

MINUTES
BEXAR METROPOLITAN WATER DISTRICT
BOARD OF DIRECTOR'S MEETING
SAN ANTONIO, TEXAS 78225
August 29, 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 **Regular Board of Directors Meeting at 5:00 p.m. on the 29th day of August, 2005**, in the Board Room of Bexar Metropolitan Water District, 2047 W. Malone, San Antonio, Texas.

BOARD MEMBERS PRESENT: Victor Villarreal; Lesley Wenger; Jim Clement; James Fenimore; David Sosa; Robert Morin; Jose Gallegos.

STAFF MEMBERS PRESENT: Gilbert Olivares; Adolfo Ruiz; Mike Albach; Johnnie Terrazas; Diane Pfeil; Steve Sandoval; Marty Kufus; Jesse Morin; Melissa Wilson

CONSULTANTS PRESENT: Rene Gonzalez and Kimberly Lopez-Gonzalez (Garza/Gonzalez & Associates); Paul Martin and Clay Binford (Winstead); Trey Wilson (Louis T. Rosenberg, PC)

GUESTS PRESENT: Dina Villarreal; Joe Thaxton; Robert Lloyd and Mike Gershon (Lloyd Gosselink); Jerry Berry and Lee Niles (Pape-Dawson); Oscar Villarreal and Luis Moreno (Villarreal & Moreno LLP); Richard White (Freese & Nichols, Inc.); David Harris (Hill Country Village); Mike Villarreal (SAMCO)

PRESS PRESENT: Jerry Needham, *Express-News*; Nick Parkinson, *Rumbo*

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:

Mr. Villarreal called the meeting to order at 5:00 p.m.

Item 2:

[Upon motion of Ms. Wenger, seconded by Mr. Clement, and passed without opposition, the Board adjourned into Executive Session at 5:01 p.m.]

Item 3:

The Board reconvened in Open Session at 6:30 p.m. and took the following action regarding discussion in Executive Session.

2(a):

Mr. Sosa made a motion to authorize the General Manager to finalize the contract for execution by the President of the Board and WECO (Water Exploration Company) for the purchase of treated outflow water obtained from WECO wells and to include a provision that ensures adequate production as determined by staff from all wells subject to the contract. Motion seconded by Mr. Clement.

Motion carried unanimously.

2 (b): Evaluation process for General Manager

[No action was taken at this time.]

2(c):

Mr. Villarreal made a motion to authorize the General Manager, through counsel, to take all actions necessary to protect the District's interest against actions taken by the San Antonio Water Systems, [SAWS,] including the filing of any and all documents, and to initiate legal proceedings to enforce Interlocal Agreements as needed and to advise the BexarMet Board on all actions taken. Motion seconded by Ms. Wenger.

Ayes: Villarreal; Wenger; Fenimore; Clement; Sosa; Morin

Abstain: Gallegos

Motion carried.

2 (d): Rio Strategy Group contract

[No action was taken at this time.]

2(e): Denton Development Corporation, Inc.

[No action was taken at this time.]

2(f):

Ms. Wenger moved to authorize the General Manager to apply for a CCN for the ETJ areas of Hill Country Village. Motion seconded by Mr. Clement.

Motion carried unanimously.

2 (g):

Mr. Clement moved to cease action regarding the sale of the Cassin Lake property and defer further action on the sale of this property until further date. Motion seconded by Mr. Fenimore.

Motion carried unanimously.

Item 3:

Mr. Villarreal read an apology from the Board into the record regarding Mr. Ron Belden. Mr. Belden was not present.

Item 5: Citizens to be Heard

None.

Item 6:

Ms. Wenger moved to approve the Capacity Lease Agreement with the Guadalupe-Blanco River Authority. The motion was seconded by Mr. Clement.

Motion carried unanimously.

Item 7: Wholesale water sale agreement with Atascosa Rural Water Supply Corporation

Mr. Olivares recommended extension and continuation of the wholesale agreement to Atascosa Rural Water Supply Corporation, with the addition of a CPI rate increase for years two through five. The contract will continue for the first year at \$1.78 per thousand.

Mr. Gallegos moved to approve the ratification and execution of the temporary extension of the wholesale water sale agreement with Atascosa Rural Water Supply Corporation as indicated by staff with the stipulations as mentioned. Motion was seconded by Mr. Sosa.

Motion carried unanimously.

Item 8: Interlocal Agreement with SARA

Mr. Albach explained we have received very high quality water quality analysis service, provided by San Antonio River Authority (SARA) for about eight years. There has never been an agreement or contract during this period.

Mr. Clement moved to approve the Interlocal Agreement for the San Antonio River Authority for laboratory services related to the bacteriological testing of potable water samples collected and delivered by BexarMet. Motion was seconded by Ms. Wenger.

Mr. Sosa questioned Mr. Albach on process of taking samples. Mr. Albach explained several hundred bacteriological samples are taken, by water quality technicians, every month throughout all 26 public water systems and delivered to SARA.

Motion carried unanimously.

Item 9: Financial Audit for FY 2004-05

Rene Gonzalez (Garza/Gonzalez & Associates) presented the Financial Audit Report for Fiscal year 2004-05. Mr. Fenimore reported that the Finance Committee was presented with the financial audit and

the letter to management, as well as the management response to the audit. He was pleased and proud of the startling difference between last year's audit and this one. He commented that the audit was completely transparent, the auditors were allowed to see any and all figures, looked at all inventory, and nothing was hidden from them.

Mr. Fenimore moved to approve and accept the financial audit report for the fiscal year 2004-2005 as prepared by Garza/Gonzalez & Associates. Motion was seconded by Mr. Clement.

Mr. Gallegos questioned Mr. Gonzalez regarding capital assets which continue to be an issue. Mr. Gonzales reminded Mr. Gallegos that he stated last year, because of the magnitude of the number of capital assets, it would take longer than a year to address in its entirety. Mr. Villarreal clarified that current staff has not had a year to address the issues. Mr. Clement stated we have come a long way.

Mr. Sosa addressed the need for the Board to sit down with staff and discuss exactly what direction the District and staff needs to go in.

Motion carried unanimously.

Item 10: Financial Advisory Services

Mr. Olivares stated SAMCO, Southwest Security, and Dain Rauscher responded to the request for qualification for financial advisory services. SAMCO was determined by staff to be the better choice: they do not require a retainer fee, their hourly fee is \$150 an hour and they are only paid for the time they actually work.

Mr. Fenimore informed the Board the Finance Committee had already heard a presentation and were recommending SAMCO as well.

Mr. Fenimore moved to approve and accept staff recommendation for financial advisory services to be provided to the District by the SAMCO group. Motion seconded by Ms. Wenger.

Mr. Sosa requested that the RFQs and RFPs be ready before the agenda for review and to include the hourly fees as well as the length of the contract. Mr. Olivares reiterated that the hourly fee is \$150 and it is an ongoing relationship until the decision to terminate is made.

Motion carried unanimously.

Item 11: Outside Legal Services

Mr. Olivares stated an RFQ for legal services was issued and Mr. Ruiz reviewed the services. He said the firms would be used on an as-needed basis. Mr. Ruiz discussed the terms for expenses and a reduced hourly rate because we are a governmental entity. The recommended law firms include: Lloyd Gosselink Blevins, Rochelle & Townsend, R. L. Wilson, P.C., Villarreal & Moreno, L.L.P., and Winstead Sechrist Minick, P.C.

Ms. Wenger moved to approve and accept the staff's recommendations for outside legal services for the District. The motion was seconded by Mr. Clement.

Motion carried unanimously.

Item 12: Appointment of Investment Officer

Mr. Olivares stated the auditor recommended a second investment officer be appointed. A Board member or staff member can be the investment officer.

Mr. Fenimore moved to approve and appoint Jesse Morin as the second investment officer for the District pursuant to the auditor's recommendation for the Public Funds Investment Act. Motion seconded by Mr. Gallegos.

Mr. Olivares said the investment officers are responsible for the investment of the District and auditor's recommendations. Both officers would take training (10 hours per year) and be aware of the requirements and limitations of the investments. As a government entity, we are only allowed to invest in very short-term, liquid and safe investments.

Motion carried unanimously.

Item 13: Request for Qualifications for Voting Rights Counsel

Mr. Ruiz stated we may need counsel specialized in voting rights to assist in redistricting under the Voting Rights Acts. The firm must be specialized in the voting rights area and be on an hourly "as needed" basis and agreed upon expenses.

Ms. Wenger moved to approve issuance for the request for qualifications for voting rights counsel. Motion was seconded by Mr. Clement.

Ms. Wenger reported that the U.S. Department of Justice has pointed out that the last redistricting was done in 1996 and they are expecting another redistricting before the 2006 election. Mr. Gallegos asked the status of the application to the Department of Justice for the change in term for District 3. Mr. Ruiz expects the response any day and that the change will be granted.

Motion carried unanimously.

Item 14: Drainage Repair

Mr. Olivares stated a revision was necessary on a contract with TxDOT for work being done at Zarzamora and Applewhite Road. Mr. Terrazas explained the diagram provided of the channel or drainage ditch. This project has 2 water mains, a 20-inch and an 8-inch. The potholes along the ditch were not plotted properly-at the proper depth. There was an error to determine the proper depth for the drainage structure. Mr. Olivares explained that the line would have to be lowered because it is not meeting specifications. Funds are available in the capital budget.

Ms. Wenger questioned the necessity for contracting with TxDOT as they are almost always the most expensive way to go. Mr. Terrazas said there was no choice since it was a county CIP project. Ms. Wenger said she wanted the dollar amount to be firm since TxDOT has a habit of raising the estimate mid-project. Mr. Olivares confirmed that would be done.

Mr. Fenimore moved to approve payment to the Texas Department of Transportation, change order number 39 in the amount of \$238,599.73 for project located at Zarzamora and Applewhite Road. Motion was seconded by Mr. Clement.

Mr. Fenimore commented that the narrative in the packet gave the reason for this charge was that we were shorthanded, yet now we are being told the reason is that it was not done correctly. Mr. Terrazas stated the bottom line it was not done correctly. Mr. Olivares assured Mr. Fenimore he is working on options to address this type of issue.

Mr. Gallegos praised Mr. Terrazas for his honesty and candor. He questioned if this would take away from any other capital improvement projects, namely the Southside pay station. Mr. Terrazas assured him it would not.

Motion carried unanimously.

Item 15: Wholesale Water Purchase Agreement with WSI.

Mr. Olivares stated this is to provide water service to the Potranco Road tract, and was necessary because SAWS reneged on an agreement—approved by both Boards—to provide water on an interim basis.

Mr. Gallegos moved to approve the wholesale water purchase agreement with WSI. Motion was seconded by Mr. Sosa.

Motion carried unanimously.

Item 16: Granting Ingress/Egress Easements at Medio Creek Ranch

Mr. Albach explained when we purchased the property for the surface water treatment plant, it did not extend to the Medina River. Another easement was necessary to convey treated surface water to the distribution system. The landowner who granted the easement (along with two others) asked to be granted some easements in return. BexarMet informally granted those easements. The landowner is looking for formal reciprocity, as BexarMet promised when the land was purchased and he granted additional easements. This is a reciprocal effort to provide the landowner easements that were already informally granted.

Ms Wenger moved to grant the ingress/egress utility easements across BexarMet Medio Creek Ranch property to SFD/Medio Creek Land Partnership, Ltd. Motion seconded by Mr. Clement.

Motion carried unanimously.

Item 17: CONSENT ITEMS

(a). On the approval of The Financial Report for month ending July 30, 2005, and year-to-date.

- (b). On the approval of payment for legal fees for professional services provided to the District.
- (c). On the approval for the lowest qualified bid for paving of 698.5 square yards in accordance with the City of San Antonio Street Cut Policy.
- (d). On the approval of Main Extensions.
- (e). To change the District's Employee Handbook to allow vacation leave until the end of December 31, 2005.
- (f). Approval of payment plan for line extension for rate-payers Caudell and Hardins.

Ms. Wenger moved to approve the consent items as provided. Motion seconded by Mr. Clement.

Ayes: Villarreal, Wenger, Clement, Fenimore, Sosa, Morin

Abstain: Gallegos

Motion carried.

REPORT ITEMS:

Item No.18: The District's Organizational Chart.

Mr. Olivares explained the structure of the organizational chart. He organized the District along functional lines. In-House Counsel is Mr. Ruiz, Director of Administration is Ms. Pfeil, Director of Operations is Mr. Albach, Director of Finance is Mr. Morin, Director of Engineering is Mr. Terrazas and the Security Manager is Marty Kufus.

Item 19:

No comments made on the purchase of materials for store's inventory or for on-going projects for the month of July, 2005.

Item 20:

No comments made on exceptional expenditures and professional fees for the month of July, 2005.

Item 21: Top 25 Delinquent Accounts.

Mr. Gallegos asked how the accounts are categorized. Jesse Morin explained the accounts are categorized by total delinquent dollar amount. Mr. Gallegos expressed concern about delinquent accounts and the process. Jesse Morin explained the report is computer generated, on an "as of" date at the end of the month and the updates are not reflected on the report. Mr. Villarreal faulted the report for being misleading in that it doesn't show payments or any efforts to collect. Mr. Gallegos noted that he has been a victim of water cut-off for \$30 or \$40, yet there are accounts that owe in the tens of thousands of dollars. Mr. Villarreal emphasized that all accounts need to be looked at, not just the top 25.

Mr. Olivares agreed to resolve the issue and work with the Finance Director to produce reports that clearly identify current delinquent accounts. Mr. Gallegos requested one report for commercial accounts and one for residential.

Item 22: Department Manager's Monthly Reports.

Mr. Olivares stated a letter was received from the Mayor of the City of Somerset indicating that the San Antonio River Authority (SARA) has taken over their waste water operation. He pointed out that SARA is in a better position to assist Somerset because they have funds available for some of the sewer infrastructure need.

Item 23:

No comments made on the Professional services monthly reports.

Item 24: Time and Date of Next Board Meeting

Ms. Wenger moved to set a Special Board meeting on September 12 and the regular Board meeting on October 3, with Executive Session at 5 p.m. and regular session at 6 p.m. Motion seconded by Mr. Clement.

Motion carried unanimously.

Mr. Gallegos requested a special meeting for Board retreat or Board development and that it be added to the Agenda along with the Southside pay station.

Item 25: Adjournment

Mr. Clement moved to adjourn. Motion seconded by Ms. Wenger.
Motion carried unanimously.

Meeting adjourned at 7:52 p.m.

Minutes approved this _____ day of _____, 2005.

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

**Jim Clement, Secretary
BexarMet Water District**

