

MINUTES OF THE
TEXAS WATER DEVELOPMENT BOARD
BOARD MEETING
March 1, 2012

Chairman Edward G. Vaughan called to order the regular meeting of the Texas Water Development Board at 9:01 a.m. in Room 170 of the Stephen F. Austin Building, Austin, Texas. The following Board Members were present:

Joe M. Crutcher, Vice-Chairman
Thomas Weir Labatt III
Lewis H. McMahan
Monte Cluck

Board member Billy Bradford, Jr. did not attend.

Members of Texas Water Development Board staff attending included: Stacy Barna, Jim Bateman, Joyce Bourenane, Kelly Burton, Melanie Callahan, Katherine Calnan, David Carter, Wendy Foster, Larry French, Lisa Glenn, Rene Gonzales, Mark Hall, Dan Hardin, Ruben Hernandez, Sanjeev Kalaswad, Merry Klonower, Dain Larson, Darryl Lindgens, Mireya Loewe, Ryan Long, Robert Mace, David Meeseey, Dave Mitamura, Darrell Nichols, Brenda O'Neill, Ken Petersen, Lisa Petoskey, Samantha Pollard, Debbie Ramirez, Joe Reynolds, Cindy Ridgeway, Steve Rodriguez, John Steib, Augustine Tambe, Comer Tuck, Jeff Walker, Mark Wentzel, and David Yaeger.

The following individuals were present:

Melissa Ackley
Chuck Bailey
Emmet Baker, Jr.
Tina Beck, Legislative Budget Board
Helen Bowie
Steve Box
Alex Brown
Rick Brown
Trish Carls, Hays Caldwell Public Utility Authority
Jane Cohen
Will Conley
Heather Correia
Chris Clary
David Davenport, Canyon Regional Water Authority
Bill Davis
Ashley Dzuik
Ellen Evans
Ron Fieseler, GMA 9
Michele Gangnes
David Glenn
Tressy Gumbert
Jim Hannah, City of Bandera
Malcolm Harris
Larry Hoffman
Kirk Holland, Barton Springs/Edwards Aquifer Conservation District
Jack Holland, Wimberley Valley Watershed Association
Brian Hysinger

Burgess Jackson
Dick Kallerman
Steve Ballman
Van Kelly
Mark Key
Kelly Rose Kilber, Jr.
Dorothy Knight
Stacey Kounelias, Sen. Jeff Wentworth's office
Linda Lang
Henry Lykken
Susan Marx
Jim Mathews
David Mauk
Lila McCall
Alice Jean McMeans
Jim McMeans
Daniel Meyer
Kim Miller
Tim Morgan
Mike Morrison
Christy Muse, Hill Country Alliance
Katie Ogden, Chief of Staff, Sen. Jeff Wentworth
Ed Pope
Winton Porterfield
Keith Richard
Barbara Attwell Ritter
Susan Roberts
Samia Rogers
Louis Rosenberg, Canyon Regional Water Authority
Susan Roth
Mrs. Lindsay Sansom
Stephan Schuster
Greg Sengelmann, GMA 13
Jimmy Skipton III, Hays Trinity GCD
James K. Skipton IV
Patrice Sullivan
Tom Taggart
Larisa Tate
Steve Thurber, Mayor Pro Tem, City of Wimberley
Jeff Vascaarp
Todd Votteler
Dianne Wassenick
Allen Woelke
Ronald Woodruff, Brazosport Water Authority

1. CONSIDER APPROVAL OF THE FEBRUARY 2012 BOARD MEETING MINUTES.

Mr. Crutcher moved to approve the minutes; the motion was seconded by Mr. Labatt; it passed unanimously.

2. PRESENTATION OF THE 2011 ANNUAL TEXAS RAIN CATCHER AWARDS. Sanjeev Kalaswad, Geologist, Water Science and Conservation, presented the awards as follows:

Native American Seed and Hacienda Maria: Jan and Bill Neiman (owners); Weston Neiman (son,

and designer of the projects); Emily Neiman and Ms. George Cates;

Hays CISD: Dick Schneider (President of the Buda Chamber of Commerce and project sponsor); Terry Capps (Buda Area Chamber of Commerce); R.C. Herrin (Executive Director of Operations, Hays CISD); Dr. Ellen Lyon (STEM Program, Hays CISD), Dr. Jeremy Lyon (Superintendent Hays CISD);

Stroman Middle School: Marie Lester (Environmental Services Coordinator, City of Victoria, and project sponsor); Holly McCutcheon (Teacher, Stroman Middle School who initiated the project); Darry Lesak (City of Victoria); Kate Garcia (City of Victoria); Mr. Edwards; and 10 BEAST students.

Denton County [Could not be present].

REPORTS

3. CONTRACT STATUS REPORT REGARDING THE STATUS OF PENDING CONTRACTS THAT ARE UNDER DEVELOPMENT AND EXECUTED CONTRACTS THAT HAVE BEEN PREVIOUSLY APPROVED BY THE BOARD. (David Carter)
4. FINANCIAL ASSISTANCE PROGRAMS PERFORMANCE REPORT REGARDING LOAN AND GRANT COMMITMENT ACTIVITY. (Jeff Walker)
5. REPORT ON ACTIVITIES RELATING TO THE ECONOMICALLY DISTRESSED AREAS PROGRAM, INCLUDING THE EDAP STATUS REPORT. (Mireya Loewe)

CONSENT

6. CONSIDER: (A) AUTHORIZING BY RESOLUTION THE ISSUANCE, SALE AND DELIVERY OF STATE OF TEXAS, WATER FINANCIAL ASSISTANCE BONDS, SERIES 2012C (DEVELOPMENT FUND PROGRAM) IN ONE OR MORE SERIES IN A PRINCIPAL AMOUNT NOT TO EXCEED \$180,000,000; (B) APPROVING AND DEEMING FINAL A PRELIMINARY OFFICIAL STATEMENT TO BE USED IN THE MARKETING OF THE BONDS; AND (C) APPROVING AND AUTHORIZING THE EXECUTIVE ADMINISTRATOR AND THE DEVELOPMENT FUND MANAGER TO ACT ON BEHALF OF THE TEXAS WATER DEVELOPMENT BOARD IN THE SALE AND DELIVERY OF SUCH BONDS. FINANCE COMMITTEE ITEM NO. 3. (Monica Galuski)
7. CONSIDER APPROVING BY RESOLUTION, A REQUEST FROM THE **TOWN OF ANTHONY (EL PASO COUNTY)** FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF \$2,540,000 CONSISTING OF: (A) A LOAN IN THE AMOUNT OF \$762,000; AND (B) \$1,778,000 IN LOAN FORGIVENESS, FROM THE DRINKING WATER STATE REVOLVING FUND-DISADVANTAGED COMMUNITY TO FINANCE WATER SYSTEM IMPROVEMENTS UTILIZING THE PRE-DESIGN COMMITMENT OPTION. FINANCE COMMITTEE ITEM NO. 4. (Dain Larsen)
8. CONSIDER APPROVING BY RESOLUTION, A REQUEST FROM THE **CENTRAL TEXAS WATER SUPPLY CORPORATION (BELL, BURNET, CORYELL, FALLS, MILAM, AND**

WILLIAMSON COUNTIES) FOR LOANS IN THE AMOUNT OF \$7,845,000 FROM THE RURAL WATER ASSISTANCE FUND AND THE TEXAS WATER DEVELOPMENT FUND TO PROVIDE WATER SYSTEM IMPROVEMENTS AND REFINANCING OF EXISTING DEBT. (Jessica Zuba)

9. CONSIDER APPROVING BY RESOLUTION: (A) A REQUEST FROM **GREATER TEXOMA UTILITY AUTHORITY (COLLIN COUNTY)** TO REVISE THE SCOPE OF THE PROJECT APPROVED IN TWDB RESOLUTION NO. 08-132 TO ALSO INCLUDE WATER DISTRIBUTION SYSTEM IMPROVEMENTS AND REHABILITATION OF A STORAGE TANK, AND TO AMEND ITS BOND ORDER TO ALLOW THE BOND PROCEEDS TO BE USED FOR THE REVISED SCOPE OF THE PROJECT; (B) AN AMENDMENT OF TWDB RESOLUTION NO. 08-132 TO INCLUDE A CONDITION REGARDING THE USE OF SURPLUS FUNDS, AND AN AMENDMENT OF THE GREATER TEXOMA UTILITY AUTHORITY'S BOND ORDER TO INCLUDE THE PROVISION REGARDING THE USE OF SURPLUS FUNDS; AND (C) AUTHORIZING THE EXECUTIVE ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO EFFECT THE PROVISIONS OF THE BOARD'S RESOLUTION. (Darrell Nichols /Jim Bateman)
10. CONSIDER APPROVING BY RESOLUTION, A REQUEST BY THE **AGUA SPECIAL UTILITY DISTRICT (HIDALGO COUNTY)** TO AMEND THE APPLICATION FOR FINANCIAL ASSISTANCE IDENTIFIED IN TWDB RESOLUTION NO. 08-97 AND AMENDED BY TWDB RESOLUTION NO. 09-58 TO INCLUDE ADDITIONAL WATER RELATED IMPROVEMENTS. (Mireya Loewe)
11. CONSIDER AFFIRMING BY RESOLUTION, THE COMMITMENT TO THE **GREATER TEXOMA UTILITY AUTHORITY (DENTON COUNTY)** MADE IN TWDB RESOLUTION NO. 11-93 AFTER ENVIRONMENTAL REVIEW, AND APPROVING RELEASE OF FUNDS FOR DESIGN AND CONSTRUCTION FROM THE \$2,825,000 CLEAN WATER STATE REVOLVING FUND LOAN FOR WASTEWATER SYSTEM IMPROVEMENTS. (Clay Schultz)
12. CONSIDER AFFIRMING BY RESOLUTION, THE COMMITMENT TO THE **CITY OF KELLER (TARRANT COUNTY)** MADE IN TWDB RESOLUTION NO. 11-54 AFTER ENVIRONMENTAL REVIEW, AND APPROVING RELEASE OF FUNDS FOR CONSTRUCTION FROM THE \$5,835,000 CLEAN WATER STATE REVOLVING FUND LOAN FOR WASTEWATER SYSTEM IMPROVEMENTS. (Clay Schultz)
13. CONSIDER AFFIRMING BY RESOLUTION, THE COMMITMENT TO THE **CITY OF COMMERCE (HUNT COUNTY)** MADE IN TWDB RESOLUTION NO. 08-139 AFTER ENVIRONMENTAL REVIEW, AND APPROVING RELEASE OF FUNDS FOR DESIGN AND CONSTRUCTION FROM THE \$2,740,000 DRINKING WATER STATE REVOLVING FUND LOAN FOR WATER SYSTEM IMPROVEMENTS. (Clay Schultz)
14. CONSIDER APPROVING THE TEXAS DEPARTMENT OF AGRICULTURE MEMBER FOR THE WATER CONSERVATION ADVISORY COUNCIL. (Comer Tuck)
15. CONSIDER APPROVING THE TEXAS STATE SOIL AND WATER CONSERVATION BOARD AND TEXAS WATER DEVELOPMENT BOARD JOINT REPORT ON WATER CONSERVATION IN TEXAS. (Robert Mace/Comer Tuck)

16. CONSIDER RE-AUTHORIZING THE EXECUTIVE ADMINISTRATOR TO NEGOTIATE AND EXECUTE A CONTRACT AS APPROVED AND DIRECTED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) IN AN AMOUNT NOT TO EXCEED \$1,223,640 TO THE CITY OF ARLINGTON FROM FEMA'S SEVERE REPETITIVE LOSS GRANT PROGRAM, NO LATER THAN MAY 31, 2012. (Kathy Hopkins)
17. CONSIDER AUTHORIZING THE EXECUTIVE ADMINISTRATOR TO: (A) NEGOTIATE AND EXECUTE CONTRACTS IN A TOTAL AMOUNT NOT TO EXCEED \$500,000 FOR SOLICITED GRANT PROPOSALS FOR THE DEVELOPMENT OF REGIONAL FACILITY PLANS; AND (B) TRANSFER FUNDS FROM THE WATER ASSISTANCE FUND TO THE RESEARCH AND PLANNING FUND. (David Meesey)

Mr. McMahan moved to approve Board Consent Items Nos. 6-17 with the exception of Item No. 7, which was not considered at today's meeting. Mr. Cluck seconded; it passed unanimously.

REGULAR

18. BRIEFING AND DISCUSSION ON DROUGHT CONDITIONS IN THE STATE OF TEXAS. Mark Wentzel, Surface Water Resources, Water Science & Conservation, addressed the Board.

No action was taken on this item.

Chairman Vaughan announced that one of the Petitioner representatives for Item No. 19 had not arrived but was in route to the meeting. He stated that the Board would pass agenda Item No. 19 and proceed with Item No. 20.

He introduced Ken Petersen, the Board's General Counsel, and asked that he explain the rules and procedures for staff, presenters, and persons wishing to make public comments on agenda Items Nos. 19 and 20.

Mr. Petersen stated that rules for the Boards' consideration of Items No. 19 and 20 would be as follows:

- Petitioners' statements – 10 minutes for each Petitioner;
- Districts' statements – 10 minutes for each petition;
- Staff presentation – 10 minutes for each petition;
- Board members may ask a speaker questions at any time and may extend the speaker's time as needed to address any question;
- Public comment – 3 minutes per speaker.

He introduced Joe Reynolds, Staff Attorney, who began presentation of Agenda Item No. 20.

20. BRIEFING, DISCUSSION, AND POSSIBLE ACTION ON APPEALS OF THE REASONABLENESS OF THE DESIRED FUTURE CONDITION ADOPTED BY THE GROUNDWATER CONSERVATION DISTRICTS IN GROUNDWATER MANAGEMENT AREA 9 FOR THE TRINITY AQUIFER.

Mr. Reynolds introduced David Baker, representing Petitioner Wimberley Valley Watershed, who addressed the Board, reserving 2 minutes of his allotted time for a closing statement;

There was no representative from Petitioner, Flying L Guest Ranch, Ltd. in attendance at this meeting.

Mr. Reynolds then introduced Ron Fieseler, representing Respondent District, GMA 9, who addressed the Board;

Mr. Reynolds then introduced Larry French, TWDB Director of Groundwater Resources, Water Science & Conservation, who presented staff's overview on technical issues and staff's recommendation.

Mr. Labatt and Mr. McMahan asked questions with regard to request from Petitioner Wimberley Valley Watershed, to consider Jacob's Well as a separate GMA for permitting purposes.

Mr. Reynolds responded to Board members' questions stating that the Board may not consider Petitioner's request because it is not part of the posting for this Item and the level of permitting is a District issue and may not be considered by the Board.

He stated that staff recommended that the Board consider the DFC adopted by the Districts in GMA 9 to be reasonable.

Mr. Baker then made his closing statement to the Board.

The following individuals made public comments to the Board:

Helen Bowie
Will Conley
David Davenport
Ron Fieseler, GMA 9
Jim Hannah, City of Bandera
Malcolm Harris
Larry Hoffman
Kirk Holland, Barton Springs/Edwards Aquifer Conservation District
Jack Holland, Wimberley Valley Watershed Association
Dick Kellerman
Mark Key
Kelly Rose Kilber, Jr.
Linda Lang
Jim McMeans
Ed Pope
Mrs. Lindsay Sansom
Jimmy Skipton III, Hays Trinity GCD
Patrice Sullivan
Steve Thurber, Mayor Pro Tem, City of Wimberley
Dianne Wassenick

Ken Petersen, General Counsel, addressed the Board and stated that a number of comments on Agenda Item No. 20 had been received via email. Copies of these emails have been made available to members of the Board. The emails were noted, but as with all public comments, were not treated as testimony or evidence.

He further stated that Petitioners' request that the Board consider Jacob's Well as a separate GMA for permitting purposes was not within the authority of the Board and must be done through rulemaking.

Mr. McMahan moved to recommend approval of the staff recommendation as proposed; the motion was seconded by Mr. Cluck; it passed unanimously.

Chairman Vaughan then recessed this meeting at 11:08 a.m.

The Board reconvened the meeting at 11:20 a.m.

The Board then considered agenda Item No. 19.

19. BRIEFING, DISCUSSION, AND POSSIBLE ACTION ON APPEALS OF THE REASONABLENESS OF THE DESIRED FUTURE CONDITION ADOPTED BY THE GROUNDWATER CONSERVATION DISTRICTS IN GROUNDWATER MANAGEMENT AREA 13 FOR THE SPARTA, WECHES, QUEEN CITY, REKLAW, CARRIZO, AND WILCOX AQUIFERS.

Mr. Reynolds, staff attorney, introduced Patricia Carls, representing Petitioner Hays Caldwell Public Utility, who addressed the Board;

Mr. Reynolds then introduced Louis Rosenberg, representing Petitioner Canyon Regional Water Authority, who addressed the Board;

Mr. Reynolds then introduced Greg Sengelmann, representing Respondent Gonzales County UWCD, who addressed the Board;

Larry French, TWDB Director of Groundwater Resources, Water Science & Conservation, and Joe Reynolds then addressed the Board and presented staff's overview on technical issues and staff's recommendation that the Board consider the DFC adopted by the Districts in GMA 13 to be reasonable.

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Mr. Crutcher moved to recommend approval of the staff recommendation as proposed; the motion was seconded by Mr. McMahan; it passed unanimously.

21. THE BOARD WILL RECEIVE COMMENTS FROM THE PUBLIC.

No public comments were received.

22. THE BOARD MAY RECESS INTO EXECUTIVE SESSION TO CONSULT WITH ITS ATTORNEYS REGARDING ANY POSTED MATTER IN WHICH THE BOARD MAY SEEK THE ADVICE OF ITS ATTORNEYS UNDER GOVERNMENT CODE §551.071 AND WILL RECONVENE IN OPEN SESSION FOR ANY APPROPRIATE ACTION ON ANY MATTER CONSIDERED IN EXECUTIVE SESSION.

The Board did not recess into Executive Session to consider any other items.

The meeting adjourned at 11:55 a.m.

APPROVED and ordered of record this, the 19th day of April, 2012.

TEXAS WATER DEVELOPMENT BOARD

Edward G. Vaughan, Chairman

ATTEST:

Melanie Callahan,
Executive Administrator