

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

August 20, 2020

The August 20, 2020 Board of Directors meeting was held remotely via conference call in accordance with the Governor's March 16, 2020 proclamation suspending certain open meetings statutes in response to the current COVID-19 pandemic and statewide disaster declaration. No physical meeting space was made available. The public was provided a toll-free number to call in and participate in the meeting.

Present (via remote access):

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 p.m.

II. ESTABLISH QUORUM

A quorum was established with the above-referenced Directors, staff, and consultants present via remote access.

III. ELECTION OF OFFICERS

Director Roberts stated that the Board would consider the election of officers, as all seats have been appointed. J. Creveling stated he would be willing to service as Vice President.

MOTION: A motion was made by Director Roberts to approve the existing officer slate consisting of Scott Roberts as President, Walt Smith at Secretary, Jason

Bethke as Director, Clint Garza as Director, and elect Jack Creveling as Vice President. 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

IV. PUBLIC COMMENT

No public comment on non-agenda items were presented.

V. CONSENT AGENDA

- A. Approve minutes of July 15, 2020 regular Board Meeting and July 30, 2020 Budget Workshop.**
- B. Approve payment of invoices.**
- C. Approve Contractor Pay Requests including:**
 - 1. Cash Construction Company, Inc., Pay Application No. 9, \$1,312,478.10 Raw Water Line No. 2 CIP Project**
- D. Approve Utility Conveyance Agreements to convey facilities to WTCPUA from the following:**
 - 1. Seven Oaks Office Park**
- E. Consider Service Extension Requests (SER) for:**
 - 1. Cueva 71, 160 Water and Wastewater LUEs, Hwy. 71 System.**
- F. Consider Non-Standard Service Agreements (NSSA) for:**
 - 1. Cueva 71, 160 Water and Wastewater LUEs, Hwy. 71 System.**

Director Roberts flagged that the Cueva 71 item relates to Gravity Wastewater Service only.

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

VI. OLD BUSINESS

At 2:19 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, B, C, D, E and Item VII. A. Director Creveling abstained from participation in executive session regarding Item VI.E.

At 3:12 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 and/or anticipated litigation, including:

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. Director Roberts direct staffed to proceed as discussed in executive session.

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.

Sam Morrow addressed the Board as the former HOA Board President of Rocky Creek on behalf of residents. He stated that this developer signed a contract with provisions including the number of homes (approximately 700 homes) and impervious cover at 20%. He stated that the developer is on track to exceed this impervious cover and not in compliance with the service contract. The developer is now asking for additional homes to be built, and the original request for 1,800 homes was originally denied. He stated that traffic is a concern, although this is not an issue related to water service. However, water quality is an issue and this development will negatively impact water quality, and such a development could negatively impact rates. He stated that both Rocky

Creek and Belvedere adhered to their impervious cover requirements, and abided by their agreement. He asked that the PUA enforce its existing contract and deny the additional request, as this will set a precedent for future development.

Jim Koerner next addressed the Board as a long-time PUA customer and on behalf of HPRM. He stated that existing ratepayers in HPRM have been opposed to this development, and asked that the SER be denied. He stated the Provence is in breach of the contract as well as their certification with TCEQ, and that excess impervious cover is due to added sidewalks. The Halff report shows exceedance of 20% and at a minimum a new OEM certification needs to be submitted to TCEQ. Existing ratepayers and HPRM are asking that the contract be enforced and the SER be denied.

Blake Reschke addressed the Board as a Board member on Rocky Creek HOA. He stated that he had recently received information that there is a violation of the agreement relating to impervious cover, and he is concerned that the developers have not required that builder abide by impervious cover. He stated That Rocky Creek followed 15% impervious cover. He stated this sets a dangerous precedence and the system can't handle additional capacity. He stated that improper development affects the creek system.

Peter Golde next addressed the Board as a retail customer of the PUA and as an active member of HPRM. He stated that there is no obligation to serve Provence and there is limited treatment capacity for the system. He stated the WTCPUA should be thinking long term and allocating and prioritizing water service based on commitments from their 2014 demographics study. The PUA should be focusing on the projected future demand from development within the PUAs CCN and LCRA's legacy commitments. Then only after the ability to serve these demands should the Board consider other SERs.

Israel Zuela, former Rocky Creek Board member, next addressed the Board. He stated that the developments on HPR had impervious coverage restrictions that they adhered to, and it is concerning that a developer is going to impact all residents in the surrounding neighborhood.

Mr. Bill McLean addressed the Board on behalf of Masonwood HP. He stated that he provided a presentation to Ms. Riechers, provided as **Exhibit G**, to provide on the screen. He asked that the Board authorize staff to complete the engineering analysis already paid for by the Developer, and make sure that staff is aware that the developer is willing to fund infrastructure to serve Phase 2. Also, Masonwood HP is open to the alternative of wholesale service, detailed in a June 6, 2018 letter, where no infrastructure would be required – only the amount of water that is already being delivered. Mr. McLean stated that Masonwood HP is willing to consider conditions set by the PUA. He also addressed the Halff report, stating that the inspections are not in compliance with the NSSA or the PUA's policies. He followed that the exhibits to the NSSA and to the policies look nothing like the Halff letter, which is a post-construction of homes analysis that is not mentioned anywhere in the rules or the NSSA. To date, Provence is the only subdivision subject to the analysis and is inconsistent with the policies and the NSSA.

Director Roberts stated to add a future agenda item discussing the PUA's policies on impervious cover.

- C. Discuss, consider and take action on SER request from Hamilton Retail Center on Hamilton Pool Road, 8 Water LUEs.**

This item was discussed in executive session.

- D. Discuss, consider and take action on Service Extension Request for 17507 Hamilton Pool Road, 14 Water LUEs.**

This item was discussed in executive session.

- E. Discuss, consider, and take action regarding the sale of reclaimed water to CCNG Golf.**

This item was discussed in executive session. Director Creveling abstained from participation and voting on this matter.

Director Roberts instructed staff to negotiate a contract as discussed in executive session.

Ms. Riechers read public comment provided as Exhibit H from Don Walden.

VII. NEW BUSINESS

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

This item was discussed in executive session.

Jesse Malone, engineer for Headwaters MUD, addressed the Board. He stated that this item is a continuation of an item originally presented by Pix Howell. He stated that the Board had directed a detailed approach to address expansion of the treated effluent system in the MUD. He stated that they are requesting authorization to work with PUA staff to explore amendments to the wholesale agreement to move irrigation within the MUD to irrigate with effluent versus potable water.

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

Ms. Riechers stated that the moratorium on late fees and disconnects was last addressed in March with direction to provide an update to the Board to re-address in August. She asked when and if the Board would like to reinstate late fees and disconnects. Her recommendation is to wait until at least September 30, but bills would be accumulating during this time period and it would be difficult for payments to be made by customers as time went on.

Director Bethke asked about the financial impact of such a moratorium, and Ms. Riechers confirmed that the current impact is \$40,000 from late fees. Ms. Riechers stated that bad debt will be increased in the future if payments can't be made. In response to a question from Director

Roberts, Ms. Riechers stated that she recommended reinstating late fees and disconnects after consideration at the September 17 Board meeting.

MOTION: A motion was made by Director Roberts to postpone taking action on the reinstatement of late fees and disconnects to the September 17, 2020 Board meeting. 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 Pretreatment Surcharge program.

Ms. Riechers stated that this is similar to the matter relating to the suspension of late fees and disconnects, and that her opinion is that the Pretreatment Surcharge should not be currently reinstated as restaurants are still operating at limited capacity.

Director Bethke asked about financial impact of continuing the suspension of this surcharge, to which Ms. Smith said it's approximately \$60,000.00.

MOTION: A motion was made by Director Roberts to postpone taking action on the pretreatment surcharge program to the September 17, 2020 Board meeting. 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

D. Discuss, consider and take action on Order amending WTCPUA's Wholesale Water and Wastewater Rates.

Ms. Riechers presented this item, provided as Exhibit I. She stated that the rate study and wholesale contracts incorporated annual increases of minimum billed amounts for certain customers that were still in development.

MOTION: A motion was made by Director Roberts to approve the Order amending WTCPUA's Wholesale Water and Wastewater rates, provided as Exhibit I. 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 WTCPUA Organizational Chart.

Ms. Smith provided this item, presented as Exhibit J. She stated that there is one change with the addition of a customer service position that is included in the budget.

Director Bethke discussed how engineering and legal both report directly to Board. He mentioned having those two roles report to General Manager as the Board continues to stabilize the Agency.

MOTION: A motion was made by Director Roberts to approve the WTCPUA Organizational Chart, 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

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

Ms. Smith presented on this item, provided as Exhibit K. She detailed changes to the budget since the budget workshop. Ms. Smith stated they have included requests for \$25,000.00 to get a program for safety training started with operation staff. Ms. Smith stated they have also included items for crane inspections. Ms. Smith stated that she has finalized their payroll with the General Manager, and the result was an overall 4.9% recommended increase to payroll over the year. She stated that following the additional items, the anticipated budget surplus is \$2,100,000.00.

Director Creveling stated that it is fortunate for the Board members to sit on the Board when the PUA is on such good financial footing.

Director Garza added that he appreciated the efforts and that the position the PUA is in to suspend late fees and connections is because of the positive financial situation of the PUA.

Ms. Smith stated that she anticipated no further changes to the budget except those that may be made by the Board.

Director Roberts stated that staff is doing a wonderful job and that the PUA is in a great financial position.

G. Discuss, consider and take action on review of WTCPUA Administrative and Financial policies.

Ms. Smith presented this item, provided as Exhibit L. She stated that she wanted to consolidate all of the PUA's administrative financial policies relating to funds. She stated that this consolidates the existing policies with minor changes to reflect bond covenants, and that strong controls are in place

MOTION: A motion was made by Director Roberts to approve the WTCPUA Administrative and Financial policies, 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

VIII. STAFF REPORTS

A. General Manager's Report.

Ms. Riechers provided this item, provided as Exhibit M.

B. Controller's Report.

Ms. Smith provided this item, provided as Exhibit N.

She stated that for the month of July, there are positive variances in revenue and expenses.

C. Engineer's Report including:
1. Capital Improvements Plan Update
2. Solids Management Plan

Mr. Lozano presented this report, provided as Exhibit O.

Director Roberts asked what the peak 1 day demand has been in the system, to which Mr. Lozano stated that it was typically at 15 MGD, but has recently reached 17 MGD. Mr. Lozano stated that the second raw waterline is 95% complete and getting ready to be commissioned next month. Director Roberts asked when the water treatment plant expansion would need to begin, to which Mr. Lozano stated that these conversations have already begun, and that something would be brought to the Board in the next few months. In response to a question from Director Roberts, Mr. Lozano stated that the water treatment plant expansion is approximately a 24 month project.

Director Creveling concurred with Director Roberts that the process to move forward with the expansion is an item that needs to be pursued as soon as possible. Director Roberts asked Mr. Lozano to provide a briefing at the next meeting and allow for the Board to have the ability to authorize moving forward.

Mr. Lozano next address the solids management plan, provided as **Exhibit P**. He stated that this study was to address the solids management in the PUA. He recommended moving forward with dewatering of sludge at the Bohls Wastewater Treatment Plant site to reduce hauled sludge volume and reduce costs. He stated that this will also reduce the heavy truck traffic in the Lake Pointe subdivision. He detailed the project phases, and asked for feedback from the Board whether this is a project that the Board would like to pursue, and authorize reaching out to Lake Pointe MUD and the HOA regarding this project to get their input. In response to a question from Director Creveling, Mr. Lozano stated that there may be some street construction to put in the required wastewater line.

Director Bethke stated that he would provide support in facilitating these discussions, but reducing the impact on the subdivision would generally be viewed as positive. He stated that the preference of Lake Pointe would be removal of the Lake Pointe Wastewater Treatment Plant in the future.

Director Roberts asked if all the flow could be transported to the Bohls wastewater Treatment Plant, and directed Mr. Lozano to look into this possibility and bring back to the Board.

D. Operations Report

Provided as **Exhibit Q**.

VIII. ADJOURNMENT

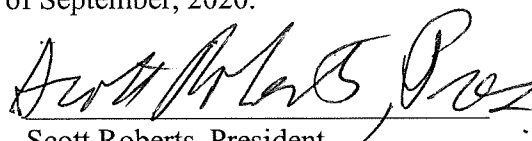
MOTION: A motion was made by Director Roberts to adjourn the meeting. The motion was seconded by Director Creveling.

The vote was taken with the following result:

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

The meeting adjourned at 3:19 p.m.

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


Scott Roberts, President
Board of Directors