

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

September 17, 2020

The September 17, 2020 Board of Directors meeting was held with limited attendance and via videoconference and conference call in accordance with the Governor's March 16, 2020 proclamation, as extended, suspending certain open meetings statutes in response to the current COVID-19 pandemic and statewide disaster declaration. The public was provided a toll-free number and free videoconference link to participate in the meeting.

Present:

Scott Roberts, President
Walt Smith, Secretary
Jason Bethke, Director
Jack Creveling, Director
Clint Garza, Director

Staff and Consultants:

Jennifer Riechers, Agency General Manager
Jennifer Smith, Agency Controller
Eric Morgan, Agency Operations Manager
Reuben Ramirez, Agency Engineer Technician
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 1:00 pm.

II. ESTABLISH QUORUM

A quorum was established with the above-referenced Directors present.

III. PUBLIC COMMENT

No public comments on non-agenda items were presented.

IV. CONSENT AGENDA

A. Approve minutes of August 20, 2020 regular Board Meeting.

- B. Approve payment of invoices.**
- C. Approve Contractor Pay Requests including:**
 - 1. Cash Construction Company, Inc., Pay Application No. 10, \$95,049.00, Raw Water Line No. 2 CIP Project**
 - 2. DN Tanks, Pay Application No. 1, \$131,549.07, Southwest Parkway GST 1**
- D. Approve Utility Conveyance Agreements to convey facilities to WTCPUA from the following:**
 - 1. Bee Cave Self Storage**
- E. Consider Service Availability Letter (SAL) for:**
 - 1. Cueva 71, 185 Water and 160 Wastewater LUEs, Hwy. 71 System as amended to include irrigation.**
- F. Consider Non-Standard Service Agreements (NSSA) for:**
 - 1. Cueva 71, 185 Water and 160 Wastewater LUEs, Hwy. 71 System as amended to include irrigation.**
- G. Approve annual review of the Investment Policy.**
- H. Approve edits to the Memorandum of Understanding with City of Bee Cave for Condemnation Authority.**
- I. Approve total reimbursable costs for Highpointe Phase 1, Section 3B in the amount of \$210,991 plus interest as determined by the Agreed Upon Procedures Report of Reimbursable Costs prepared by Maxwell, Locke & Ritter.**
- J. Approve Consent to Assignment for Sawyer Ranch Lot 1 from 290 Sawyer Ranch DS, LLC to Falconhead Offices, LLC**
- K. Approve Reclaimed Water Use Agreement between the WTCPUA and CCNG Golf, LLC.**

Director Creveling stated that Item IV.K would be pulled from consideration at this meeting.

MOTION: A motion was made by Director Roberts to approve the Consent Agenda items A-F, provided as Exhibits A-J. The motion was seconded by Director Smith.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

V. OLD BUSINESS

At 2:06 p.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 B and Item VI. F.

At 4:20 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 litigation, settlement offers, and agreement for settlement of litigation, relating to the following:

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.*
4. *Masonwood HP, Ltd v. West Travis County Public Utility Agency, in the 345th Judicial District Court, Travis County, Texas; Cause No. D-1-GN-20-002238.*
5. *Weekley Homes LLP v. West Travis County Public Utility Agency, in the 200th Judicial District Court, Travis County, Texas; Cause No. D-1-GN-20-002291.*

This item was discussed in executive session.

The Board provided direction to authorize a committee of Director Creveling and Director Garza to explore settlement options relating to pending litigation and bring a proposal back to the Board.

B. Discuss, consider and take action on SER request from Masonwood Development for Provence, Phase 2 on Hamilton Pool Road, 1,137 Water LUEs.

This item was discussed in executive session.

Director Roberts stated that the Board would next consider this item and take comments from the public.

Jim Koerner addressed the Board as a ratepayer and on behalf of Hamilton Pool Road Matters ("HPRM"). He asked that the Board not delay, but deny this SER request. He stated that the developer continues to violate the existing contract, and asked why would the Board grant the developer additional capacity. He stated that the developer's attorney did not contest that the Halff report was incorrect, but rather challenged whether the requirements should be in the contract. He asked that the ratepayers not be left holding the bat on this issue, and that the PUA Board denied this request in the past. Now there is more information that this developer is violating existing requirements. Mr. Koerner asked that the Board not delay, but deny the request.

Israel Zuela next addressed the Board as a ratepayer in Rocky Creek. He echoed the sentiments of Mr. Koerner and stated that Rocky Creek is an example of how a developer stuck to the requirements in a development. He stated that he is concerned that the other ratepayers would be stuck with the bill regarding water impacts, and was concerned that the increased traffic would be problematic. He stated that he is not against development, but wants development to be built in the right way and is strongly opposed to what this developer is doing.

Gene Lowenthal next addressed the Board as a member of HPRM. He stated that he had provided information regarding the development, provided as Exhibit K. HPRM request that the PUA notify Travis County that Provence is not in compliance with the required provisions in the contract, and does not conform with water quality measures. He also asked that the PUA ask the TCEQ to investigate this development, as TCEQ approval is a condition of approval and that any material changes to the plans must be resubmitted to TCEQ. Mr. Lowenthal stated that the ratepayers have raised this issue and are requesting action, and it is expected that the developers play by the rules and that these rules be enforced. He asked that the Board not magnify the problem.

Peter Golde next addressed the Board as a ratepayer and member of HPRM. He stated that he wanted to restate his comments from last month. He stated that HPRM had claimed for years that the PUA does not have the capacity to serve the Provence Subdivision, and asked that the PUA serve based on planned commitments. The PUA should be allocating and prioritizing blocks of LUEs as follows: (1) commitments to existing wholesale and retail customers including the expected take down of LUEs already reserved; (2) projected future demand of development customers within the PUA's CCN, where it's obligated to serve; (3) the projected realization of LCRA legacy commitments; and (4) others only after its ensured the above demands have been met. He asked that the PUA not be put in the same situation as other utilities that have committed more capacity than is available. Mr. Golde stated that Provence is outside the PUA's CCN, and should not be high on the priority list. Further, granting service could cause difficulty in responding to existing customer needs.

Director Garza stated that a statement was made regarding the comments made in the Halff report and asked staff if the developer had responded to this report. Ms. Riechers stated that there had been a response, but the engineers had not discussed the matter.

VI. NEW BUSINESS

A. Discuss, consider and take action on proposal from Headwaters MUD for amendment to wholesale water contract.

Ms. Riechers stated that Jesse Malone presented on this item at the last meeting. Mr. Malone addressed the Board on behalf of Headwaters MUD and stated that this would explore the opportunity to expand the reclaimed system within Headwaters MUD. He thinks that there would be benefits to both the PUA and the MUD.

Ms. Riechers stated that she did not have concerns discussing the proposal and that this would necessitate a formal proposal be brought back to the Board.

The Board directed Ms. Riechers to proceed with discussions with Headwaters MUD.

B. Discuss, consider and take action on reinstatement of late fees and disconnects.

Ms. Riechers stated this item had been deferred from August, and stated that because bills would continue to increase, recommended reinstating late fees and disconnects. Director Smith stated that he shared concerns about increasing bills and was in favor of reinstating disconnects and late fees. Director Bethke stated that he would like to see payment plans be allowed for outstanding balances, to which Ms. Riechers confirmed that payment plans are available if requested by the customer. In response to a question from Director Roberts, Ms. Riechers stated that late fees amount to approximately \$12,000 per month. Discussion ensued regarding late fees and pending balances. Ms. Smith confirmed that approximately 10% of customers have late fees each month, but delinquent balances are increasing since March. Director Creveling asked what is customary with regards to disconnects, to which Ms. Riechers stated they are done on a monthly basis unless a payment plan is in place.

MOTION: A motion was made by Director Roberts to approve the reinstatement of late fees and disconnects. The motion was seconded by Director Smith.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

C. Discuss, consider and take action on Pretreatment Surcharge program.

Ms. Riechers stated that the PUA is losing an approximate average of \$12,500.00 a month from the suspension of assessment of pretreatment surcharges. She stated that a flat charge for failures may be an option at this point that would be less difficult for restaurants who are not yet at full capacity to pay. Ms. Riechers confirmed that the PUA has not been testing since March, so it is not clear if restaurants operating at a lower capacity would impact pretreatment levels. Ms.

Riechers confirmed that all pretreatment customers would have this flat fee charged, and recommended testing to confirm. Discussion ensued regarding the assessment of pretreatment surcharges and the costs of testing.

Ms. Riechers confirmed that testing is done quarterly.

MOTION: A motion was made by Director Bethke to approve a fee equal to the cost of administering the pretreatment testing, plus \$100, if there is a test failure. The motion was seconded by Director Garza.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

Director Garza stated that there is a possibility of a low evidence of failure and the cost of the program won't be covered if there are not a lot of failures.

Ms. Riechers stated that the PUA could start testing in October and see what the levels are to determine whether it's advisable to continue the program.

Director Smith asked that something be put on the agenda next month to discuss.

D. Discuss, consider and take action on FY 2021 budget.

MOTION: A motion was made by Director Roberts to approve the FY 2021 budget, provided as Exhibit L. The motion was seconded by Director Creveling.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

E. Discuss, consider and take action on award of bid for Lift Station #9 Rehab project.

Mr. Lozano addressed this item, provided as Exhibit M.

MOTION: A motion was made by Director Roberts to approve the award of bid for Lift Station #9 rehab project to Austin Engineering Co., Inc. The motion was seconded by Director Creveling.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

F. Discuss, consider and take action on Letter of Intent from Lakeway MUD related to TC MUD 12 wholesale contract.

Earl Foster with Lakeway MUD addressed the Board on this item, provided as **Exhibit N**. Mr. Foster started that the Letter of Intent is to reinstate conversations regarding the potential for Lakeway MUD to provide service TCMUD 12. Ms. Riechers stated that staff needs direction

Ms. Albright confirmed that any agreement would need to be with TCMUD 12 as the PUA's wholesale customer.

The Board directed that Ms. Riechers move forward with discussions on this issue with Mr. Foster and bring a report back to the Board.

G. Discuss, consider and take action on a request from Murfee Engineering Company to amend the budget for the Sawyer Ranch 1340 Conversion Water Line CIP Project.

Mr. Lozano presented this item, provided as **Exhibit O**.

MOTION: A motion was made by Director Roberts to approve a proposal from Murfee Engineering Company to amend the budget for the Sawyer Ranch 1340 Conversion Water Line CIP Project, provided as **Exhibit O**. The motion was seconded by Director Creveling.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

H. Discuss, consider and take action on a request from Murfee Engineering Company to amend the budget for the Bohls WWTP Expansion CIP Project.

Mr. Lozano presented this item, provided as **Exhibit P**. He stated that this is an extension of the discussion regarding the solids management program that occurred in August. Mr. Lozano stated that this item had been discussed with Director Bethke and he would next reach out to Lake Pointe. He stated this item relates to Phase 2 of this project, which includes incorporation of this project into the PUA's wastewater permit.

Director Roberts asked how large the line would be to deliver sludge to the Bohls WWTP, to which Mr. Lozano said a 6 inch force main. Director Roberts asked whether all of the wastewater could be transported to Bohls. Mr. Lozano stated that this could be possible, and that doing so would speed up the phasing of the Bohls WWTP. In response to a question from Director Roberts, Mr. Lozano stated that there is the potential for more customers being added to Lake Pointe. Director Roberts confirmed the history of the Lake Pointe WWTP as a residential plant that was purchased from LCRA then converted to a regional facility. Mr. Lozano confirmed that either a dual installation or single over-sized force main would likely take the same amount of time. Director Roberts stated that the land where the plant is in Lake Pointe was planned for a residential wastewater treatment plant, and if there is a possibility to take the plant offline, then the PUA should look into the issue. Director Garza stated that if the project was already in process, then he is in favor of pursuing decommissioning the Lake Pointe WWTP. Mr. Lozano stated that this idea has come up over time, and the Lake Pointe community through their representatives at the time requested that the decommissioning be considered.

MOTION: A motion was made by Director Roberts to approve the proposal provided as **Exhibit P** to proceed with the dewatering facilities, and to look into the possibility of expanding this project to include decommissioning the Lake Pointe WWTP, and to bring a proposal on this expanded scope back to the Board. The motion was seconded by Director Garza.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

Director Roberts confirmed that the dewatering would be the same whether or not sludge or wastewater is sent to the Bohls WWTP. In response to a question from Director Creveling, Mr. Lozano stated that Murfee Engineering would have to study whether the current size of Bohls WWTP could handle the full Lake Pointe WWTP flows.

Director Bethke also asked that Mr. Lozano consider the operating costs if the Lake Pointe plant was decommissioned.

I. Discuss, consider and take action on a proposal from Murfee Engineering Company to provide engineering services for the Uplands Water Treatment Plant Expansion CIP Project.

Mr. Lozano presented this item to the Board, provided as **Exhibit Q**. He stated that this is a long-lead item that is a part of the PUA's CIP and this proposal begins the process to expand the water treatment plant.

Discussion regarding treatment plant capacity and Ms. Albright confirmed that no denials of service have been made based on water treatment plant capacity.

Director Bethke asked what the scope of the project is before approving a large engineering fee, and that more information needs to be provided regarding what is possible for the site.

MOTION: A motion was made by Director Bethke to approve a proposal of \$80,000 from Murfee Engineering Company to provide preliminary engineering services for the Uplands Water Treatment Plant Expansion CIP Project, provided as **Exhibit Q**. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling and Garza
Voting Nay: None
Abstained: None
Absent: None

In response to a question from Director Garza, Director Lozano confirmed that this proposal is sufficient to review the site and potential for membrane treatment.

VII. STAFF REPORTS

A. General Manager's Report.

Ms. Riechers presented this item, provide as **Exhibit R**.

B. Controller's Report.

Ms. Smith provided this item, provided as **Exhibit S**.

C. Operations Report.

This item was provided as **Exhibit T**.

D. Engineer's Report including:

- 1. Capital Improvements Plan Update**
- 2. Uplands WTP Solids Management Master Plan**

Mr. Lozano presented this report, provided as **Exhibit U**. He detailed the recent raw waterline damage that was sustained by a communications subcontractor. He said that the PUA was able to continuously provide water during the event and make the repair.

In response to a question from Director Creveling, Mr. Lozano stated that the contractor would be billed for the cost of the repairs. Discussion ensued regarding the details of the event, and Mr. Lozano stated that the overall loss was estimated at 5.5 million gallons.

Mr. Lozano stated that the new raw waterline was placed in service during this event. He stated that the break could not be completely isolated even though the new line was delivering the bulk of the water. Mr. Lozano stated that he is working with Mr. Morgan to bring back a proposal to replace the valves.

Director Roberts stated how appreciative he is by the staff and consultants to address this break and continue to provide service.

Mr. Lozano stated the analysis in Item B has been completed.

VIII. ADJOURNMENT

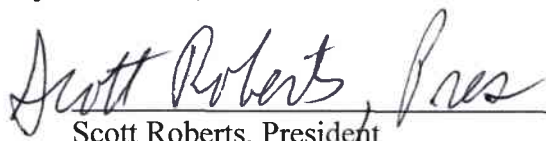
MOTION: A motion was made by Director Creveling to adjourn the meeting. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Smith, Bethke, Creveling, and Garza
Voting Nay: None
Abstained: None
Absent: None

The meeting adjourned at 4:32 p.m.

PASSED AND APPROVED this 22nd day of October, 2020.


Scott Roberts, President
Board of Directors