



Edwards Aquifer Authority

900 E. Quincy
San Antonio, TX 78215
EdwardsAquifer.org

Meeting Minutes - Draft

Board of Directors

Tuesday, September 11, 2018

3:00 PM

EAA Board Room

A. Call to Order – Roll Call – Pledge of Allegiance.

Chairman Buckner called the meeting to order at 3:07 p.m.

Present: 16 - Chairman Luana Buckner, Director Deborah Carington, Treasurer Ron Ellis, Director Rader Gilleland, Director Susan Hughes, Director Kathleen Krueger, Director Don Laffere, Director Gary Middleton, Director Byron Miller, Director Carol Patterson, Director Pat Stroka, Secretary Enrique Valdivia, Director Ron Walton, Director Clark Ward, Director Scott Yanta and Vice Chairman Ben Youngblood

Absent: 1 - Director Amy Akers

B. Public comment.

There were no citizens who requested to address the board.

C. General Manager's announcements and reports.

C.1

- Staffing Items of Interest (anniversaries, new hires)
- Recent Activities/Events (reports on conferences attended, meetings held, etc.)
- Upcoming Activities/Events (conferences, meetings, etc.)
- Operational Announcements (schedule changes, program updates, etc.)
- Recent Activities of the Edwards Aquifer Habitat Conservation Program
- Aquifer Conditions

Mr. Roland Ruiz, General Manager, made the following announcements:

- *Mr. Scott Storment was hired as Senior Director of Threatened and Endangered Species.*
- *Ms. Natasha Ponce was promoted from Field Inspection Techniciann to Groundwater Use Coordinator.*
- *Mr. Marc Friberg, Executive Director - External & Regulatory Affairs, completed 10 years of service with the EAA.*
- *Directors received a flyer for the South Central Texas Regional Certification Agency Annual Business Network Luncheon on Wednesday, September 19 at the Pearl Stable. The keynote speaker would be Bexar County Judge Nelson Wolff. The EAA was a sponsor of this event and has a reserved table.*
- *The board received an update on the refugia project.*
- *Mr. Paul Bertetti, Director of Aquifer Science, briefed the board on current aquifer conditions.*

D. Treasurer's Report

- D.1 Receive report from EAA staff on unaudited financial statements for July 2018.**

Treasurer Ellis presented the unaudited financial statements for July 2018.

E. Board Reports

- E.1 Receive report from Director Gary Middleton, South Central Texas Water Advisory Committee (SCTWAC) representative to the board, regarding downstream water conditions of the Guadalupe River Basin and current activities and issues of interest to SCTWAC.**

Director Gary Middleton, SCTWAC, briefed the board regarding downstream water conditions, and noted that conditions downstream were wet, and the river levels had not increased much yet, but should come up several feet by the end of the week. SCTWAC was scheduled to meet on Tuesday, September 18 at 10:00 a.m. at the EAA. They would be reviewing the report that would given to the EAA board in October, or early November.

F. Consent Agenda

- F.1 Approval of previous board meeting minutes
- Regular Board Meeting - August 14, 2018**

*Approval of previous board meeting minutes
- Regular Board Meeting - August 14, 2018*

- F.2 Consider recommendation from the Permits/Enforcement Committee to accept the settlement counter-offer from Pesca Pluma, LLC, a Texas limited liability company, related to exceeding authorized groundwater withdrawals during 2017.**

Accept the counter-offer regarding the pending enforcement matter presented below.

- F.3 Consider recommendation from the Permits/Enforcement Committee to approve an application to convert base irrigation groundwater owned by BNSF Railway Company, based on a change in land use.**

Adopt a Final Order Granting Application to Convert Base Irrigation Groundwater for Regular Permit No. P107-613 (BE00096) based on a change in land use submitted by BNSF Railway Company.

[Attached and made a part of these minutes.]

- F.4 Consider recommendation from the Permits/Enforcement Committee to approve an application to convert base irrigation groundwater owned by KNJK Family Limited Partnership, based on the installation of conservation equipment.**

Adopt a Final Order Granting Application to Convert Base Irrigation Groundwater for Regular Permit No. P102-177 (UV00651) based on the installation of conservation equipment submitted by KNJK Family Limited Partnership.

[Attached and made a part of these minutes.]

- F.5 Consider recommendation from the Finance/Administrative Committee to approve an engagement letter with RSM US, L.L.P., to provide independent audit services for fiscal year 2018, in an amount not to exceed \$52,500.**

Approve an engagement letter with RSM US, L.L.P., to provide independent audit services for fiscal year 2018.

- F.6 Consider recommendation from the Finance/Administrative Committee to approve a contract with the Texas Municipal League-Intergovernmental Risk Pool for property and casualty, and workers' compensation insurance, in the amount of \$90,672.**

Approve a contract with the Texas Municipal League-Intergovernmental Risk Pool for property and casualty, and workers' compensation insurance, in the amount of \$90,672, for the period October 1, 2018, through September 30, 2019, and authorize the General Manager to execute the contract.

- F.7 Consider recommendation from the Finance/Administrative Committee to approve payment to Kemp Smith for legal services for July 2018.**

Approve payment to Kemp Smith in the amount of \$87,663.61, for legal services for July 2018.

Director Stroka moved, and Secretary Valdivia seconded, the board approve the consent agenda. The motion passed viva voce.

G. Individual Consideration

- G.1 Consider recommendation from the Executive Committee to consider a renewal and extension of an Interlocal Cooperation Contract with the Evergreen Underground Water Conservation District to conduct a Precipitation Enhancement Program, in an amount not to exceed \$163,000.**

Mr. Marc Friberg, Executive Director - External & Regulatory Affairs, briefed the board regarding a one-year renewal and extension of an Interlocal Cooperation Contract (Contract) with the Evergreen Underground Water Conservation District (EUWCD) to conduct a Precipitation Enhancement Program (PEP) for the year 2019. The original Contract was approved by the board in December 2015, and renewed in September 2016 and 2017. The current Contract expires September 30, 2018. If approved, this would be the third of four renewal options.

Mr. Russell Labus, General Manager - EUWCD, was in attendance to answer questions from the board.

A motion was made by Director Stroka, seconded by Secretary Valdivia, the board adopt Resolution and Order No. 09-18-906 approving a one-year renewal and extension of Interlocal Cooperation Contract No. 15-775-ERA between the EAA and Evergreen Underground Water Conservation District to conduct precipitation enhancement activities, in an amount not to exceed \$163,000, for the period October 1, 2018 through September 30, 2019, and authorize the General Manager to execute the renewal. The motion passed viva voce. Director Patterson voted in opposition to the motion.

[Attached and made a part of these minutes.]

- G.2 Consider recommendation from the Research & Technology Committee to approve a joint funding agreement with the United States Geological Survey for data collection services, in an amount not to exceed \$375,115.**

Dr. Marcus Gary, Field Operations Supervisor, briefed the board regarding the annual hydrologic data collection agreement between the United States Geological Survey (USGS) and the EAA.

A motion was made by Director Patterson, seconded by Director Walton, the board adopt Resolution and Order No. 09-18-907 of the Edwards Aquifer Authority Board of Directors approving Joint Funding Agreement No. 18-900-AM between the EAA and the United States Geological Survey for data collection services, in the total amount of \$524,230, of which the EAA contribution will not exceed \$375,115, for the period October 1, 2018, through September 30, 2019. The motion passed viva voce.

[Attached and made a part of these minutes.]

- G.3 Consider recommendation from the Research & Technology Committee to approve a contract with BIO-WEST, Inc., to provide Biological monitoring services for Comal and San Marcos Springs Ecosystems, in an amount not to exceed \$3,823,796.68.**

Dr. Chad Furl, Chief Science Officer - HCP EAA Projects, briefed the board regarding a contract between the EAA and BIO-WEST, Inc. (BIO-WEST), to provide a biological monitoring program for the Comal and San Marcos springs ecosystems, as required by the Edwards Aquifer Habitat Conservation Plan (EAHCP).

A motion was made by Director Patterson, seconded by Vice-Chairman Youngblood, the board adopt Resolution and Order No. 09-18-908 of the Edwards Aquifer Authority Board of Directors approving Contract No. 18-901-TES between the EAA and Bio-West, Inc., to implement the comprehensive biological monitoring program for Comal and San Marcos Springs ecosystems, in an amount not to exceed \$3,823,796.68, for the period January 1, 2019 through December 31, 2023, and authorizing the General Manager to execute the contract. The motion passed viva voce.

[Attached and made a part of these minutes.]

- G.4 Consider recommendation from the Research & Technology Committee to approve a contract with SWCA Environmental Consultants, LLC., to provide Water Quality monitoring services for Comal and San Marcos Springs Ecosystems, in an amount not to exceed \$461,646.**

Dr. Furl briefed the board regarding a contract between the EAA and SWCA Environmental Consultants (SWCA) to continue to provide an expanded water quality monitoring and sampling analysis program for the Comal and San Marcos springs ecosystems, as required by the Edwards Aquifer Habitat Conservation Plan (EAHCP).

A motion was made by Director Patterson, seconded by Director Stroka, the board adopt Resolution & Order No. 09-18-909 of the Edwards Aquifer Authority Board of Directors approving Contract No. 18-902-TES between the EAA and SWCA Environmental Consultants, LLC, to implement the Water Quality Monitoring program for the Comal and San Marcos Springs ecosystems in an amount not to exceed \$461,646.00, for the period January 1, 2019, through December 31, 2020, and authorizing the General Manager to execute the contract. The motion passed viva voce.

[Attached and made a part of these minutes.]

G.5

Consider recommendation from the Permits/Enforcement Committee to approve ASR springflow protection program forbearance agreements with James Kramer, Charles Kramer, Peggy Bielfeldt; Carl William Santleben and wife, Brenda Santleben; Robert O. Coleman and Betty Lou Coleman; Robert J. Grossenbacher and wife, Judy Grossenbacher; Melissa Ranch 1856, LP; Eric M. Bendele, Trustee of the Bendele Family Trust; Robbie Ann Wells and Ervin C. Wells, Jr.; Sisters of Charity of the Incarnate Word; Jack Guenther; Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust; and Steve G. Persyn, for the Aquifer Storage and Recovery Forbearance Program, in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of \$1,303,411.00.

Mr. Javier Hernandez, Special Projects Liaison, briefed the board regarding approving springflow protection program forbearance agreements for the Aquifer Storage and Recovery (ASR) Program in support of the Edwards Aquifer Habitat Conservation Plan (EAHCP).

A motion was made by Secretary Valdivia, seconded by Director Laffere, the board approve springflow protection program forbearance agreements with the permit holders listed below, to the EAA for the Aquifer Storage and Recovery Program in support of the Edwards Aquifer Habitat Conservation Plan, and authorize the General Manager to execute the agreements. The motion passed viva voce.

G.6

Consider recommendation from the Permits/Enforcement Committee to approve Voluntary Irrigation Suspension Program Option (VISPO) forbearance agreements with Barbara Jane Moore; Michael T. Adamek and Kristen J. Adamek; Merlynn Verstuyft, Roger G. Verstuyft & wife, Patricia J. Verstuyft; LEC Legacy, Ltd.; Eugene Verstuyft and wife, Mildred C. Verstuyft; Gary A. Boehme; Weldon Gilleland and wife, Judie M. Gilleland; Laurie Kay Keller and Michael Kim Keller; Lucille Carson Hutcherson; Loretta P. Sittre; John Henry Mueller and James Joseph Mueller; Kenneth D. Sparks; Malcolm Richey; Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust; Marion J. Fey; Bert McCasland; Kessler Ranch, Ltd., a Texas Limited Partnership; Roy M. Kothmann and Carol C. Kothmann; Florence Becker; Roger L. Berry and wife, Sharon B. Berry; Louis E. Capt; and Deborah L. Weiblen, for Edwards groundwater withdrawal rights in the total amount of not less than \$1,255,744.35, and not to exceed \$4,976,468.35, for the Voluntary Irrigation Suspension Program Option in support of the Edwards Aquifer Habitat Conservation Plan.

Mr. Hernandez briefed the board regarding approving VISPO forbearance agreements (Agreements) for permitted Edwards groundwater rights for the Voluntary Irrigation Suspension Program Option in support of the Edwards Aquifer Habitat Conservation Plan (EAHCP).

A motion was made by Secretary Valdivia, seconded by Director Laffere, the board approve VISPO forbearance agreements for permitted Edwards groundwater rights between the EAA and the permit holders listed below, in the total amount of not less than \$1,255,744.35, and not to exceed \$4,976,468.35, for the Voluntary Irrigation Suspension Program Option in support of the Edwards Aquifer Habitat Conservation Plan, and authorizing the General Manager to execute the Agreement. The motion passed viva voce. Director Gilleland abstained from the vote on the motion.

- G.7** Consider recommendation from EAA staff to amend Exhibit A of Resolution and Order No. 07-18-902, which called for the election of 10 voting members to the EAA Board of Directors from 10 single-member districts within the boundaries of the EAA to be held on November 6, 2018, to include certain omitted voting precincts in EAA Director District 9 within Comal and Guadalupe County.

Mr. Friberg briefed the board regarding amending Resolution and Order No. 07-18-902 adopted by the board of the EAA on July 10, 2018, which called for the election of 10 voting members to the board of directors of the EAA from 10 single-member districts within the boundaries of the EAA to be held on November 6, 2018, by amending Exhibit A to include certain omitted voting precincts in EAA Director District 9 within Comal and Guadalupe County.

A motion was made by Director Krueger, seconded by Director Walton, the board adopt Resolution and Order No. 09-18-910 of the Edwards Aquifer Authority Board of Directors amending Resolution and Order No. 07-18-902 adopted by the board of the EAA on July 10, 2018, which called for the election of 10 voting members to the board of directors of the EAA from 10 single-member districts within the boundaries of the EAA to be held on November 6, 2018, by amending Exhibit A to include certain omitted voting precincts in EAA Director District 9 within Comal and Guadalupe County; and authorizing the General Manager and General Counsel to take all appropriate action to advise the appropriate county election officials of such action. The motion passed viva voce.

[Attached and made a part of these minutes.]

- G.8** Consider recommendation from the Executive Committee to approve contracts for election services with the Bexar County, Comal County, and Guadalupe County elections administrators for the conduct of the EAA's 2018 general directors election for EAA districts 7 and 9.

Mr. Friberg briefed the board regarding approving contracts with the Bexar County, Comal County, and Guadalupe County elections administrators for the joint holding of EAA director elections in districts 7 and 9.

A motion was made by Director Krueger, seconded by Director Patterson, the board approve contracts for election services with the Bexar County, Comal County, and the Guadalupe County Election Administrators for the conduct of the EAA's 2018 general directors election for EAA districts 7 and 9. The motion passed viva voce.

- G.9** Consider recommendation from EAA staff to: (1) accept the Certification of Candidates' Unopposed Status issued by Board Secretary Enrique P. Valdivia; (2) adopt Resolution and Order No. 09-18-911 of the Edwards Aquifer Authority Board of Directors declaring the unopposed candidates elected to office from single-member districts 1, 3, 5, 6, 8, 11, 13, and 15 within the boundaries of the EAA and cancelling those elections; and (3) direct the General Manager and General Counsel to take all appropriate actions in furtherance thereof as may be required by law.

Mr. Friberg briefed the board regarding accepting the certification by the Secretary of the Board of Directors ("board") of the Edwards Aquifer Authority ("EAA") of those candidates who are unopposed for the EAA's November 6, 2018 general directors' election and by board order, to declare the unopposed candidates to be elected to their respective positions as a director of the board of the EAA and cancel each respective election.

A motion was made by Director Patterson, seconded by Director Stroka, the board adopt Resolution and Order No. 09-18-911 of the Edwards Aquifer Authority Board of Directors to: (1) accept the Certification of Candidates' Unopposed Status issued by Board Secretary Enrique P. Valdivia; (2) adopt Resolution and Order No. 09-16-854 of the Edwards Aquifer Authority Board of Directors declaring the unopposed candidates elected to office from single-member districts 1, 3, 5, 6, 8, 11, 13, and 15 within the boundaries of the EAA and cancelling those elections; and (3) direct the General Manager and General Counsel to take all appropriate actions in furtherance thereof as may be required by law. The motion passed viva voce.

[Attached and made a part of these minutes.]

H. Staff Reports

- H.1** Receive report from EAA staff on the General Manager's 2019 Proposed Operating Budget.

Ms. Shelly Hendrix, Director/Controller Financial Services, briefed the board regarding the General Manager's 2019 Proposed Operating Budget.

This board report was presented.

I. Closed Session.

The Board of Directors of the Edwards Aquifer Authority may go into a closed session under the authority of the Government Code, Chapter 551, Texas Open Meetings Act, to discuss:

The board did not meet in closed session.

I.1**Closed Session.**

1. Consultation with Attorney - Pending Litigation (§ 551.071)

Active Litigation:

League of United Latin Am. Citizens v. Edwards Aquifer Auth. (W.D. Tex. filed June 21, 2012)

Uvalde Cty. UWCD. v. Edwards Aquifer Auth. (38th Uvalde Cty. filed Jan. 16, 2018)

Gibson v. Edwards Aquifer Auth., (County Court at Law 2, Comal County, Texas, June 1, 2018)

2. Consultation with Attorney - Attorney/Client Privileged Consultations (§ 551.071)
3. Consultation with Attorney - Settlement Offers (§ 551.071)
4. Consultation with Attorney (§ 551.071)
5. Deliberations Regarding Real Property (§ 551.072)
6. Deliberations Regarding Personnel Matters (§ 551.074)

J. Consider recommendation(s) regarding matters discussed in closed session.

The board did not consider any recommendations.

K. Discuss items for future board meeting agendas.

The board did not discuss items for future board meeting agendas.

L. Adjournment.

There being no further business to discuss, the meeting adjourned at 4:22 p.m.

Enrique P. Valdivia
Secretary, Board of Directors

Jennifer Wong-Esparza
Assistant to Board Secretary