

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

November 19, 2020

The November 19, 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
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
George Murfee, (Murfee Engineering Company, Inc.), District Engineer

I. CALL TO ORDER

Director Roberts called the meeting to order at 1:03 pm.

II. ESTABLISH QUORUM

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

III. PUBLIC COMMENT

Mr. Jim Koerner addressed the Board as a PUA ratepayer and member of Hamilton Pool Road Matters. He thanked Board members for meeting with him in the past weeks regarding how the PUA plans to move forward with growth. He asked the Board to take a few minutes before voting to explain the plans for the Water Treatment Plant and the cost to expand the plan. He stated that the Board is setting a terrible precedent in granting the Provence SER and settling lawsuits. He feels that the Board is limiting the PUA's ability to prioritize growth inside the CCN and the

actions today will allow any home owner to demand they extend their pipeline to provide service to any area at any time. He stated that the PUA would concede any ability to limit any number of LUEs to any project. He stated that these decisions put the PUA in a first come/first serve business model. He stated that the PUA should have a policy to manage growth and protect the system, and should take into account the impact of requests on neighborhoods. Mr. Koerner stated that he believed that these are utility issues that the Board can consider. Residents on HPR are depending on the Board to make prudent decisions, as they have no representation on the Board.

Paula Knippa next addressed the Board as a PUA ratepayer. She stated that she has three concerns. One, she was at the City Council meeting of Bee Cave on November 10 and Mr. Creveling and Mr. Garza stated that they do not owe a duty to the City Council because once they are on the PUA Board they cannot take direction from the member entities. She stated that the whole reason for forming the PUA is to be responsible to the voting citizens and ensure accountability. She stated that Mr. Creveling stated that the PUA's attorney told Mr. Creveling that the sole duty is to the WTCPUA, and that this deprives the City from weighing in on these decisions. Second, Ms. Knippa stated that there is a notion that the PUA does not want to be in the business of telling development how to conduct themselves environmentally. She stated that the Board does have an obligation. Third, she pushed back on the notion that people don't want to be sued, and stated that if an individual wants to serve on a governmental entity board, there is the possibility you will get sued. She stated that the PUA has insurance coverage to cover this possibility, and this is a reality that needs to be accepted.

Jennifer Walker next addressed the Board as a 16 year citizen of Bee Cave and PUA rate payer. She stated that relating to the Provence lawsuit, she thinks that the vote on the litigation will not be valid as Board members cannot vote unilaterally without input from the member entities. Bee Cave citizens do not support settling these lawsuits. The City Council passed a 2013 resolution in opposition to this development, and this resolution has not been rescinded. The Board is thus not able to call a vote until there is direct action from the Bee Cave City Council. She stated that the Board is abandoning its duty and leaving the ratepayers in the dark. She flagged questions relating to the financial impact that have not been discussed and stated that she does not understand why the Board would settle suits that there is a high possibility of success and legal fees are covered by insurance.

Director Garza provided clarification regarding the Bee Cave City Council meeting and stated that Ms. Walker stated that Council was asked about input. He clarified that City Council was not asked to provide a resolution, and that the Council met in executive session on July 28 after the PUA's meeting. In this Council meeting, the Council members did discuss that input was provided at this meeting.

Carrell Killebrew next addressed the Board as a ratepayer. He has heard the rumor that the Board doesn't want to waste taxpayer funds to defend lawsuits. He disagreed with this statement as the lawsuits at issue are defending policies. He next discussed the history of a 2013 meeting where he opposed giving the developer any water at all as this would set a bad precedent to offer water outside the service area. The PUA was told that there was an obligation to provide this water, and it was later found that this was an incorrect claim, as there was only a letter commitment for 40 LUEs that had already expired in 2007. The pending lawsuits are based on the incorrect idea that

there is an obligation to serve this development. He stated that there is no basis for the lawsuits and the PUA should defend against them.

Rick Skadden next addressed the Board as a Bee Cave resident, and stated that he agreed with the previous speakers. He reminded the Board that Provence is outside the PUA's service area and there is no obligation to serve this development. He asked that the expanding capacity would enable more growth in the HPR service corridor. He thanked the Board for their service and time.

Paula Priour next addressed the Board as a HPR resident. She stated that if the PUA could only consider best business practices, it seems like a bad business practice to enter into a second contract with a bad actor that is outside the CCN. She stated that the PUA set a bad precedent in abandoning policy because someone was willing to sue the PUA. The policy itself was in effect at the time they brokered the contract, and the developer has continued to break the policy and contract. She asked that the Board reconsider the business decision of another contract with Provence.

Christy Muse next addressed the Board and thanked them for their public service. She stated that expanding a new pipeline into an unincorporated area is a significant action. She stated when the original line was constructed, there was a pause to discuss the impacts with stakeholders. Ms. Muse stated that this potential waterline affects the headwaters of Little Barton Creek and moving forward will make an irreversible decision. She cautioned against acting in a silo, and that the decisions have consequences on the residents in the area. She stated that Provence is developing and can easily build out with low impact development, their property rights are not at issue. She asked that there be some thoughtful and exclusive planning.

JJ Priour next addressed the Board as a HPR resident. He wanted to know why lawsuits are even being filed and why are the settlement discussions being held confidentially. After the LCRA and TCEQ agreed on the environmental quality restrictions, Provence was granted only 700 LUEs. These developers have been known to provide misleading information, and if they have broken rules in the past, what is to say they will not continue to do so in the future? The developers are once again publishing inaccurate plans, with serious consequences. The water quality standards were set forth for a reason, and now have been scrapped for the benefit of developer. The PUA is choosing to make these decisions without the input of residents, and will have no footing to make different decisions in the future. Residents of Bee Cave and Hays County are the only ones represented on the PUA, and the rest may only watch. He stated that there are too many damaging effects to grant this water capacity.

Mr. Koerner stated that he asked the Board how they will get beyond 32 MGD. Director Roberts confirmed with Ms. Riechers that a Capital Improvements Plan will be started in March, at which time the Board will consider increasing the plant.

IV. CONSENT AGENDA

- A. Approve minutes of October 22, 2020 regular Board Meeting.**
- B. Approve payment of invoices.**

- C. **Approve Contractor Pay Requests including:**
 - 1. **DN Tanks, Pay Application No. 3, \$400,461.10 Southwest Parkway GST 1 CIP Project**
 - 2. **G Creek Construction, Pay Application No. 1, \$85,561.20, Hamilton Pool Road Pump Station Expansion CIP Project**

- D. **Approve Contractor Change Orders to:**
 - 1. **DN Tanks, Change Order No. 1, -\$16,214.00, Southwest Parkway GST 1 CIP Project.**

- E. **Approve Service Availability Letter for:**
 - 1. **City of Dripping Springs -- Double L Ranch, 1,710 LUEs, 290 District.**

- F. **Approve expenses related to:**
 - 1. **Raw Water Pump 3 motor, Austin Armature, \$48,082.19**
 - 2. **High Service Pump 1 motor, Smith Pump Company, \$29,907.00**
 - 3. **Raw Water Pump 5 VFD, Elliott Electric Supply, \$25,277.00**

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

V. OLD BUSINESS

At 1:56 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-C.

At 3:13 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, Ltd 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, Ltd 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.*

3. *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.*
4. *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.

B. Discuss, consider and take action on Approval of Compromise and Settlement Agreement with John Hatchett, Sandra Hatchett, JPH Capital, Ltd, Masonwood HP, and Travis County MUD 22.

This item was discussed in executive session.

Ms. Jennifer Walker addressed the Board and stated that the Bee Cave City Council has not provided input on this item. She stated that there was no discussion at the Council meeting about discussion provided at a past meeting.

Director Garza stated that the July City Council meeting did come up at the most recent Council meeting, and that there was a focus on the term “resolution” and not necessarily on whether there was input.

Director Roberts stated that he requested the input from the Participating Entities, and it was for informative measures and not contingent on making a decision by the WTCPUA Board. He stated that the Council had the opportunity to provide input and has not, and the Board is deciding to move forward.

MOTION: A motion was made by Director Creveling to extend negotiations of approval of the settlement agreement until the December agenda. The motion was seconded by Director Smith.

The vote was taken with the following result:

Voting Aye: Directors Smith, Bethke, Creveling and Garza

Voting Nay: Director Roberts

Abstained: None

Absent: None

C. Discuss, consider and take action on Amended and Restated Non Standard Service Agreement with Masonwood HP, Ltd. for the Provence Subdivision.

This item was discussed in executive session.

No action was taken on this item.

VI. NEW BUSINESS

A. Discuss, consider and approve changes to TCDRS plan provisions and benefits and elect plan contribution rate for 2021.

Ms. Smith presented this item and stated that she is asking for changes to include a 5-year vesting period, a 225% employer match, and election plan contribution rate of 9.24%. She stated that these changes can be made with an overage from an asset.

MOTION: A motion was made by Director Roberts to approve changes to TCDRS plan provisions and benefits and elect plan contribution rate for 2021. 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

B. Discuss, consider and take action on Supplemental Scope of Services to Uplands WTP Renovation Project.

Ms. Riechers presented this item, provided as Exhibit G. She stated that this item is regarding the water treatment plant renovation project and staff has made recommendations to add that may make the project more likely to obtain interested bids.

MOTION: A motion was made by Director Roberts to approve the Supplemental Scope of Services to Uplands WTP Renovation Project, provided as Exhibit G. 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

C. Discuss, consider and take action on a proposal from Murfee Engineering to provide engineering services related to the Raw Water Line 2 Fiber Optic Communication CIP Project.

Mr. Lozano presented this item, provided as Exhibit H, and stated that this project was requested by staff.

MOTION: A motion was made by Director Roberts to approve a proposal from Murfee Engineering to provide engineering services related to the Raw Water Line

2 Fiber Optic Communication CIP Project, provided as Exhibit H. 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

D. Discuss, consider and take possible action to establish Hays County and Travis County Subcommittees to review direct impacts on the system and provide recommendations on policy and administration relative to those jurisdictions.

Director Smith presented this item stating that the two systems have different constituencies, and wanted to pursue policies and procedures relating to the two systems. Director Roberts confirmed that the idea is that the projects would be previewed by the committee with recommendations made by the committee, and final decision making made by the Board.

MOTION: A motion was made by Director Roberts to establish two subcommittees to make a nonbinding recommendation to the Board; a committee for the Hays County/290 System consisting of Directors Roberts and Smith and a committee for the Travis County/71 System consisting of Directors Creveling and Bethke. 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

E. Discuss, consider and take action on draft policy related to Fats, Oil and Grease (FOG) program.

Ms. Riechers stated that she had provided a draft policy in packets, provided as Exhibit I, for initial review by the Board. This will be brought back for final approval at a later Board meeting, with a target effective date in January.

F. Discuss, consider, and take action regarding proposal from Lloyd Gosselink regarding legislative services for the 87th Session of the Texas Legislature.

Ms. Albright presented on this item, provided as Exhibit J. She stated that the proposal is to provide general tracking and that she anticipates including a legislative session as an ongoing agenda item in 2021. She further stated that the legislative session does not start until January.

MOTION: A motion was made by Director Roberts to approve a proposal from Lloyd Gosselink regarding legislative services for the 87th Session of the Texas Legislature, provided as **Exhibit 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

VII. STAFF REPORTS

- A. General Manager's Report.**
- B. Controller's Report.**
- C. Operations Report.**
- D. Engineer's Report including:**
 - 1. Capital Improvements Plan Update**
 - 2. Bohls WWTP Design Evaluation Report**

Mr. Lozano presented this report to the Board, provided as **Exhibit K**. He flagged the photos of the construction on the Southwest Parkway Pump Station project in the packet. He stated that the second phase of the project is nearing, and that there continues to be a lack of response from Travis County. He stated that his recommendation is that the PUA not hold on the project because of lack of County response. He confirmed that every action will be taken to get these approvals, but the PUA will be negatively affected by a delay. He asked for confirmation that this is the direction that the Board wanted to proceed. Director Garza stated that he would prefer to move forward and offered his help. Director Roberts confirmed that this is a public safety project and this project needs to proceed for public safety.

Mr. Lozano stated that Murfee Engineering has updated plans relating to the Wastewater Treatment Plant Design evaluation to ensure that the decommissioning of the Lake Point Wastewater Treatment Plant as directed by the Board doesn't impact the project. Mr. Eelhard Menesis addressed the Board and provided an update on the project. He stated that there were some issues with fire department requirements that would mean moving forward with the WWTP expansion on its own versus combine with the beneficial reuse project. He stated that he wants to continue this project, but facilitate possible decommissioning of the Lake Point Wastewater Treatment Plant in different phases.

VIII. ADJOURNMENT

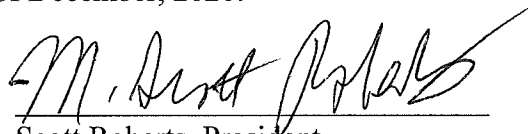
MOTION: A motion was made by Director Garza to adjourn the meeting. The motion was seconded by Director Roberts.

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 3:19 pm.

PASSED AND APPROVED this 17th day of December, 2020.

A handwritten signature in black ink, appearing to read "M. Scott Roberts", written over a horizontal line.

Scott Roberts, President
Board of Directors