

MINUTES
BEXAR METROPOLITAN WATER DISTRICT
SPECIAL BOARD MEETING
2047 W. MALONE, SAN ANTONIO, TEXAS 78225
P. O. BOX 245994, SAN ANTONIO, TEXAS 78224
April 4, 2005

In accordance with Chapter 551 of the Texas Government Code, Vernon's Annotated Civil Statutes, Section 31, the Board of Directors for the BEXAR METROPOLITAN WATER DISTRICT held a **Special Board of Directors Meeting at 6:00 p.m. on the 4th day of April 2005**, in the Bexar Metropolitan Water District Board Room, 2047 W. Malone, San Antonio, Texas.

BOARD MEMBERS PRESENT: Victor Villarreal; Lesley Wenger; Jim Clement; Jose Gallegos; Ysidro Solis; John Longoria; Herman Sanchez.

STAFF MEMBERS PRESENT: Gil Olivares; Larry Bittle; Mike Albach; Diane Pfeil; Steve Sandoval; Martin Kufus.

CONSULTANTS PRESENT: Rob Killen, Interim General Counsel; Rene Gonzalez and Kimberly Lopez Gonzalez (Garza, Gonzalez & Associates).

GUESTS PRESENT: T. V. Hope (BMA WET Committee); Dean and Renee Perry; Ted Popp; John McFarland; Susan Rocha (Denton, Navarro, Rocha & Bernal, P.C.); Lee Niles (Pape-Dawson Engineers); Thad Harkins (Harkins, Latimer & Dahl); Ciro Rodriguez and Jeff Mendelsohn, Rio Strategy Group; John Gonzales; Pete Maldonado; Bob Anderson; Sylvia Gonzalez; Marilyn Bradley; Richard Stone; Frank Santos; Samuel Lund; Fred Magee; Jack Love; Mary Hicks; F. Centeno; Larry McPhearson

PRESS PRESENT: Jerry Needham, S.A. *Express-News*; Raquel Ruiz, *Rumbo*; Amy Davis and Gene Collins, *WOAI*.

MINUTES

The open session of this meeting was tape recorded. These minutes are a summary record of the Board's actions at the meeting. For a detailed record of discussions and statements made by persons speaking at the meeting, please consult the audio files at the District's office.

Item 1:

The President called the meeting to Order at 6:03 p.m.

Item 2:

Mr. Villarreal recognized representatives of three lobbyist firms present—Susan Rocha, Ciro Rodriguez and Jeff Mendelsohn, Richard Stone and Tom Smith—who all introduced themselves and presented their qualifications as lobbyists. The Board members asked questions and commented on the presentations.

Ms. Wenger moved to direct Mr. Olivares to meet with representatives of the three firms who made presentations to determine the cost of representation for the next two- to three-month period, to give a report at the next Special Call meeting, and then place this item be on the agenda for a vote at that time. The motion was seconded by Mr. Clement.

Ms. Wenger, Mr. Gallegos and Mr. Longoria expressed a desire to see an open process in engaging lobbyists. Mr. Gallegos expressed concern over the lack of representation on the part of the former lobbyists, the failure of the chairman of the legislative committee to call a meeting, the failure of the lobbyists to report to all Board members.

Mr. Villarreal called for the vote.

Motion failed.

Mr. Gallegos moved to direct staff to enter into discussions with the three firms represented at this meeting and any other firms that make contact with the District, and that the Board set a ceiling of \$12,000 a month in fees for lobbying services for the next 90 days. The motion was seconded by Ms. Wenger.

Mr. Longoria inquired as to whether the board would do anything more to publicize BexarMet's intention to engage lobbyists, and to follow the governing policies in effect for engaging lobbyists, in addition to the newspaper article recently published. There was an exchange between Mr. Longoria and Ms. Wenger, who alleged that Mr. Longoria had lobbied against the District, with a denial by Mr. Longoria.

Ms. Wenger called for the vote.

Motion carried unanimously.

Item 3:

Mr. Gallegos reported on the upcoming public committee meetings on the proposed 2005-2006 budget to be hosted by the Board's Financial Management Committee at Reagan and Kennedy High Schools in April.

Mr. Olivares reported on a specific line item in the budget regarding increased commercial paper issuance costs. Staff recommends that the Board authorize the issuance of a Request for Qualifications (RFQ), subject to review and approval by the Board, to hire a financial advisor to assist staff in selecting a provider with a better credit rating in order to help reduce this particular line item.

Mr. Gallegos moved that the Board instruct Mr. Olivares to initiate the RFQ for the services of a financial advisor to provide financial advice and consultant services to the District. The motion was seconded by Ms. Wenger.

Mr. Longoria raised a point of order inquiring if the motion was a bit of a stretch under Agenda Item number 3. Mr. Killen advised that Agenda Item 3 is a broadly drafted agenda item on the subject of "related financial budget issues," and in his opinion it is at the extreme edge; however, whether it is appropriately posted is an issue at the Board's discretion.

Ms. Wenger called for the vote.

Motion carried unanimously.

The Board received Mr. Killen's advice based on Robert's Rules of Order regarding voting by the presiding officer. He stated that the BexarMet's Board is operating under the 8th edition of Robert's Rules which is more flexible and indicated that the presiding officer is able to vote on all matters, in some earlier editions the presiding officer only votes in the case of a tie.

Mr. Gallegos raised a point of personal privilege, welcoming former Board member, Mr. Dean Perry.

Item 4:

Mr. Rene Gonzalez of Garza, Gonzalez & Associates made a presentation and provided an oral and a written draft report dated March 18, 2005. Mr. Gonzalez introduced a member of his staff, Kimberly Lopez Gonzalez.

Ms. Wenger moved to accept the report. The motion was seconded by Mr. Clement.

Motion carried unanimously.

Item 5:

Upon motion of Mr. Gallegos, seconded by Ms. Wenger and passed without opposition, the Board adjourned into Executive Session.

Item 6:

The Board reconvened in Open Session at approximately 9:27 p.m. and took the following action regarding discussion in Executive Session.

Mr. Gallegos moved, seconded by Mr. Clement, that the Board instruct Mr. Killen to prepare a notice of intent to discharge and terminate Mr. Moreno's contract for cause and to draft a notice to that effect.

Mr. Longoria raised a point of order regarding the termination language under Mr. Moreno's contract. Mr. Gallegos amended his motion to the following.

Mr. Gallegos moved that the Board instruct Mr. Killen to prepare a notice to terminate Mr. Moreno's contract for cause and to draft a notice to that effect. The motion was seconded by Mr. Clement.

Mr. Longoria stated that employees should be entitled to due process; he did not believe the Board was providing Mr. Moreno due process.

Mr. Clement stated that Item 10.D of the General Manager's contract sets out the process for termination and provides Mr. Moreno the opportunity to come before the Board to plead his case and no permanent action is to be taken until that happens.

Ms. Wenger stated she is also an advocate of due process and believes that due process has been observed.

Ms. Wenger called for the vote.

Motion carried unanimously.

Mr. Villarreal addressed the public, stating the Board wants the public to understand that the first step to terminate is to give notice of termination, and that the employee is then provided an opportunity for a hearing, at which time he (or she) can refute any allegations.

Mr. Gallegos moved to take a short recess to allow Mr. Killen to prepare a notice of termination, and then to reconvene and proceed with giving Mr. Moreno the notice as well as an opportunity for a hearing. The motion was seconded by Ms. Wenger.

Motion carried unanimously.

The Board observed a recess to allow Mr. Killen to prepare a notice of termination.

The meeting was called back to order when Mr. Killen returned.

Mr. Gallegos moved that the Board authorize Mr. Killen to dispatch a notice of discharge for cause to Mr. Thomas C. Moreno or his legal representative, subject to review and approval by attorneys representing the District's insurance carrier, and to set a date for Mr. Moreno to appear before the Board on Friday, April 15, 2005 at 2:00 p.m. to discuss cause for his discharge.

Mr. Longoria offered a friendly amendment which was accepted as a substitute motion that the Board authorize Mr. Killen to dispatch notice of discharge for cause to Mr. Thomas C. Moreno or his legal representative subject to review and recommendation by attorneys representing the District's insurance carrier, and to set the date for Mr. Moreno to appear before the Board to discuss cause for discharge on Monday, April 18, 2005 at 5:00 p.m., in order to provide the respondent and his counsel the maximum opportunity to review and respond to the notice. The motion was seconded by Mr. Gallegos.

Ms. Wenger called for the vote on the substitute motion.

Mr. Gallegos and Mr. Villarreal discussed the substitute motion with respect to the date for the meeting to be held. Mr. Villarreal stated April 18, 2005 wouldn't give the Board any leeway should something unexpected occur preventing the Board from being able to tackle any emergency that may occur prior to the meeting. Since April 15, 2005 is a Friday, the Board would at least have the weekend to deal with an emergency. Mr. Longoria asserted that in a worst case scenario, such as a natural disaster, the Board would be able to call an emergency meeting. Mr. Villarreal stated that if the hearing was held on Friday, they would have more options, such as holding a meeting over the weekend or holding an emergency meeting on Monday.

Ms. Wenger called for the vote on the substitute motion.

Motion failed.

Mr. Longoria spoke against the original motion.

Mr. Gallegos moved that the Board authorize Mr. Killen to give notice, subject to the attorneys' review and recommendation, of the Board's intent to terminate or discharge for cause Mr. Thomas C. Moreno and to schedule a hearing for Monday, April 18, 2005 at 5:00 p.m. The motion was seconded by Mr. Longoria.

Mr. Gallegos called for the vote.

Motion carried .

Item 7:

Mr. Villarreal announced that the Board will hold a Special Call Meeting on Friday, April 8, 2005 at 10:00 a.m., for the purpose of taking action on Agenda Item Number 2, Discussion and appropriate action regarding engagement of one or more lobbyists or lobbyist firms to carry out and represent the Bexar Metropolitan Water District's

Legislative Agenda for the 79th Session of the Texas Legislature and other legislative issues.

Item 8:

There being no further business, Ms. Wenger moved to adjourn the meeting. The motion was seconded by Mr. Clement.

Motion carried.

Minutes approved this ____ day of _____, 2005.

**Victor V. Villarreal, President
BexarMet Water District**

**Jim Clement, Secretary
BexarMet Water District**