

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

March 25, 2020

The March 25, 2020 Board of Directors meeting was held remotely via conference call in accordance with the Governor's March 16, 2020 proclamation suspending certain open meetings statutes in response to the current COVID-19 pandemic and statewide disaster declaration. No physical meeting space was made available. The public was provided a toll-free number to call in and participate in the meeting.

Present:

Scott Roberts, President
Don Walden, Vice President
Walt Smith, Secretary
Bill Goodwin, Assistant Secretary
Jason Bethke, Director

Staff and Consultants:

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
Dennis Lozano, (Murfee Engineering Company, Inc.), District Engineer

I. CALL TO ORDER

Director Roberts called the meeting to order at 10:06 a.m.

II. ESTABLISH QUORUM

A quorum was established with the above-referenced Directors, staff, and consultants present. Ms. Albright stated that Director Bethke was recently appointed by Lake Pointe MUD to fill the vacant Director seat, and that he had executed the Oath of Office and Statement of Officer prior to the meeting.

Director Roberts state that Ms. Riechers would not be in attendance at the meeting due to illness.

III. PUBLIC COMMENT

No public comment was offered.

IV. CONSENT AGENDA

- A. Approve minutes of February 20, 2020 regular Board Meeting.
- B. Approve payment of invoices and other related bookkeeping matters.
- C. Approve Contractor Pay Requests including:
 - 1. Cash Construction Company, Inc., Pay Application No. 4, \$157,878.00 Raw Water Line No. 2 CIP Project
 - 2. DN Tanks, Inc., Pay Application No. 6, \$202,783.68 West Bee Cave Pump Station GST No. 2 CIP Project
- D. Approve Utility Conveyance Agreements to convey facilities to the WTCPUA from the following:
 - 1. Extra Space Storage
- E. Approve 2019 annual Developer Reimbursement in the amount of \$330,351.50 to NASH Sweetwater, LLC per Wholesale Water Services Agreement between WTCPUA and Lazy Nine MUD 1A.
- F. Approve total reimbursable costs for High Pointe Phase 2, Section 2B as determined by Maxwell, Locke & Ritter report.
- G. Approve replacement of Pump #5 at Raw Water Intake from Pump Solutions, Inc. for \$84,464.00.

MOTION: A motion was made by Director Roberts to approve the Consent Agenda in its entirety, provided as Exhibits A-G. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

V. OLD BUSINESS

At 11:28 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.A and V. C. Director Roberts stated that the Board would take a brief break prior to joining executive session, and asked all Directors to join the executive session by 11:40 a.m.

At 12:33 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 pending and/or anticipated litigation, including:

1. *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.*
2. *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.*
3. *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.

MOTION: A motion was made by Director Roberts to instruct staff and consultants to file a petition with the Supreme Court to appeal the decision of the Court of Appeals for the Third District of Texas in the *Hatchett* litigation; to appoint a subcommittee of Director Walden and Director Goodwin to take any action necessary regarding actions in lawsuits; and to authorize hiring Terry Irion as a consulting attorney relating to the Third Court of Appeals decision. The motion was seconded by Director Smith.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

VI. NEW BUSINESS

A. Discuss, consider and take action on FY 2019 Audit by Maxwell, Locke and Ritter, LLP.

Ms. Smith presented on this item, provided as **Exhibit H**. Jimmy Romell with Maxwell Locke and Ritter presented the audit for Fiscal Year 2019. He stated that Maxwell Locke and Ritter is

issuing a clean and unmodified opinion, which is the highest level of assurance that can be provided as an external auditor. The statement of net position and governmental fund balance sheet (Page 11 of Audit Report) shows that at the end of 2019 the general fund had an unassigned fund balance of \$19.7 million used for general operations. Debt service fund which is set aside for future principal and payments totaled \$17.7 million, capital projects which is set aside for capital outlay equaled \$25.8 million, and the impact fee fund which is reserved for specific capital outlay totaled \$44.1 million at the end of the fiscal year. As a reminder, there is an adjustments column for reporting purposes to show financials similar to how a for-profit entity would show the information, to show a statement of net position. Next noted was the statement of activities and governmental funds revenues, expenditures and changes in fund balances (Page 12 of the Audit Report). At the end of 2019, the General Fund showed an increase of \$6.7 million, the debt service account an increase of \$464,000, the capital projects fund an increase of \$5.4 million, and the impact fee fund an increase of \$4.8 million. The general fund budget to actual information (Page 13 of the Audit Report) shows an overall \$2.9 million positive variance. The notes to the financial statement (beginning Page 14 of the Audit Report) are fairly consistent with what was contained in prior years as there are no new accounting standards applied. Mr. Romell stated that the auditors do review compliance with the Public Funds Investment Act, and there are no noted instances of noncompliance. In the capital assets footnote (Page 24 of the Audit Report), the PUA had \$126.8 million of capital assets. The long-term debt footnote (Page 25 of the Audit Report) was next addressed, and Mr. Rommel recalled that in fiscal year 2019 bonds were issued to make the final LCRA debt payment, and that the debt was retired. At end of the fiscal year, there was a remaining debt principal of \$207.1 million on outstanding bonds, and \$3.9 in principal payments and \$8.7 million of interest payments were due in the next fiscal year. Next Mr. Romell referenced required information that is included relating to participation in TCDRS (Page 35 of the Audit Report). These schedules will eventually show 10 years of data, but based on participation there is only a few years of data and these will build going forward. He next referenced supplemental schedules regarding services, rates, investment, long-term debt, and major PUA customers. Next, Mr. Romell detailed the governance letter, stating that there were no new accounting standards implemented during the year, no difficulties during the audit, and no significant audit adjustments. He thanked PUA staff for assistance through the audit. He stated as a part of the audit, the auditors did review the internal controls and key processes of PUA and noted that there were no material weaknesses identified.

Director Walden asked that Mr. Romell's comment be included verbatim in the minutes to ensure that the public is aware of the summary of the PUA's current condition.

MOTION: A motion was made by Director Goodwin to approve the FY 2019 Audit prepared by Maxwell, Locke and Ritter, LLP. The motion was seconded by Director Smith.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

- B. Discuss, consider and take action on update to Employee Personnel Policies, including:**
- 1. Emergency Leave Policy;**
 - 2. Telecommuting Policy.**

Ms. Smith presented on this item, provided as **Exhibit I**. She stated that in the packet is a marked up version of the Personnel Manual, and flagged that most of the changes are minor.

Director Walden stated that he would like to postpone this item to allow Board members additional opportunity to study the proposed changes. Director Goodwin concurred with Director Walden.

Director Bethke stated that he had no questions. Director Smith stated that he had reviewed the changes and had some questions and would prefer a delay to ask these questions of staff.

Ms. Smith asked for the Emergency Leave Policy and Telecommuting Policy to be reviewed, provided as **Exhibit J**. Ms. Smith stated that these two policies are time-sensitive items that relate to the current COVID-19 pandemic and recent legislation relating to paid leave. She provided an overview, stating that the emergency leave policy is a recap of what the federal legislation in place regarding payment of sick leave in certain cases such as sick and care for family members. Director Roberts asked Ms. Albright if the federal government actions superseded the policy, to which Ms. Albright stated that the PUA does have to be compliant with federal laws, and that there is anticipated guidance regarding emergency leave. She stated that employment lawyers had reviewed and recommended the policy, but that it would also address situations in the future.

Director Roberts asked if, because the issue is timely, that the Board could instruct staff to follow current law regarding leave during the COVID-19 pandemic, and then at a later time address the policy in general. Director Smith stated that staff and the Board needs to be cognizant of the changes that will likely come with additional changes in the statutes and in guidance. Ms. Albright stated that her firm is staying on top of these changes and will be advising staff of any changes. The Board instructed staff to comply with federal law as it's amended regarding emergency leave.

Ms. Smith next presented the Telecommuting Policy, provided as **Exhibit K**. She stated that currently, telecommuting requirements have been put in place to allow staff to work remotely during the current pandemic, but the PUA has no official policy. She stated all administrative staff are working remotely, and operations staff are split into two groups to minimize contact among staff, although all are on call if needed. She stated that the draft policy provides guidance in emergencies where telecommuting may be advisable as deemed by the General Manager, and provide guidance regarding payment for telecommuting work.

Director Walden stated that the emergency determinations in the policy are made by the General Manager, and he thinks the policy should include notification or involvement of the Board.

Director Goodwin stated that he would like to add a clause in the first sentence "in consultation with the Board president" to ensure that telecommuting decisions are being made in consultation

with a Board member with a decision this significant. He stated that the current telecommunication changes were made after the General Manger consulted with the Board President.

Director Bethke stated that he is supportive of the policies and statements and the role the PUA has taken in encouraging social distancing.

MOTION: A motion was made by Director Roberts to approve the telecommuting policy with the addition of a clause in the first sentence “in consultation with the Board president” to ensure that telecommuting decisions are being made in consultation with a Board member with a decision this significant. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

Additional proposed personnel policy changes will be included on the agenda for the next Board meeting.

C. Discuss, consider and take action on Notice of Default from Masonwood HP, Ltd. regarding Agreement for Nonstandard Service for the Provence Subdivision (Phase 1).

This item was discussed in executive session.

D. Discuss, consider and take action on a request for transfer of mitigation bank credits from the LCRA.

Director Walden presented on this item. He stated that the LCRA has reserved land for mitigation relating to water, wastewater, and electrical projects that are deemed to disturb endangered species habitat. The PUA had to purchase mitigation credits for the Raw Waterline No. 2 project due to the critical nature of this project. He stated that he recommends the PUA request that the LCRA provide mitigation credits to the PUA to enable the purchased mitigation credits to be resold.

Director Roberts recommended a subcommittee of Directors Walden and Goodwin to spearhead the efforts. The Board had no objections to moving forward with this request.

E. Discuss, consider and take action on options related to early retirement or refinancing of \$19,730,000 Series 2015 outstanding bonds.

Ms. Smith presented on this item, provided as **Exhibit L**, stating that the Series 2015 are eligible for early retirement, and wanted to bring this item before the Board for discussion.

Ms. Smith introduced Garry Kimball with Specialized Public Finance to provide comments on this item. Mr. Kimball stated that when the bonds were issued in 2015, a call option was included for 2020 that could have savings. He stated right now the market has locked up, but he anticipates the market will come back and this possibility may be available. He would like the Board to provide some guidance as to whether the Board would like to proceed with refinancing, or pay off the bonds that are callable in August. He stated that no action is needed at this time, but the call date is August 2020 and he wanted to make the Board aware of the options well ahead of the date that a decision would need to be made.

Mr. Kimball asked for direction from the Board on whether to move forward with a bond refinancing, or use existing funds to pay off the bonds when they reach the call date.

Director Roberts asked what the last date is that the Board could give direction, to which Mr. Kimball stated that the refinancing window opens May 21 (90 days ahead of the call date), and that there is no “last date” to make the decision.

Director Walden stated that given current conditions the Board should keep both options open and make a decision in June. Director Smith stated that his questions about financial stability were addressed in the audit presentation, and although he was in favor of paying off the bonds, he thinks the PUA needs to be aware of the impacts to the Agency and that cash on hand may be more beneficial.

Director Roberts asked if the “shelter in place” lasted 60 days, how long would it be anticipated that the market will take to recover. Mr. Kimball stated that there is no way to predict this as the situation now is unprecedented and it is too soon to tell.

After consultation with staff, the Director Roberts asked that this item be included on the next regular meeting agenda.

F. Discuss, consider and take action regarding a proposal from Murfee Engineering Company, Inc. for engineering services for the Southwest Parkway Pump Station Ground Storage Tank No. 2 CIP Project, \$145,480

Mr. Lozano presented this item, provided as **Exhibit M**, which addresses Items VI.F and VI.I. He stated that originally Murfee Engineering was engaged to build a second storage tank at the Southwest Parkway Pump Station (SWPPS) to expand capacity and buffer summer demands at the pump stations. The current issue with the SWPPS is that the current storage tank has structural issues that were identified after the project began. Mr. Lozano confirmed that it was previously anticipated that this project would need a budget amendment. He confirmed that the PUA is continuing with this project as a critical infrastructure project during the current pandemic emergency.

MOTION: A motion was made by Director Goodwin to approve the proposal from Murfee Engineering Company, Inc. for engineering services in the amount of \$145,480 for the Southwest Parkway Pump Station Ground Storage Tank No. 2 CIP Project. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

G. Discuss, consider and take action regarding a proposal from Murfee Engineering Company, Inc. for engineering services for the West Bee Cave 1280 Pump Station Expansion CIP Project, \$82,200

Mr. Lozano presented on this item, provided as Exhibit N.

Director Walden asked how time-sensitive the item is, to which Mr. Lozano stated that there is some schedule flexibility, but he recommended not pushing the timeline too far.

MOTION: A motion was made by Director Goodwin to approve the proposal from Murfee Engineering Company, Inc. for engineering services in the amount of \$82,200 for the West Bee Cave 1280 Pump Station Expansion CIP Project. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

H. Discuss, consider and take action regarding a proposal from Murfee Engineering Company, Inc. for engineering services for the County Line 1420 Pump Station Expansion CIP Project, \$92,090

Mr. Lozano presented on this item, provided as Exhibit O. He stated that this is in the 290 System and expands the pump station that pushes water to the 1420 Elevated Storage Tank.

MOTION: A motion was made by Director Goodwin to approve the proposal from Murfee Engineering Company, Inc. for engineering services in the amount of \$92,090 for the County Line 1420 Pump Station Expansion CIP Project. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

I. Discuss, consider and take action regarding a request for budget amendment for the Southwest Parkway Pump Station Expansion CIP Project, \$80,020

This item was considered in conjunction with item VI.F.

MOTION: A motion was made by Director Goodwin to approve a request for budget amendment for the Southwest Parkway Pump Station Expansion CIP Project in the amount of \$80,020. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Director Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

J. Discuss, consider and take action regarding suspension of customer disconnects and late fees during the COVID-19 pandemic emergency.

Ms. Smith presented this item, stating that the General Manager's recommendation is that the PUA suspend customer disconnects and late fees for a period of 2 months, and then reconsider with the Board at that time. She stated that there was no significant financial impact evident from this decision at this time.

Director Walden asked what the current timelines for disconnects are. Dianne Rendon stated that the timeline for disconnects is approximately 20 days after the due date, according to the Tariff.

Director Goodwin asked if part of the justification was to limit exposure of cutoff crews. Ms. Smith stated that there is also a significant financial impact to customers during the pandemic emergency.

MOTION: A motion was made by Director Goodwin to approve a suspension of 60 days commencing March 26, 2020, on customer disconnects and late fees during the COVID-19 pandemic emergency. After the 60 days, the Board would re-address. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke

Voting Nay: None
Abstained: None
Absent: None

VII. STAFF REPORTS

A. General Manager's Report

Ms. Smith provided this report, provided as **Exhibit P**.

Director Walden stated that he would like additional information on the background of the new operations manager.

B. Controller's Report, including: 1. Portfolio Status Review.

Ms. Smith presented on this item, provided as **Exhibit Q**. She stated that typically this item would be provided every 6 months, but due to the market volatility she had included this item on the current agenda. She introduced Adnan Verani with Sterling Capital to provide an update on this item.

Mr. Verani provided an overview of the COVID-19 pandemic, and the financial measures taken by the federal government to stabilize the market. He stated that the PUA's portfolio has been maintained at a high credit rating of AA1. He stated that there are liquidity options in the future if funds are needed. He also identified the Treasury curve, which has compressed downward, and stated that Sterling Capital is positioning the portfolio to get positive yields.

Director Roberts asked whether the Federal Reserve is lending directly to small businesses, to which Mr. Verani stated that there are intermediary banks to participate in the program to lend to small businesses.

In response to a question from Ms. Smith, Mr. Verani stated that few portfolio changes had been made as maturities will come in April or May and Sterling Capital will look for opportunities to keep the portfolio high quality.

Ms. Smith stated that the PUA's banking representative is also available for any questions, and that all the PUA's funds are fully collateralized. The representative with Truist introduced herself and stated that BB&T and Suntrust had merged to form Truist.

Director Smith stated that he has been working with the legislative delegation on the COVID-19 assistance package that was approved the night before the meeting, and that it is unknown how some of the funds will be released. He stated he would provide the Board with information once available.

Ms. Smith next presented the Controller's report, provided as **Exhibit R**.

**C. Engineer's Report including:
1. Capital Improvements Plan Update.**

Mr. Lozano presented this item, provided as Exhibit S.

Director Goodwin asked about the CP&Y report, provided as Exhibit T.

D. Operations Report

This report was provided as Exhibit U.

Director Walden asked if all operators were healthy and following safe practices. Mr. Jeffrey stated that at this time all are healthy and confirmed that safe practices are being followed.

Director Walden asked for the results of the soil samples at the golf course be sent.

MOTION: A motion was made by Director Walden to delegate authority to General Manager, or Controller if the General Manager is not available, to sign any documents approved by the Board of Directors. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Director Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

VIII. ADJOURNMENT


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

The vote was taken with the following result:

Voting Aye: Directors Roberts, Walden, Smith, Goodwin, and Bethke
Voting Nay: None
Abstained: None
Absent: None

The meeting adjourned at 12:36 p.m.

PASSED AND APPROVED this 21st day of May, 2020.

Approved 5/21/20 

Scott Roberts, President
Board of Directors

ATTEST:

Walt Smith, Secretary/Treasurer
Board of Directors