



Edwards Aquifer Authority

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

Meeting Minutes - Draft

Board of Directors

Tuesday, April 9, 2019

3:00 PM

EAA Board Room

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

Chairman Buckner called the meeting to order at 3:10 p.m.

Present: 14 - Chairman Luana Buckner, Director Deborah Carington, Treasurer Ron Ellis, Director Don Laffere, Director Gary Middleton, Director Byron Miller, Director Carol Patterson, Director Abe Salinas, Director Rachel Sanborn, Director Pat Stroka, Director Ron Walton, Director Clark Ward, Director Scott Yanta and Vice Chairman Ben Youngblood

Absent: 3 - Director Rader Gilleland, Director Kathleen Krueger and Secretary Enrique Valdivia

B. Public comment.

There were no citizens who requested to address the board.

Director Gary Middleton offered comments regarding the bill that Rep. Lyle Larson filed allowing San Antonio Water System to enter into a contract with the military bases to supply water. Director Middleton testified on behalf of the Coalition and would like additional language added to the contract that would strengthen SAWS' and EAA's position to regulate. Also, he noted that by adding additional language there would not be any room for interpretation and differences down the road.

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. Geary Schindel, Chief Technical Officer, completed 20 years of service with the EAA.*
- *The EAA was selected by the American Water Works Association as the 2019 recipient of a Texas Water Conservation Reuse Award in the Non-Utility Direct Division for its Groundwater Conservation Grant program. Isabel Martinez attended the award ceremony on behalf of the EAA on Thursday, April 4 at the Texas Water 2019 Conference in Houston. The Texas Section – American Water Works Association sponsors the Texas Water Conservation and Reuse Awards to recognize organizations who have demonstrated excellence in water conservation and reuse practices.*
- *In directors' folders was a copy of a non-binding memorandum of understanding between EAA and Morgan Wonderland Properties. Mr. Gordon Hartman announced plans to create a Wonderland Camp on property on the recharge zone. This came after City Council action to approve two properties owned by Hartman – the proposed camp, and an adjoining property – for enrollment in the Edwards Aquifer Protection Program.*
- *Director Ron Walton shared the Valero Texas Open pin that he was given at the golf tournament. The Edwards Aquifer Conservancy was a participant in the Birdies for Charity event.*
- *The EAA was a sponsor of the Cascarón Bash scheduled for Wednesday, April 10 from 6:00 p.m. – 10:00 p.m. at Alamo Beer Co. The Cascarón Bash, celebrating its 6th year, is dedicated to increasing minority youth participation and increasing graduation rates in Science, Technology, Engineering, Arts and Math (STEAM) and to provide scholarships and leadership development activities for various programs.*
- *A grand opening ceremony was scheduled for the new refugia building on site at the San Marcos Aquatic Resources Center on Thursday, April 25. A one-page fact sheet/itinerary was in directors' folders. We would provide transportation for board members wishing to attend. We would convene at the EAA and travel by bus to San Marcos, have lunch following the event, and then return to the EAA.*
- *This is a reminder that the annual board of directors dinner is scheduled for Thursday, May 2. Directors received a formal invitation in the mail.*
- *Directors also received a hard copy of the News Drop newsletter. This newsletter was sent electronically via email last week. This is a new initiative in keeping with our commitment to be more intentional in our communication to build greater awareness and ultimately greater support of our mission, both as the EAA and the EAC.*
- *The EAA bill to replicate necessary portions of chapter 36 in the EAA Act had been moved out of committee and a hearing was scheduled for April 12 in the House. We continue to work in a similar direction on the senate side with the offices of the Governor, the chairman of the Water and Rural Affairs Committee, and bill sponsor Sen. Donna Campbell to address concerns and avoid misinterpretations and unintended consequences of this legislative effort. Other bills that were being tracked by staff were highlighted.*
- *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 February 2019.**

Treasurer Ellis presented the unaudited financial statements for February 2019.

E. Board Reports**F. Consent Agenda****F.1 Approval of previous board meeting minutes
- Regular Board Meeting - March 12, 2019**

*Approval of previous board meeting minutes
- Regular Board Meeting - March 12, 2019*

F.2 Consider recommendation from the Permits/Enforcement Committee and staff to approve Agricultural Secondary Containment Assistance Program Agreements with Rancho La Cochina Minerals, Ltd. and George D. Koch.

Approve Agricultural Secondary Containment Assistance Program Agreements with Rancho La Cochina Minerals, Ltd. and George D. Koch, and authorize the General Manager to execute the agreement.

F.3 Consider recommendation from the Finance/Administrative Committee to approve the purchase of technology hardware and associated software from Insight Public Sector.

Approve the purchase of technology hardware and associated software from Insight Public Sector in an amount not to exceed \$87,755.

F.4 Consider recommendation from the Finance/Administrative Committee to approve payment to Kemp Smith for legal services for February 2019.

Approve payment to Kemp Smith in the amount of \$62,224.71, for legal services for February 2019.

A motion was made by Director Laffere, seconded by Director Miller, to approve the consent agenda. The motion passed viva voce.

G. Individual Consideration

- G.1** **Receive report from independent auditor, RSM LLP, and consider recommendation from the Finance/Administrative Committee to accept the audit report for the 12-month period of January 1, 2018 through December 31, 2018.**

Mr. Felix Marquez, Executive Director - Administration & Financial Services, introduced Mr. Joel Perez, RSM LLP.

Mr. Perez introduced Mr. Bob Williams, Robert Williams CPA (Subcontractor - Minority Participation), who offered a few brief comments regarding the audit. Mr. Perez then briefed the board regarding the audit report for the 12-month period of January 1, 2018 through December 31, 2018.

A motion was made by Treasurer Ellis, seconded by Director Laffere, the board accept the audit report as presented by independent auditor, RSM LLP, for the 12-month fiscal period of January 1, 2018 through December 31, 2018. The motion passed viva voce.

- G.2** **Consider recommendation from the Finance/Administrative Committee to approve an agreement with Quacito LLC, for development of an EAA website.**

A motion was made by Treasurer Ellis, seconded by Vice-Chairman Youngblood, the board adopt Resolution and Order No. 04-19-931 of the Edwards Aquifer Authority Board of Directors authorizing the General Manager to execute a contract with Quacito LLC, for development of an EAA website, in an amount not to exceed \$84,901. The motion passed viva voce.

[Attached and made a part of these minutes.]

- G.3** **Consider recommendation from the Finance/Administrative Committee to approve an amendment to the FY2019 Edwards Aquifer Habitat Conservation Plan Funding Application, increasing the amount of this funding application by \$1,241,906 for Refugia activities.**

A motion was made by Treasurer Ellis, seconded by Director Laffere, the board adopt Resolution and Order No. 04-19-932 of the Edwards Aquifer Authority Board of Directors approving an amendment to the Edwards Aquifer Habitat Conservation Plan FY2019 Funding Application for the EAA to increase the amount of this funding application by \$1,241,906 for Refugia activities, resulting in a total revised FY2019 Funding Application amount not to exceed \$18,215,622. The motion passed viva voce.

[Attached and made a part of these minutes.]

- G.4 Consider recommendation from the Finance/Administrative Committee to amend the 2019 EAA Operating Budget by increasing the General Fund appropriation by \$84,901 and decreasing the Habitat Conservation Plan Fund by \$139,080.**

A motion was made by Treasurer Ellis, seconded by Director Laffere, the board amend the 2019 EAA Operating budget by increasing the General Fund appropriation for Professional Technical Services by \$84,901, and decreasing the Habitat Conservation Plan Fund appropriation for Professional Technical Services by \$139,080. The motion passed viva voce.

H. Staff Reports

- H.1 Receive report from EAA staff on the draft Edwards Aquifer Habitat Conservation Plan Comprehensive Phase II Work Plan.**

Mr. Scott Storment, Senior Director - Threatened & Endangered Species, briefed the board regarding the Comprehensive Phase II Work Plan process and timeline.

- H.2 Receive report from EAA staff regarding the revised Edwards Aquifer Authority General Manager Compliance and Settlement Guidelines.**

Mr. Marc Friberg, Executive Director - External & Regulatory Affairs, introduced and explained staff report agenda items H.2 and H.3.

Mr. Earl Parker, Director - Regulatory Affairs, briefed the board regarding revisions to the existing Compliance Settlement Guidelines of the Edwards Aquifer Authority to support EAA's expanded enforcement options with the potential use of an administrative penalty process.

- H.3 Receive report from EAA staff on proposed compliance settlement offers to owner/operators of facilities with aboveground storage tank (AST) systems that operated on the Edwards Aquifer Recharge Zone after December 31, 2018 in violation of EAA rules.**

Mr. Parker briefed the board regarding potential settlements to the registered owner/operators of facilities with aboveground storage tank (AST) systems that were operated on the Edwards Aquifer Recharge Zone (EARZ) in violation of EAA rules.

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:

Chairman Buckner closed the meeting to the public at 4:17 p.m.

I.1**Closed Session.****1. Consultation with Attorney - Pending Litigation (§ 551.071)****Active Litigation:**

League of United Latin Am. Citizens v. Edwards Aquifer Auth. (5th Cir. filed Aug. 9, 2018)

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

Gibson v. Edwards Aquifer Auth. (37th Dist. Ct., Bexar Cty., Tex. transferred Sept. 6, 2018)

Gonzales v. Mendez (285th Dist. Ct., Bexar Cty., Tex. filed Sept. 20, 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)**

Chairman Buckner reopened the meeting to the public at 4:30 p.m.

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

A motion was made by Vice-Chairman Youngblood, seconded by Director Laffere, to authorize counsel to intervene on behalf of the Edwards Aquifer Authority and to interplead funds in *Gonzales v. Mendez*, No. 2018-CI-18149 in the 285th District Court in Bexar County, Texas - a suit to partition real property involving EAA permitted Edwards rights for the purpose of clarifying the rights to receive payment under existing EAA contracts relative to such rights. The motion passed viva voce.

- J.1** **Consider recommendation from EAA staff to refer to General Counsel an enforcement matter against 7-Eleven, Inc. and Sonnahr Enterprises, Inc., for violations of EAA rules, and authorize General Counsel to file a civil suit, if necessary.**

A motion was made by Director Patterson, seconded by Director Miller, to table this agenda item. The motion passed viva voce.

- K. Discuss items for future board meeting agendas.**

The board did not discuss future board meeting agenda items.

- L. Adjournment.**

There being no further business to discuss, the meeting adjourned at 4:31 p.m.

*Enrique P. Valdivia
Secretary, Board of Directors*

*Jennifer Wong-Esparza
Assistant to Board Secretary*