

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

August 16, 2018

**Present:**

Don Walden, Vice President  
Ray Whisenant, Secretary  
Bill Goodwin, Assistant Secretary  
Eileen Brzoska, Director

**Staff and Consultants:**

Robert Pugh, General Manager  
Jennifer Riechers, Program Manager  
Jennifer Smith, Controller  
Stefanie Albright (Lloyd Gosselink Rochelle & Townsend, P.C.), General Counsel  
David Klein (Lloyd Gosselink Rochelle & Townsend, P.C.), General Counsel  
Judith Coker, Senior Engineer  
Pierce Powers, Engineer  
Reuben Ramirez, Engineering Technician  
Trey Cantu, Agency Operations Manager  
Dennis Lozano (Murfee Engineering), District Engineer

**I. CALL TO ORDER**

Director Walden called the meeting to order at 10:00 a.m.

**II. ESTABLISH QUORUM**

A quorum was established. Also present were the above-referenced staff and consultants.

**III. PUBLIC COMMENT**

Pete Golde, a member of Hamilton Pool Road Matters, addressed the Board stating that he appreciated the Board's efforts to support the community as a whole versus individual interests.

**IV. CONSENT AGENDA**

- A. Approve minutes of July 11, 2018 Special Board Meeting and June 21, 2018 and July 19, 2018 regular Board Meetings.**
- B. Approve payment of outstanding invoices and other related bookkeeping matters.**

- C. **Approve Contractor Pay Requests including:**
  - 1. **SJ Louis Construction of Texas, Ltd. Pay Request No. 1, \$46,314.90, 1340 Transmission Main Project.**
  - 2. **Payton Construction, Inc. Pay Request No. 7, \$4,940, Raw Water Intake Pump Station Expansion and Upgrade.**
- D. **Approve Contractor Change Orders including:**
  - 1. **CFG Industries, LLC, Change Order No. 3, \$127,000 repairs and interior painting of Home Depot Pump Station Ground Storage Tank Nos. 2 and 3.**

Director Walden pulled this item for separate consideration, and asked what the total contract price is with the change orders combined. Scott Wetzel with CP&Y addressed the Board and stated that he didn't have this information available. Director Walden asked when the rusted and corroded components were discovered, to which Mr. Wetzel stated that when the tanks were taken down and inspected.

Mr. Wetzel stated that he did not have the exact numbers in front of him, but the original estimate provided was in the \$900,000 range, and that CFG Industries was the lowest bid in the \$600,000 - 700,000 range, but it was not anticipated from the original inspection report that the internal work would need to be done. Mr. Wetzel discussed the efforts to be taken to address the corrosion in the tanks.

Director Walden asked how the PUA would know if the new coating was doing its job. Mr. Wetzel stated that there is a 10 year warranty with the coating. He also stated that there is an advantage to the bolted tank because it will be ascertainable if there is a leak. Mr. Pugh stated that inspections are also performed.

**MOTION:** A motion was made by Director Walden to approve the contractor change orders, including CFG Industries, LLC, Change Order No. 3, \$127,000 repairs and interior painting of Home Depot Pump Station Ground Storage Tank Nos. 2 and 3, provided as **Exhibit A**. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Roberts

- E. **Approve Consent to Assignment of Reimbursement Agreement from CCNG, Inc. to Southside Bank for The Hillside at Spanish Oaks.**

**MOTION:** A motion was made by Director Whisenant to approve the Consent Agenda Items, A – C and E, provided as Exhibits B – E. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Roberts

## **V. STAFF REPORTS**

### **A. General Manager's Report.**

Mr. Pugh provided this report, included as Exhibit F. He highlighted that there is new management with the Falconhead Golf Course and staff had met with these individuals to discuss effluent use.

Mr. Pugh reported that Raw Water Pump No. 3 had been replaced and will be started at 2:00 today. He stated that this pump is 9 MGD versus the previous 6 MGD capabilities of the previous pump.

The Impact Fee Advisory Committee would be meeting to make recommendations for the Board's September 20 meeting.

Mr. Pugh updated the Board that the manual meter replacement bidding package was completed and published, and that additional updates would be provided as the program proceeded.

He stated that construction in the new office would be completed and ready for move in by September 15.

Director Walden asked about the new part-time position referenced in the report, and Mr. Pugh stated that this person was hired temporarily, and now Abraham DeLeon from customer service had been moved to this position. Director Walden confirmed that this was the position referenced on the organizational chart.

Director Walden stated that in the organizational chart, there should be a line from the general counsel box to the Board of Directors, and asked that such change be made.

Director Pugh next addressed the current budget, stating that in the budget for litigation, only 28% of the \$250,000 legal budget had currently been spent. There are currently some costs being incurred regarding the pending litigation matters, but it is anticipated that the costs will still be under budget. Director Goodwin stated that the developer for one of the litigation matters had claimed to not have information on fees, and confirmed with staff that backup was provided to the developer. The Board confirmed with Ms. Kirkley that the developer was not current and that the invoices had been sent several months before. Director Goodwin stated that retail customers invoices are required to be paid within 30 days before service can be terminated, but there is a developer with outstanding invoices of several months and this matter should be addressed.



Director Walden asked that draft minutes be sent to the Board with the draft agenda.

**B. Controller's Report.**

Ms. Smith presented on this item, provided as Exhibit G. Discussion ensued regarding the budget for fiscal year 2018, and Ms. Smith stated that there were more repairs than normal, but that these had tapered off at the end of the year.

Ms. Smith next referenced the balance sheet, provided as Exhibit H. Director Walden asked where the TCMUD 12 sequestered funds were held, and Ms. Smith stated in the "cash equivalents account". She stated that these funds are invested in money market accounts, and the balance in this account is currently high due to the pending bond payments.

**C. Engineer's Report, including:  
1. Capital Improvements Plan Update.**

Mr. Lozano presented his report, provided as Exhibit I. He stated that the 1080 Transmission Main Project was ongoing and additional approvals for entry had been obtained near the Terrace Project to proceed with the preferred alignment. Regarding the Southwest Parkway Pump Station project, the PUA has engaged an appraiser as requested by The Nature Conservancy to move forward with obtaining an easement from The Nature Conservancy. He stated that photos had been added to the report to show progress with ongoing CIP projects.

Director Walden asked about - Raw Waterline No. 2 and the easement acquisition in Lake Pointe. Mr. Lozano stated that he anticipated that this matter would be resolved shortly and that the HOA's representatives had been working with the PUA to move forward.

Director Goodwin asked about the new raw water pump installation and Mr. Lozano stated that Murfee Engineering would have a representative in attendance.

Director Goodwin asked about the 1080 Transmission Main, to which Mr. Lozano stated that Ms. Coker could likely give a better update. Ms. Coker stated that the Terrace Project had been halted, and staff in in process to discuss with the developer what will be needed to move forward on the PUA's project. Mr. Lozano stated that he and Ms. Coker would discuss the path forward and options for proceeding. Director Goodwin stated that if the North side is the preferred option, the City is in settlement discussions with the developer at interest. He stated that he would like a summary of the easement acquisition talks and that this may be something to include in these conversations.

Director Walden asked about the SER updates, and stated that there were a lot of projects for 1 LUE only and asked if an SER was required for all meters. Mr. Pugh conferred that nonstandard service is any request that included facilities other than the meter.

Director Whisenant asked whether Parten Ranch, Phase II is under review. Ms. Coker stated that the review has been completed, but confirmed that no site inspections had been conducted yet.

#### **D. Operations Report.**

Mr. Cantu provided this report, provided as **Exhibit J**. He stated that the PUA is operating at high capacity, with a record high water use compared to the last few years. Staff is continuing the irrigation patrolling to identify irrigation outside of assigned times.

He stated that Rico Esparza was hired in the line maintenance department and there now was only one vacant position that staff is currently posting for hiring.

In response to a question from Director Brzoska, Mr. Cantu stated that the manhole rehabilitation project in Lake Pointe should be completed within the next week.

#### **VI. OLD BUSINESS**

##### **A. Discuss, consider and take action regarding pending and/or anticipated litigation, including:**

- 1. Travis County Municipal Utility District No. 12 v. West Travis County Public Utility Agency; in the 201<sup>st</sup> Judicial District Court, Travis County, Texas; Cause No. D-1-GN-16-002274.**
- 2. Williams R. Holms v. West Travis County Public Utility Agency; in Travis County Court of Law #2; C-1-CV-17-003601**
- 3. John Hatchett, Sandra Hatchett and JPH Capital, LLP v. West Travis County Public Utility Agency; in the 201<sup>st</sup> Judicial District Court, Travis County, Texas; Cause No. D-1-GN-18-001654.**

At 11:45 a.m., Director Walden announced that the Board would convene in executive session to consult with its attorney under Texas Government Code § 551.071 regarding Items VI.A (1-3).

At 12:24 p.m., Director Walden announced that the Board would convene in open session and that no action had been taken.

#### **VII. NEW BUSINESS**

##### **A. Discuss, consider, and take action on request from Cypress Ranch Water Control and Improvement District No. 1 for approval to submit a Service Extension Request for an emergency interconnect to WTCPUA system.**

Mr. Hank Smith presented on this item, provided as **Exhibit K**, as the engineer for the District. He stated that the community has 13 wells and was requesting an interconnect with the PUA in case there is a problem that would cause the wells to not produce enough water. He stated that there had been no problems with the wells this summer, but the preference for long term needs would be to obtain an interconnect versus dig additional wells. The request presented today is a



request to sit down with legal, engineering, and operational staff to discuss the feasibility of moving forward with an interconnect agreement with the District.

Director Walden stated that the District has agreed to pay the costs for this review.

Director Whisenant stated that the letter references an “emergency interconnect”, but asked if there could be the possibility of a service extension request. Mr. Smith stated that at this time the request is for an interconnect, with the ability to keep the water fresh in the lines to avoid flushing in the times of need. Director Walden stated that the contract should include the amount of water to be used on a continual basis.

Director Goodwin asked if the District had made a previous request, to which Mr. Smith stated that there had been emergency supply provided in the past upon request. He stated the water had been trucked in, but the District would prefer to have access to water through a line. In response to a question from the Board, Mr. Smith stated that District residents had not complained about water quality to his knowledge.

Director Goodwin asked if an emergency interconnect line could be large enough to fulfill the requirements of the buildout of 700 homes. Mr. Lozano stated that it would depend on the development and the agreement, but traditionally this line would not be like a typical supply line for peak capacity. Director Walden stated that he would like to see the analysis of the engineering regarding the facilities for emergency interconnect and service to the full build out.

Mr. Pugh asked about the path forward, and Director Walden stated that the SER is premature, but that the PUA needed to ascertain the legal issues regarding the proposal. He stated that secondary, the Board wanted to know the information regarding the engineering once the Board determines to move forward.

**MOTION:** A motion was made by Director Goodwin to table this item to be considered at the next meeting. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Roberts

Director Whisenant stated that he would like a little more information on the matter and would like some parameters regarding the project and the expenses.

Director Walden directed that this item will be on the next meeting agenda.

**B. Discuss, consider, and take action on Fiscal Year 2019 Draft Budget.**

**MOTION:** A motion was made by Director Walden to postpone approval until the September meeting. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Roberts

Ms. Smith stated that the intent was to have discussion on the draft budget, provided as **Exhibit L**, and that action would be requested at the September meeting.

Ms. Smith stated that she would like to have an updated document by the September meeting.

Director Goodwin asked about the new billing software item flagged as a major expense. Ms. Riechers stated that it is difficult to project the pricing because a real quote can't be provided without a vendor looking at the utility's system. In response to a question from Director Goodwin, Ms. Riechers stated that there had been many challenges with the current provider, and that the PUA's complaints are similar to other utilities she had spoken to. Ms. Riechers confirmed that US Waters used the current provider, but Severn Trent used their own internal system.

Director Whisenant stated that in his experience billing software is customized, but a key component is what the charges will be to change the system to address the needs of the utility. Ms. Riechers confirmed that there is a consensus upon staff that a new system would be beneficial.

Director Walden flagged that Ms. Smith also provided a list of the bond call dates, provided as **Exhibit M**. Director Walden asked that the budget assumptions be elaborated in the areas where there is an increase, and include an explanation as to why that increase was being proposed.

Director Goodwin asked whether the AWWA proposed expense projections for utilities, to which Ms. Smith stated that she was not aware of this but would look into the matter.

Ms. Smith stated that there were no major changes to the draft budget currently being proposed versus what was provided at the July Board meeting.

**C. Discuss, consider and take action on updates to WTCPUA Non-Standard Service Agreement template.**

Ms. Albright provided an overview of the updates to the NSSA template, stating that PUA staff was proposing changes to allow for more efficient billing and tracking of reservation fees.

Mr. Pugh stated that the requirement is consistent with the service and development policies and Tariff, which both require that reservation fees be paid based on the "written service commitment" provided by the PUA.



In response to discussion regarding the historical application of these provisions, Ms. Albright stated that edits to the NSSA reflected a change in policy of designating the service availability letter (SAL) versus nonstandard service agreement (NSSA) as the “written service commitment”. She stated that in the past, staff, by policy had considered the NSSA to be the “written service commitment.”

Director Walden asked about the impact if there was a different service capacity referenced in the SAL that was later adjusted in the NSSA. Ms. Albright stated that this occurred in the past, and that there could be concern in a situation where a developer paid reservation fees prior to executing an NSSA, but then the capacity necessary was lower than the amount reserved.

**MOTION:** A motion was made by Director Goodwin to approve updates to the WTCPUA non-standard service agreement template. The motion was seconded by Director Whisenant.

The motion was withdrawn.

A discussion ensued regarding the assessment of any risks associated with application of this proposed new NSSA language. Mr. Pugh proposed that one option to address these concerns is to have the reservation fees assessed 6 months following the SAL, but that the reservation fees would not be invoiced for payment until the NSSA was executed.

Director Goodwin stated that on an item like this, it would be good to have an explanatory legal memo to explain the changes.

Director Whisenant stated that it could be difficult to have an NSSA reduction where reservation fees had already secured a set amount of capacity based on the SAL.

**MOTION:** A motion was made by Director Whisenant to table until the September meeting to request additional information from staff. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Roberts

**D. Discuss, consider and take action on customer late bill payment fees.**

Ms. Riechers stated that discussion had been raised to change the billing due date from 20 to 25 days, and customer service had also discussed sending disconnection notices differently.



Director Walden stated that in the summer with major holidays and vacations, customers may not be aware of bills, and that there is no financial impact to the PUA to make changes to the timing of the disconnection notices and action on such notices.

Director Whisenant stated that he would like to know how often this type of circumstance occurs. He stated that he didn't have concerns regarding more time, but this needed to be considered in light of billing cycles. He anticipated that this would be in the minority of instances, and it would be favorable provided that there was no impact to rate payers. Discussion ensued regarding fees and penalties for late bills and disconnections.

Director Goodwin asked about neighboring utilities, to which Ms. Riechers stated that Lakeway MUD has a 20 day payment due date but with a 2 month billing cycle, and they sent late letters on the day the bill is due, with disconnect within 10 days. Ms. Riechers stated that Travis County WCID 17 gives three months until disconnection.

**E. Discuss, consider and take action on RW Trine, LLC Sale to Port A Sandbox, LLC: Request for WTCPUA Consent to Assignment and Assumption of Agreement re Water Service and Capacity Commitment.**

Ms. Albright addressed this item, presented as Exhibit N, stating that the current developer of Rutherford West was proposing to sell a portion of the development and transfer the contract capacity commitment and obligations.

**MOTION:** A motion was made by Director Goodwin to approve the Consent to Assignment. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Roberts

**F. Discuss, consider and take action on annual review of General Manager.**

**MOTION:** A motion was made by Director Walden to postpone until September. The motion was seconded by Director Whisenant.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Roberts

## **VIII. ADJOURNMENT**

**MOTION:** A motion was made by Director Whisenant to adjourn. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Whisenant, Goodwin, Walden, and Brzoska

Voting Nay: None

Absent: Director Roberts

The meeting adjourned at 12:25 p.m.



PASSED AND APPROVED this 20<sup>th</sup> day of September, 2018.

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

Scott Roberts, President  
Board of Directors

ATTEST:

A handwritten signature in blue ink, appearing to read "Donald Walden", written over a horizontal line.

~~Ray Whisenant, Secretary/Treasurer~~  
Board of Directors

Donald Walden,  
Vice President