloyd Gosselink Rochelle & Townsend, P.C.), Agency General Counsel
Sheila Gladstone, (Lloyd Gosselink Rochelle & Townsend, P.C.), Agency General Counsel
George Murfee (Murfee Engineering Company, Inc.), District Engineer

I. CALL TO ORDER

Director Roberts called the meeting to order at 10:00 a.m.

II. ESTABLISH QUORUM

A quorum was established with the above-referenced Directors, staff, and consultants present.

III. BOARD BUSINESS

- A. Discuss, consider and take action on confirmation of Participating Members appointment of Scott Roberts and Bill Goodwin to WTCPUA Board.**
- B. Discuss, consider and take action on election of officers to Board.**

Ms. Albright stated that the appointments of Directors Roberts and Goodwin had been completed by the Participating Members, and that as a notary, she had administered the Statement of Officer and Oath of Office to each of these Board members.

Ms. Albright next stated that with new directors, the Board typically considers the appointment of officers of the Board.

MOTION: A motion was made by Director Whisenant to appoint Scott Roberts as Board President. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden

Voting Nay: None

Absent: Director Brzoska

MOTION: A motion was made by Director Roberts to keep the previous officers slate. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden

Voting Nay: None

Absent: Director Brzoska

IV. PUBLIC COMMENT

Ms. Cary Terrall provided commentary on the impacts of radiation and her environmental sensitivities. She stated that she has worked to have an environmentally safe home with low EMF. She stated that her home needs to stay a safe place for her health, and that the signal broadcast from the meters is powerful. She stated that she is requesting an opt-out program for automatic meters to give customers the ability to choose.

Dr. Laura Pressley provided public comment and stated that it is incorrect that there are no adverse health effects from water wireless meters. She stated that there is a controversy regarding the impacts of wireless water meters, and the impact it has on sensitive individuals, including potential liability from the impacts. She stated that at the last Board meeting she stated that Round Rock has an opt-out program, but this was incorrect and rather the utility allows the meters to be shielded. Dr. Pressley stated that she doesn't recommend this approach, but if the Board doesn't approve an opt-out program, these meters will likely be shielded.

Matt Kutac addressed the Board on behalf of Hays WCID No. 1. He stated that he is available for new business Item H. He stated that a review was begun regarding project history for Belterra. Mr. Kutac stated that the issues being reviewed solely relates to the commercial project with Endeavor, which is limited by agreement by Hays WCID No. 1 to only 200 LUEs. He stated that this developer had done a great job managing the allocation, and that there is a limitation on this developer.

V. CONSENT AGENDA (J. Riechers)

- A. Approve minutes of May 16, 2019 regular Board Meeting.**
- B. Approve payment of invoices and other related bookkeeping matters.**
- C. Approve Contractor Pay Requests including:**
 - 1. SJ Louis Construction of Texas., Ltd. Pay Request No. 10, \$35,806.50, 1340 Transmission Main Project.**
 - 2. Landmark Structures I, LP, Pay Request No. 14, \$54,368.50, 1340 Elevated Storage Tank Project.**
 - 3. Travis Industries, LLC, Pay Request No. 6 & Final, \$20,369.90, Uplands WTP & HS Pump Station.**
- D. Approve Contractor Change Orders including:**
 - 1. SJ Louis Construction of Texas., Ltd. Change Order No. 3, \$10,010.00, 1340 Transmission Main Project.**
- E. Approve Utility Conveyance Agreements to convey facilities to the WTCPUA from the following:**
 - 1. Bee Cave Professional Park**
 - 2. Creeks Edge**
 - 3. Code Ranch**
 - 4. Spillman Ranch, Ph. 1, Sect 10**
 - 5. Travis County Emergency Services District No. 6 (Station 606)**

Director Walden asked to pull for consideration Item E.4, provided as **Exhibit A**. He stated he was part of a partnership years ago, who sold to the current developer. He stated that he has no financial interest in this item but is opting to abstain from consideration on voting on this item.

MOTION: A motion was made by Director Roberts to approve the Utility Conveyance Agreement for Spillman Ranch, Phase I, Section 10. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, and Goodwin
Voting Nay: None
Abstain: Director Walden
Absent: Director Brzoska

Director Walden abstained from participation on this item.

- F. Approve Developer Reimbursements to:**
 - 1. CCNG for Section A, Section V-B and Preserve Villas, \$238,912.41.**
 - 2. High Pointe Ph 5, Sect. 3 \$257,231.24.**

- G. Approve total reimbursable costs for High Pointe Phase 1, Section 3A as determined by Maxwell, Locke & Ritter report.
- H. Approve Agreement for Waterline Extension Along Bee Cave Parkway (Bee Cave Professional Park).

Director Goodwin asked to pull this item for consideration, provided as Exhibit B. In response to a question from Director Goodwin, Mr. Ramirez confirmed that this item was related to discussions held in May about the extension of the 12-inch waterline.

MOTION: A motion was made by Director Goodwin to approve the Agreement for Waterline Extension Along Bee Cave Parkway for Bee Cave Professional Park. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

The Board next addressed the remaining items on the consent agenda, provided as Exhibits C – H.

MOTION: A motion was made by Director Roberts to approve the Consent Agenda with the exception for Items V.E.4 and V.H. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

VI. OLD BUSINESS

- A. Discuss, consider and take action regarding pending and/or anticipated litigation, including:
 - 1. *William R. Holms v. West Travis County Public Utility Agency; in Travis County Court of Law #2; C-1-CV-17-003601.*
 - 2. *John Hatchett, Sandra Hatchett and JPH Capital, LLP v. West Travis County Public Utility Agency; in the 201st Judicial District Court, Travis County, Texas; Cause No. D-1-GN-18-001654.*

3. *John Hatchett, Sandra Hatchett and JPH Capital, LLP v. West Travis County Public Utility Agency, No. 03-18-00668-CV in the Court of Appeals for the Third District of Texas at Austin.*
4. *John Hatchett, Sandra Hatchett and JPH Capital, LLP v. West Travis County Public Utility Agency, Civil Action No. 1:19-CV-00260 in the United States District Court for the Western District of Texas, Austin Division.*

This item was discussed in executive session.

B. Discuss, consider, and take action on legislative efforts and legislation in the 86th Legislative Session.

This item was discussed in executive session.

C. Discuss, consider and take action on proposed modification to WTCPUA Rules and Policies regarding Opt-Out Provision for Automatic Read Meters (AMR).

MOTION: A motion was made by Director Roberts to approve an Opt-Out Policy for Automatic Read Meters. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts and Whisenant
Voting Nay: Directors Goodwin and Walden
Absent: Director Brzoska

The vote failed.

Director Whisenant stated that one of the goals of the agency is to provide safe water and wastewater services. He stated that he has no concerns regarding offering an option for those wanting to opt out of AMRs, and stated that the fee to do so should be reasonable.

Director Roberts directed that staff put this item on the July agenda when the full Board is present.

VII. NEW BUSINESS

At 11:08 a.m. Director Roberts announced that the Board would convene in executive session to consult with its attorney pursuant to Texas Government Code § 551.071 regarding Items V.I A and B, and Items VII. F and K.

At 12:37 p.m., Director Roberts announced that the Board would reconvene in open session and that no action had been taken in executive session.

- A. Discuss, consider, and take action regarding Travis County Municipal Utility District No. 22 (TCMUD 22) (Provence Subdivision Phase I, Section 1) Service Extension Request, including:**
- 1. Water Facilities Lease Agreement;**
 - 2. Special Warranty Deed conveying Elevated Storage Tank site; and**
 - 3. Billing matters.**

These items were presented by Ms. Albright, and provided as **Exhibit I** (Lease Agreement) and **Exhibit J** (Deed).

Director Walden asked what the billing matters reference was, to which Ms. Riechers stated that TCMUD 22 has requested an agreement to get billing data for them to provide wastewater billing. Ms. Riechers confirmed that this was a reasonable request.

Director Walden asked if the elevated storage tank was complete, to which Ms. Riechers confirmed the EST should be online today. In response to a question from Director Walden, Mr. Ramirez stated that the checklist for the SER process would have been provided at the beginning of 2018.

Director Walden stated that compliance with the checklist is the developer's obligation.

MOTION: A motion was made by Director Roberts to approve Lease Agreement, Special Warranty Deed, and authorize staff to move forward with negotiation of a billing agreement with TCMUD 22. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

Director Whisenant confirmed that this developer was subject to the same process as other developers.

- B. Discuss, consider and take action on FY 2019 Audit Engagement Letter with Maxwell, Locke and Ritter (J. Smith).**

Ms. Smith presented this item, provided as **Exhibit K**. She stated that there were no changes to the Agreement from last year except for a \$3,000 fee increase. In response to a question from Director Goodwin, Ms. Smith stated that it is typically recommended to change auditors every 5 years to maintain independence. However, Ms. Smith recommended that the current auditor be kept 1 additional year given the upcoming transitions.

MOTION: A motion was made by Director Goodwin to improve the Audit Engagement Letter for FY 2019 with Maxwell, Locke and Ritter. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

C. Discuss, consider and take action on Consent to Assignment of Reimbursement Rights from CCNG Development Company, L.P. to Southside Bank for the East Village Subdivision (D. Klein).

Mr. Klein presented this item, provided as Exhibit L.

MOTION: A motion was made by Director Walden to approve the Consent to Assignment of Reimbursement Rights from CCNG Development Company, L.P. to Southside Bank for the East Village Subdivision. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

D. Discuss, consider and take action on Consent to Assignment of Reimbursement Rights from Synchro Realty, L.L.C. to Southside Bank for the Spanish Oaks Subdivision.

Mr. Klein presented this item, provided as Exhibit M. He stated Items C and D are similar to previous agreements where the WTCPUA is protected so long as payments are made by the WTCPUA to the designated party.

MOTION: A motion was made by Director Goodwin to approve the Consent to Assignment of Reimbursement Rights from Synchro Realty, L.L.C. to Southside Bank for the Spanish Oaks Subdivision. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

E. Discuss, consider and take action on Order Setting a Public Hearing on Amendments to Wholesale and Retail Water and Wastewater Rates.

Mr. Klein presented this item, provided as Exhibit N. He stated that staff plans to present rate amendments to the Board at a future meeting. This order proposes a hearing at the August Board meeting to provide sufficient notice time.

MOTION: A motion was made by Director Roberts to approve the Order Setting a Public Hearing on Amendments to Wholesale and Retail Water and Wastewater Rates. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

F. Discuss, consider, and take action on the assessment of impact fees.

This item was discussed in executive session.

G. Discuss, consider, and take action regarding Land Use Restriction Easement with the Texas Nature Conservancy (Southwest Parkway Pump Station).

Ms. Albright presented this item, provided as Exhibit O, stating that this Agreement was to leave a portion of land undisturbed. She stated that this Agreement is needed to allow the improvements at the Southwest Parkway Pump Station to move forward.

MOTION: A motion was made by Director Goodwin to approve the Land Use Restriction Easement with the Texas Nature Conservancy (Southwest Parkway Pump Station). The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

H. Discuss, consider and take action on review of Hays WCID No. 1 (Hays WCID) Wholesale Water Service Agreement.

Mr. Murfee presented on this item. He stated that an audit was done regarding Belterra's water capacity allocation. He stated that Hays WCID No. 1 is diligently working to document the LUEs used for the commercial development. The engineers that work for Endeavor use the methodology within the WTCPUA's Tariff. He stated at this point in time there is no definitive answer whether the allocation is correctly documented, but it seems as though it is correct and that the developer

is working diligently to account for this capacity allocation. He recommends that the WTCPUA continue to work with the wholesale customer to review these capacity allocation.

Mr. Kutac stated that Hays WCID No. 1 was made aware of this review in a letter from Robert Pugh, and that the letter stated that no additional commercial development would be allowed until the audit was complete. He stated that there are projects ready to commence.

Director Whisenant and Ms. Albright discussed the role with the wholesale agreement and the component the commercial portion plays in determining the overall use of water under the Hays WCID wholesale agreement.

Mr. Murfee stated that there are several new projects, including a hotel and multi-family project, included in this commercial portion of a project that could have some issues with the available capacity. Ms. Albright confirmed that contractually there are options to address this capacity allocation if needed.

Discussion ensued regarding the commercial project in Belterra, the wholesale agreements in Belterra, and the WTCPUA's process of reviewing capacity. Director Goodwin confirmed that there are several assisted living facilities that could be used to compare, and that if there is the range cited, it may catch the attention of certain existing developers. Mr. Murfee confirmed that the developer was working with the WTCPUA to confirm the information.

Director Roberts asked if there was capacity in the 290 waterline to provide service to the new projects in the commercial development. Mr. Murfee confirmed that the project has 203 LUEs to utilize under the existing agreement. Director Walden stated that he is not comfortable with the low number for the proposed senior living facility, but agreed with Director Goodwin that there is comparable data to use.

Director Walden confirmed that Mr. Murfee wanted to continue to work with Hays WCID No. 1 and the commercial developer as development moves forward.

MOTION: A motion was made by Director Roberts to lift the prohibition on Belterra regarding continuing commercial development and allow the commercial development to proceed in consultation with Murfee Engineering, and that such development not exceed the 203 LUEs allocated to the commercial project or the overall allocations in the applicable wholesale agreement. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

Director Goodwin asked for additional backup in the future.

Director Roberts asked whether the impact fees paid in the past were incorrect, to which Mr. Murfee stated that it's not clear at this point. Murfee stated that Hays WCID needed to provide information showing that 203 LUEs is sufficient and that the correct impact fees were paid. Mr. Murfee stated that the determination of LUEs is currently ongoing.

Director Roberts asked that this be on the next agenda with additional backup.

I. Discuss, consider, and take action regarding engineering services proposals from Murfee Engineering Co., Inc.

1. Hamilton Pool Road Pump Station GST No. 2 CIP Project design, approval and construction administration, (\$187,688.00).

Mr. Murfee presented on this item, provided as **Exhibit P**. He stated that this is a ground storage tank needed for existing capacity on Hamilton Pool Road as the current tank is undersized. In response to a question from Director Walden, Mr. Murfee confirmed that this project is in the CIP.

MOTION: A motion was made by Director Goodwin approve the engineering service proposal for the Hamilton Pool Road Pump Station GST No. 2 CIP Project design, approval and construction administration (\$187,688.00). The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

J. Discuss, consider and take action regarding engineering services proposal from CP&Y for architectural services at the Uplands WTP Trident Room and Office Building Renovations Project.

Ms. Riechers presented this proposal, provided as **Exhibit Q**. She stated that this project was originally bid as two components, but only received one bid. Staff has recommended changes and the project will be rebid.

MOTION: A motion was made by Director Walden approve the engineering services proposal from CP&Y for architectural services at the Uplands WTP Trident Room and Office Building Renovations Project. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

- K. Discuss, consider and take action regarding customer complaint and contractual relationship with outside inspector.**

This item was discussed in executive session.

VIII. STAFF REPORTS

A. Interim General Manager's Report.

Ms. Riechers presented on this item, provided as **Exhibit R.**

B. Controller's Report (J. Smith), including: 1. Order approving investment officers.

Ms. Smith provided the Controller's Report, provided as **Exhibit S.** In response to a question from Director Walden, Ms. Smith stated that revenues are lower than anticipated due to less consumption related to rain. She stated that expenses are also lower than anticipated, and that wastewater revenue is tracking consistently with budgeted expectations. She stated that all line items are tracking as they were in May, and that payroll is at 68% of the budget which includes severance payouts and an extra third pay period in May, so the line item looks high as compared to where it will be at the end of the year. Ms. Smith conducted a review and expects that the line items relating to compensation would be under-budget at the end of the year.

Ms. Smith confirmed that the positions of Operations Manager, Senior Engineer, Engineering, and Customer Service Manager needed to be filled, and there are several new potential positions that will be discussed at the budget workshop.

Ms. Smith presented the Order Approving Investment Officers, provided as **Exhibit T.**

MOTION: A motion was made by Director Roberts approve the Order Approving Investment Officers. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

C. Engineer's Report (D. Lozano) including: 1. Capital Improvements Plan Update.

This report was presented by Mr. Murfee and provided as **Exhibit U.**

D. Operations Report (C. Jeffrey).

Mr. Jeffrey provided this report, included as Exhibit V.

Director Walden asked for a description of how the supervisors were working together to coordinate activities and keep service going. Mr. Jeffrey said the system is working well and the supervisors communicate daily to collaborate on system operations. He stated that especially where departments overlap, the supervisors communicate on repairs, maintenance, and operations.

Director Whisenant thanked staff for the good service to the customers and the efficient operation of the system.

VIII. ADJOURNMENT

MOTION: A motion was made by Director Roberts to adjourn the meeting.
The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, and Walden
Voting Nay: None
Absent: Director Brzoska

The meeting adjourned at 12:38 p.m.

PASSED AND APPROVED this 18th day of July 2019.


~~Scott Roberts, President~~ Don Walden,
Board of Directors Vice President

ATTEST:


Ray Whisenant, Secretary/Treasurer
Board of Directors