



WEST-CENTRAL-TEXAS-MUNICIPAL-WATER-DISTRICT

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387th Meeting of the Board of Directors

STATE OF TEXAS COUNTIES OF: JONES,
SHACKELFORD, STEPHENS, TAYLOR,
EASTLAND, AND PALO PINTO

REGULAR MEETING
November 9, 2016 · 9:30 AM
ABILENE, TEXAS

DIRECTORS PRESENT

ABILENE

Russell Berry Kelly Kinard
Jane Beard K. O. Long
Joe Canon

ALBANY

David Cleveland Randall Palmore

ANSON

Rowland Foster Jimmie Richmond

BRECKENRIDGE

Stan Carstens Paul Prater

DIRECTORS ABSENT

ABILENE

Ron Butler

ALBANY

ANSON

BRECKENRIDGE

STAFF AND OTHER GUESTS PRESENT

Chris Wingert, General Manager
Christy Ferguson, Admin. Services Manager
Ronnie Tilly, Operations Manager
Debbie Strayer, Admin and Finance Spec
Blake Woodall, Planning and Dev Mgr.

David Buhrmann, Attorney

Call to Order

President Palmore called the 387th meeting of the West Central Texas Municipal Water District Board of Directors to order at 9:30 a.m. on Wednesday, November 9, 2016, in accordance with the statutes of the State of Texas. A quorum was present.

Public Comment

Mr. Palmore opened up the floor for public comments at 9:30 a.m. No public comments were made. Mr. Palmore closed the public hearing at 9:31 a.m.

Minutes

Mr. Palmore stated that the minutes from the prior meeting (#386) should be considered for approval at this time. Mr. Foster made a motion to approve the minutes. Mr. Berry offered a second and the motion carried unanimously.

Consent Agenda

Mr. Palmore asked if there were any comments or concerns with the Consent Agenda items which included:

- Financial Statements for May 2016, June 2016, and July 2016
- Quarterly Investment Report for the twelve months ended September 30, 2016
- Contingency Fund Balance Sheet for September 30, 2016
- Expense Vouchers for August 2016 through September 2016

Mr. Berry made a motion to approve the consent agenda as a whole; Mr. Canon offered a second and the motion carried unanimously.

Development, Operations, and Water Policy Committee

President Palmore asked that the Board address the Operations Committee agenda items first in order to accommodate Mrs. Beard who needed to leave for an appointment. The Board agreed.

Quarterly Update of Outstanding CIP/MIP Projects

Mr. Palmore asked Mr. Wingert to please give a report on outstanding CIP/MIP projects. Mr. Wingert presented the update and stated that several of the projects have either been closed, completed, or are nearing completion. No action was needed.

Close Out Completed CIP/MIP Board Resolutions

Staff has completed work on two CIP/MIP Resolutions which the Operations Committee recommended at their meeting be closed. Those resolutions are:

- 2015-03 District Property Upgrades
- 2016-19 Trailer

Mr. Carstens made a motion to close the CIP/MIP resolutions listed above; Mr. Kinard offered a second and the motion carried unanimously.

Waiver of Docks in the Rancho Verde Subdivision

The District has identified two docks in the Rancho Verde Subdivision that are over 100 feet long. Dock #1 is 165 feet in length and was constructed by the Rancho Verde subdivision several years ago. Dock #2 is 116 feet in length and was recently constructed by Henry Musselman. Mrs. Beard suggested that they look at each dock separately and the Board agreed.

Mr. Wingert referred to Handout 3, which is a letter from Mr. Musselman asking for a variance on Dock #1 only. Mr. Musselman is requesting a 65 feet variance in order for the dock to be in compliance with District rules and regulations on behalf of the Homeowner's Association. Mr. Musselman has installed lights to warn watercraft of the dock at night.

The discussion on Dock #2 noted the fact that this dock is located on Mr. Musselman's property, was recently constructed, and should have been built in compliance with current District rules. Mr. Wingert referenced page 6.06 in the book containing an excerpt from the 1982 Board approved rules which states that docks over 100 feet long need a variance from the Board prior to construction. Mr. Musselman stated that he instructed his contractor to build the dock to 100 feet, but the contractor actually built the dock out to 116 feet.

Mr. Wingert noted that the Operations Committee requested Mr. Buhrmann's legal advice on the District's ability to assess penalties on docks not meeting standards. His response is included with the Board book and states that existing regulations would allow for a fine of up to \$200 or 30 days imprisonment. He also noted that the Water Code would allow for up to a \$500 per day fine. Mrs. Beard stated that she sensed that the Committee's recommendation would have been for an exemption for Dock #1 since it has been in place for many years and that there was a greater concern for Dock #2 since it was recently constructed. Miscellaneous discussion was held in regards to safety and why Mr. Musselman didn't request a waiver for Dock #2. Mr. Musselman is in the permitting process, but has not been issued a final permit for Dock #2 so he cannot request a waiver. The Board discussed options of not granting the permit, instructing Mr. Musselman to shorten his dock, or the possibility of instructing him remove the dock.

Mr. Kinard made the motion to approve the waiver on boat dock permit 14-01 at 165 feet (Dock #1 as mentioned above). Mrs. Beard offered a second and the motion carried unanimously.

The Board then discussed the issues with Dock #2 and how they relate to consistent Board policy and rule enforcement. The Board advised Staff to work with Mr. Musselman and see if he would like to request a variance on Dock #2 at another time. The variance was not considered at the time since no request for such had been submitted, but the Board would

review one should Mr. Musselman's decide to submit a solution or a waiver request at a later date. Mrs. Beard then made a motion to deny the permit for Dock #2. Mr. Cleveland offered a second and the motion carried unanimously.

Adoption of Irrigation Rules and Regulations

Mr. Wingert explained that the District's water rights allow the District to divert water for other uses such as mining, agriculture, and irrigation. Members of the Hubbard Creek Irrigation Association were the main ones to irrigate water from HCR in the past. Mr. Wingert stated that 2004 is the last record available showing irrigation of water from HCR. In April 2010, the Board reduced the cut off for irrigation water from 1170 msl to 1165 msl at the request of Mr. Musselman and Mr. McGee. Staff has been operating under the irrigation terms set in 2010, however, the board book includes Proposed Irrigation Rules and Regulations for the Board's review and consideration. Some items are similar such as the annual expiration date of the contract, the amount of water that can be diverted, metering, violations, and site information are a few items that remain unchanged.

Mr. Wingert highlighted some of the changes in the revised version such as:

- Updated definitions including TCEQ definitions for agriculture
- Permit fee is increased to \$150
- Set price per acre foot of water taken is defined
- Overage fee increase
- Unsubmerged lines must be marked
- Maximum pump size is 15hp
- Permit holder must provide a water conservation plan per TCEQ or assure that they are in compliance without a plan

The Committee asked what the consequences of violating rules are and Mr. Wingert stated that the revised rules do include the option for removal of the pumping system if rules are violated. Inspections will be done by District staff annually and fees can be enforced if violations are found. District must have a permit with the landowner. The Committee recommended that the Board approve the Revised Irrigation Rules and Regulations as shown in the board book. Mr. Wingert pointed out that Staff is recommending one change to the wording of the Field Officer Manager description in that it needs to be changed to Field Office Coordinator.

Mr. Buhrmann discussed the option to charge penalties and what the maximum penalties could be and if they could be on a day by day basis if the permit holder is in violation of the rules or if the penalties are charged as a set amount and not on a day by day basis. This option can be amended at a later date if the Board chooses to do so.

Mr. Foster made a motion that the Board approve the proposed rules and regulations for HCR Irrigation Permits with a change to the definition of Field Office Coordinator wording; Mr. Canon offered a second. Mr. Long asked for clarification on the administration amount of the blank amount listed in the rules and regulations: he asked what the dollar amount is

now and if it could be changed annually. Mr. Wingert said that yes this is \$150 per year. After that clarification, the motion carried unanimously.

Adoption of On Water Facility Policy and Procedures

Mr. Wingert stated that District staff has completed the annual Lake Lot Inspections. The inspections included the septic systems, boat docks, and the water pumps. The General Rules that were adopted February 9, 1982 included a "Penalties" section that had a fine of up to \$200.00 for violations. The rules were updated slightly in September of 1982 requiring structures extending more than 100 feet into the reservoir must be approved by the Board of Directors.

Mr. Wingert told the Board that Staff presented an updated set of On Water Facility Policy and Procedures at the Operations Committee meeting. He highlighted the similar points of the proposed Policy and Procedures to the existing one:

- Permit is required for structures extended from shoreline elevation 1183
- Length is limited to 100 feet
- Reflectors must be present every 10 feet
- Drawings showing location and length are required for a permit
- Permit number must be displayed on the dock

Mr. Wingert then gave the Board a summary of the changes from the existing rules:

- Requiring a case for encapsulated flotation material
- Docks must stay level to maintain a 1 in 10 slope
- Docks are limited to one story and 2000 square feet
- Docks cannot contain toilets, kitchens, or fueling facilities
- Electric systems must be properly grounded and comply with code
- Only one dock allowed per lot
- Advance notice must be given on District inspections
- Existing docks are grandfathered

Mr. Wingert stated that the Committee did recommend approval subject to Mr. Buhrmann's review and edits.

Mr. Berry made a motion that the Board approve the proposed On Water Facility Policy and Procedures with a change to the definition of Field Office Coordinator wording. Mr. Prater offered a second and the motion passed unanimously.

Encroachment by Jimmy Neely

Mr. Wingert stated that the Board had previously reviewed the encroachment made on Hubbard Creek Reservoir adjacent to Lots 264 and 265, Block B, Tanglewood Subdivision at the August 31st Meeting. Mr. Jimmy Neely currently owns the property which contains an encroached area of .158 acres of land including a portion of a swimming pool, storage sheds and other improvements. Mr. Wingert summarized past encroachments that the Board has addressed and settled. Mr. Wingert said that Mr. Neely believed that the price offered

by the Board for him to purchase the land is excessive and asked for an explanation. Mr. Wingert stated that a response has not been sent but a draft response contains the explanation as to why the price is much higher than other encroachment settlements. The response states that the price includes an appraisal to be done at the buyer's expense and that a selling price will be based on the appraisal value with a \$4,000 floor being applied to that selling price. The Operations Committee asked the Board to revisit this issue and/or revise a decision regarding Mr. Neely's encroachment. Miscellaneous discussion was held regarding the fact that Mr. Neely purchased this property under terms that he believed were legitimate and what options the Board has in this situation. Directors shared their thoughts on a solution to this issue. Mrs. Beard would like staff to research adverse possession and whether that goes against the District in a case such as this or not. Mr. Canon instructed staff to get a legal opinion on the adverse possession issue and further discussion can be held at the February 2017 Board meeting.

The Board took no action at this time.

District Encroachment Policy

Mr. Wingert told the Board that at the August meeting, the Board instructed staff to work with Mr. Buhrmann to develop an Encroachment Policy. Mr. Wingert gave the Board a history of encroachments that have occurred over the past few years. He then stated that unfortunately there has not been time to get a policy drafted.

The Operations Committee discussed the following issues:

- Should the policy include a uniform disincentive in all cases?
 - Development of the encroached property and location creates the possibility of varying disincentive values
- Should the penalty be based on the same amount or a forever cost?
- Should the penalty be different for landowners that notify the District of the encroachment versus someone who does not?
- The District taking legal action on those that do not pay the penalty
- Should we "Grandfather" existing encroachments?

The Committee discussed a few items that need to be considered for the policy

- Cost should be the property value plus the disincentive per acre basis
- District should allow landowner option to remove the encroachment
- District should grandfather encroachments currently existing

Mr. Foster stated that every situation will be different and that a uniform policy may not be what the District needs.

No action was taken.

Finance, Personnel, and Customer Service Committee

Calendar Year 2017 Water Rates for Interruptible WCBWDS Customers

Mr. Wingert explained that the Brazos River Authority (B.R.A.) offers firm and interruptible water. The B.R.A. set the 2016 rates prior to the District purchase of the West Central Brazos Water Distribution System (WCBWDS). A total of \$349.35 per acre foot or \$1.07 per thousand gallons is the rate set by the Board in May 2016 for Interruptible Agriculture Water. Staff would like to truncate contracts for Agriculture customers to make the renewal dates in line with the B.R.A. interruptible customers. The renewal dates would cover a calendar year. The Board also set a rate for Non Municipal customers in August 2016. Staff would also like to truncate these users as well in order to be consistent with the B.R.A.'s timeframe.

The Finance Committee recommended that the Board set Agriculture user rates for calendar 2017 with a \$.50 surcharge for source water and with an increase to \$325.00 per acre foot in order to be consistent with the combined rate charged to Non Municipal customers. The total to be charged is \$375.90 per acre foot or \$1.15 per thousand gallons for Interruptible Agriculture Water. Likewise the Committee recommended setting 2017 Interruptible Non Municipal rates for calendar year 2017. The fixed rate being charged is \$174.11 per acre foot of water taken and a variable rate of \$150.38 per acre foot of water taken. The B.R.A. has not set their new rates as of yet.

Formal action on setting Interruptible Water Rates for calendar 2017 will be considered after the public hearing.

Public Hearing Regarding WCBWDS Interruptible Water Rates

President Palmore announced the opening of the public hearing regarding WCBWDS Interruptible Water Rates at 10:46 am on Wednesday November 9, 2016. No one was present to offer any comments. The public hearing was then closed at 10:47 am.

Mrs. Beard excused herself after the public hearing. A quorum was still present.

Adoption of Proposed WCBWDS Interruptible Water Rates beginning January 1, 2017

Mr. Wingert stated that the Finance Committee recommended that the Board adopt a Fixed Rate of \$174.11 per acre foot of water taken, a Variable Rate of \$150.38 per acre foot of water taken, and a \$.50 addition per acre-foot of water delivered under Interruptible Water Contracts to Non-Municipal Customers of the WCBWDS and to set a total transportation rate of \$325.00 per acre-foot and adding \$.50 per acre-foot for Interruptible Agricultural Customers of the WCBWDS; Mr. Prater made a motion to adopt the rates as suggested; Mr. Canon offered a second and the motion passed unanimously.

President's And Officer's Report

Adobe Wells Groundwater Proposal

Mr. Wingert discussed the fact that the District has considered groundwater from Adobe Wells since 2000. Rex Bland has been very aggressive in marketing this water. Hibbs & Todd reviewed Mr. Bland's latest proposal and deemed it to be impractical. The cost of water is too high and the logistics of using of the District's Pipeline is not feasible.

Mr. Kinard made a motion that the West Central Texas Municipal Water District terminate all discussions and negotiations with the Adobe Wells Ranch for the purchase of groundwater, and that no District pipelines or other assets be made available to any Member City for the transportation of Adobe Wells Ranch groundwater; Mr. Prater offered a second and the motion passed unanimously. Mr. Canon asked to communicate this to the City of Abilene so that they scratch the issue from future agendas as well.

Manager's/Staff Report

Water Supplies and Projections

Mr. Wingert discussed projected Hubbard Creek Reservoir lake levels and future drought stage possibilities. At the present time Hubbard Creek is 98% full and Abilene is taking about 7 million gallons a day. No Board action is needed.

Emergency Repairs to the Pipeline Crossing at Rock Creek

Mr. Wingert stated that the crossing between Booster II and the Highpoint tanks has about a 500 foot long concrete slab that covers (18) eighteen 36" metal culverts. It provides all weather access for our employees to get to Booster II, but there is damage in varying degrees present on thirteen of the eighteen culverts. Mr. Wingert explained the damage to the Board.

He stated that emergency repairs need to be done to protect the concrete slab and the adjacent pipelines from possible damage in the event of a future runoff event. Staff has visited with Thomas Hicks and Raydon and they have determined it would cost about \$30,000 to make repairs. Mr. Wingert recommended that a 15% contingency be added to this number due to the exact quantity of material needed being unknown. Mr. Wingert asked the Board to consider authorizing an expenditure not to exceed \$35,000 for the repairs.

Mr. Foster made a motion that the Board authorize an expenditure not to exceed \$35,000 for repairs to the pipeline crossing at Rock Creek; Mr. Canon offered a second and the motion passed unanimously.

Travel and Training Report

Mr. Wingert referenced the report in the book showing that staff has attended various trainings on Human Resources, Business Grammar, Excel, Communication, Payroll and Records Management.

Staff Vacancies

Mr. Wingert referenced the organization chart in the book showing one vacancy in Pipeline Maintenance.

Other Significant Issues

2016 Abilene Water Transmission Agreement and Memorandum of Understanding (MOU)

Mr. Wingert stated that Abilene sent a finalized version of 2016 Water Transmission Agreement (WTA) on September 23, 2016. Mr. Wingert met with Mr. Canon and Mr. Carstens in October to discuss the changes recommended by Abilene. Mr. Canon and Mr. Carstens share concerns about the wording in the Memorandum of Understanding (MOU). One concern is that the small cities would have to pay the cost for improvements to Veale Parks and other improvements that would be owned by the City of Abilene. Abilene would own 100% of the improvements that would be paid for by the other cities. Handout 1 shows the wording recommended by Mr. Carstens and Abilene's response to the changes is shown in Handout 2. Handout 2 shows Abilene's acceptance of the changes and also simplified a few other items on costs of facilities subject to capital costs and improvements owned by Abilene. Mr. Wingert stated that the MOU does not carry the full weight of the Agreement itself and the MOU can be changed in the future.

Mr. Canon made a motion that the District accepts the language in the Agreement and the MOU by the City of Abilene; Mr. Berry offered a second and the motion passed unanimously.

Possum Kingdom Intake Pump Station Improvements

Mr. Wingert reviewed the improvements being made currently at the Possum Kingdom Intake Pump Station.

Hubbard Creek Yield and Capacity Study

Mr. Wingert contacted Freese & Nichols to see what it would cost to do an updated yield analysis at Hubbard Creek Reservoir. The estimate provided showed the cost to be around \$15,000 for a yield and capacity study.

Staff contacted the Texas Water Development Board regarding a volumetric study. The Board estimates that it would cost about \$47,000 for the study.

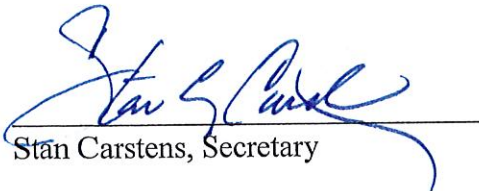
Miscellaneous discussion was held regarding the need to do both studies at the same time or can just one be done. Mr. Prater stated to go ahead and do both.

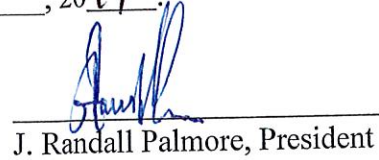
Mr. Wingert stated that Staff asks that the Board consider authorizing expenditures for the Yield and Capacity Study not to exceed \$15,000 and for the Volumetric Study not to exceed \$47,000.

Mr. Prater made a motion that the Board authorize an expenditure of \$15,000 for the Yield and Capacity Study and an expenditure of \$47,000 for a Volumetric Study; Mr. Foster offered a second and the motion passed unanimously.

There being no further business before the Board, the 387th meeting adjourned at 11:10 a.m.

Approved this 8th day of FEBRUARY, 2017.


Stan Carstens, Secretary


J. Randall Palmore, President