

**BROOKSHIRE MUNICIPAL WATER DISTRICT**  
**MINUTES OF BOARD OF DIRECTORS REGULAR MEETING**

**April 6, 2020**

The Board of Directors (the "Board" or "Directors") of Brookshire Municipal Water District (the "District") met in regular session on the 6<sup>th</sup> day of April, 2020, at 6:00 p.m., in the meeting room of the District, 4004 6<sup>th</sup> Street, Brookshire, Texas and via telephone conference call at 713-955-6338, Access Code 2371225, pursuant to notice of said meeting posted in accordance with Chapter 551 of the Texas Government Code and pursuant to the Texas Governor's suspension of certain Texas Open Meetings Act provisions due to the novel coronavirus ("COVID-19"), whereupon the roll was called of the members of the Board, to-wit:

Edith Penrice-Kelley	President
Albert Wilkins	Vice President
Stephanie Green	Investment Officer
Havanaugh Glover	Secretary
Victor Alardin	Assistant Secretary

All members of the Board were present, with Directors Green and Glover attending via teleconference, thus constituting a quorum. Also attending was Tonya Pierre ("General Manager"). Also attending via telephone conference call were: Dr. Herman Clay, PhD ("Engineer"); Steve Haskins of Protocol Bookkeeping, Inc. ("Bookkeeper"); John Taylor of Municipal Operations and Consulting, Inc. ("Operator" or "MOC"); James Weishuhn of Weishuhn Engineering, Inc. ("Weishuhn"); Sylvia Patton of the Brookwood Community ("Brookwood"); and Monica Garza, attorney, of Radcliffe Bobbitt Adams Polley PLLC ("Attorney" or "RBAP").

The President, after finding that the notice of the meeting was posted as required by law and determining that a quorum of the Board was present, called the meeting to order at 6:04 p.m. and declared it open for such business as may regularly come before it.

**1. Public Comment.**

The President first opened the meeting to public comment. There being no public comments, the President directed the Board to proceed with the agenda.

**2. Update Regarding Backflow Prevention Requirements, Including Status of Customer Service Evaluations (the "Evaluations").**

Mr. Taylor presented a list of commercial accounts provided to him by Mrs. Pierre that may need installation of a backflow prevention assembly device ("BFPA") (the "Backflow List"). Mr. Taylor reminded the Board that he has reviewed such list as requested in the Board's March 24, 2020 Board meeting and explained that he has identified certain accounts on such list should be notified immediately that they are not in compliance with the District's Backflow Prevention Requirements. Mr. Taylor further explained that such accounts are those that have been identified as needing a reduced pressure zone assembly devices ("RPZA") on their property. Mr. Taylor went on to explain that there are



additional commercial customer accounts on the Backflow List that need Evaluations in order to determine whether installation of BFPA is required and what type of BFPA is required, if any. Mr. Taylor stated that the Backflow List also includes churches within the District that have had Evaluations performed by Mr. Bruce Albright. Mr. Taylor recommended that the District follow the recommendations made regarding installation of BFPAs made in such Evaluations.

Mr. Taylor reminded the Board that the Backflow Prevention Requirements, which are enforced on the District by the Texas Commission on Environmental Quality ("TCEQ"), are intended to protect the District's water supply. Mr. Taylor recommended sending letters notifying those customers that required an RPZA immediately. Mr. Taylor also recommended that the other customers on the Backflow List be notified of the District's Backflow Prevention Requirements as soon as possible.

Director Glover suggested that pursuant to the previous authorizations by the Board, the District send such letters to all commercial customers within the District notifying them that it is the responsibility of such customers to coordinate Evaluations for themselves and give them 45 days to respond. Director Glover asked for clarification on the reasons for creating the Backflow List. In response, Mr. Taylor and Director Green clarified that at the March 24, 2020 Board meeting, the Board had a discussion about whether sending such letters to customers should be prioritized in terms of whether such accounts need RPZAs. Mrs. Pierre then reminded the Board that at the March 24, 2020 Board meeting, she had requested the Board consider postponing sending such letters to the District's customers regarding the Backflow Prevention Requirements during the current emergency caused by the spread of COVID-19. Director Green further clarified that the Board had authorized both such postponement and the creation of the Backflow List.

Director Penrice-Kelley stated that while she agreed with everyone's comments, the District should send letters tomorrow notifying those customer accounts on the Backflow List that require RPZAs because installation of such assemblies are a "priority" for protecting the water supply. Upon a **motion** by Director Alardin, seconded by Director Wilkins, after full discussion and with all Directors present voting aye, the Board authorized Mrs. Pierre to send such letters on April 7, 2020, via certified mail to those requiring RPZAs.

Mrs. Pierre then asked for clarification regarding other accounts on the Backflow List that were not highlighted and when such accounts be notified of the District's Backflow Prevention Requirements. Mr. Taylor clarified that he had categorized accounts on the Backflow List in the following manner: accounts that are not highlighted are in compliance and do not need notices; accounts highlighted in green still need Evaluations in his opinion; and accounts highlighted in orange require RPZAs and should receive notices immediately.

Mrs. Pierre also reminded the Board that before it issued such direction, it had previously approved a form of letter that notified customers that the District did not have a copy of such customer's BFPA test and maintenance report (the "BFPA Report") and that if such customer did not have an approved BFPA installed, such customer would need to do so. Mrs. Pierre went on to remind the Board that such letter also explains the reasons



why a customer might need certain types of BFPAs such as an RPZA, and that such assemblies will require BFPA Reports annually. Mrs. Pierre further reminded the Board that such letter also requires a customer to provide evidence from a person licensed to perform the Evaluations that a BFPA is not required.

Director Glover again recommended that the District send the previously authorized letters to all commercial customers accounts on the Backflow List and that regardless of the COVID-19 Emergency, compliance is essential. Additional discussion ensued. Upon a **motion** by Director Glover, seconded by Director Alardin, after full discussion and with four (4) Directors voting aye and Director Green voting no, the Board authorized Mrs. Pierre to send the previously authorized letters to all commercial customer accounts on the Backflow List on April 7, 2020, via certified mail.

3. **Approve Minutes of Prior Meetings.**

The Board then considered approval of the minutes from the regular meeting of March 2, 2020. Upon a **motion** by Director Alardin, seconded by Director Glover, after full discussion and with three (3) Directors present voting aye, and Directors Wilkins and Green abstaining, the Board approved the minutes from the regular meeting of March 2, 2020.

4. **Bookkeeper's Report.**

Mr. Haskins then presented the Bookkeeper's Report, a copy of which is available upon request. Mr. Haskins noted that the Bookkeeper's Report was sent to the Board on Saturday, April 4, 2020. Director Green stated that she had not yet received such email and has not yet reviewed such report.

Mr. Haskins next reviewed the District's annual budget and reported that the District is over budget primarily due to maintenance and repair expenses.

Upon a **motion** by Director Alardin, seconded by Director Wilkins, after full discussion and with three (3) Directors present voting aye, and Directors Glover and Green abstaining, the Board approved the Bookkeeper's Report.

Mr. Haskins next reported that he sent an email to the Board regarding the District's payment to Mrs. Pierre for the hours she had accrued in Compensatory, Vacation and Sick Time. A discussion then ensued regarding: a) each category of such hours; b) the amount of hours accrued in such categories in the years that they were accrued; c) payment for such hours; and d) the amount of hours that Mrs. Pierre will accumulate in each category for the 2020 calendar year following such payment.

In response to a question by Director Wilkins, Director Penrice-Kelley confirmed that she reviews and approves all requests submitted by Mrs. Pierre for use of Vacation and Sick Time. Director Glover suggested that the Board consider entering into a formal agreement with Mrs. Pierre in her capacity as General Manager to prevent such over-accumulation of such time in the future. In response to a question, Ms. Garza confirmed that RBAP has prepared a Release and Indemnification Agreement as consideration for

payment of the accrued time and that such agreement will be provided to Mrs. Pierre for execution.

**5. Texas Water Development Board ("TWDB") Projects.**

Mr. Weishuhn next updated the Board on the water line replacement project that will replace asbestos clay water lines along Texas Farm-to-Market ("FM") 1489 and in a residential area north of U.S. Highway 90 and east of FM 362 (Project Information Form No. 12613) (the "Water Line Project"). Mr. Weishuhn reported that the drawings for such project were submitted to the TWDB for review and that hard copies of such design were provided to Mrs. Pierre for distribution to the Board. Mr. Weishuhn explained that the next steps in such project is for Dr. Clay to review the drawings followed by preparation of a bid-book within the next two (2) weeks, followed by obtaining bids for such project.

Regarding the acquisition of easements for the Water Line Project, Mr. Weishuhn reported that he has been unable to make contact with one (1) of the property owners from whom the District would need to acquire an easement; therefore, the water line plans have been re-designed to allow for installation of such line within the FM 1489 right-of-way operated by the Texas Department of Transportation ("TxDOT") which will not require acquisition of any easements.

**6. Engineer's Report.**

Dr. Clay then presented the Engineer's Report, a copy of which is available upon request.

Regarding the Brookwood Project, Dr. Clay reminded the Board that the two (2) easement agreements necessary for the construction of the sanitary sewer force main along 11<sup>th</sup> Street (the "11<sup>th</sup> Street Force Main") were executed by the property owners and recorded in the Waller County Real Property Records. Dr. Clay stated that pursuant to a request from the property owners, he will be providing a copy of such recorded easements to the property owners. Dr. Clay reported that he continues to work on the design for such force main.

Dr. Clay next updated the Board regarding the status of LGI Homes' ("LGI") construction of the Windsor Estate Townhomes ("Windsor Estate") located on Bains Street at South Street. Dr. Clay reported that such construction is approximately one-third (1/3) built out. In response to a question by Director Green, Dr. Clay clarified that certain portions of sewer lines in Windsor Estate are the customer's privately owned service lines, which will not be conveyed to the District upon completion of such estates. Dr. Clay further explained that the District owns the sanitary sewer force main that leads up to such sewer lines, which is located in the street outside the boundaries of Windsor Estates.

Director Green stated her concern that LGI purchased the land and began work on Windsor Park over ten (10) years ago, but such development is still not complete. Director Green further stated that several District rules and regulations have changed since the time when LGI's project was initially approved by the District. It was the consensus of the Board to include an item for discussion on the May 4, 2020 agenda regarding time



limitations imposed on proposed development projects.

Dr. Clay then updated the Board regarding the status of the G-Tech Fire Line Project located at 35002 Cooper Road. Dr. Clay reported that the developer of such project requested that the District waive the impact fees due from such development. Dr. Clay explained that the District's existing policy is to reevaluate the fees charged when a property changes ownership or a building changes use, and to provide the account with a credit for the historical amount of water used at such property. Upon a **motion** by Director Green, seconded by Director Penrice-Kelley, after full discussion and with four (4) Directors present voting aye, and Director Alardin voting no, the Board voted to: 1) table such discussion until the May 4, 2020 Board meeting; and 2) invite the developer of the G-Tech Fire Line Project to attend such meeting.

Next, Dr. Clay reported that a developer recently submitted a service request and plans for a proposed office building on Fifth Street. Dr. Clay further reported that the capacity report for such project was provided to the Board and that he requested such report be provided to the developer and place on the May 4, 2020 meeting agenda.

In response to a request by Director Alardin regarding the amount of the impact fees that the developer of the G-Tech Fire Line Project is requesting that the District waive, Mrs. Pierre stated the amount of impact fees is \$27,722.33. Mrs. Pierre further stated that the capacity report for such project, which includes the impact fees charged, was approved by the Board on May 6, 2019.

**7. General Manager's Report.**

Mrs. Pierre presented the General Manager's Report, a copy of which is available upon request.

Director Alardin reported that he has not yet met with a representative from Consolidated Communications ("Consolidated") regarding the new contract for services proposed by Consolidated. It was the consensus of the Board to table further discussion on this matter until the next regular Board meeting.

Regarding the District's Rate Order, Mrs. Pierre stated that she did not complete her review of the amended Rate Order previously provided by RBAP until today and will send comments to RBAP prior to the April 20, 2020 Board meeting.

**8. Attorney's Report.**

Ms. Garza reminded the Board that at the special meeting held on March 24, 2020, the Board voted to authorize the Board President and Vice President to serve on the subcommittee that is authorized to make decisions regarding routine business on behalf of the District in the event that a quorum of the Board is unable to meet in person or by conference call due to COVID-19, and that the Secretary may serve as a tie-breaker in such decision making, as needed. A brief discussion ensued and it was the consensus of the Board that such delegation of authority shall remain in effect.

Next, Ms. Garza noted that the Board is scheduled to have a regular Board meeting on April 20, 2020. A brief discussion ensued and it was the consensus of the Board to hold such meeting via telephone conference.

**9. Operator's Report.**

The Operator's Report was then presented by Mr. Taylor, a copy of which is available upon request.

Mr. Taylor reported that the Texas Commission on Environmental Quality (the "TCEQ") conducted an inspection last month of the District's wastewater treatment plant (the "WWTP"); however, due to the COVID-19, the TCEQ offices have closed and the District has not yet received a determination from the TCEQ regarding such inspection. Mr. Taylor further reported that during such inspection, he believes that they were able to resolve some of the sanitary sewer overflow issues. Mr. Taylor then stated that a blower motor and a lift pump at the WWTP failed the night prior to such inspection, and that such failure may be addressed in the TCEQ's inspection findings. Mr. Taylor next reported that while he has not yet received the results of the ammonia testing performed at the WWTP, he expects such levels to be elevated as a result of such equipment failures. Mr. Taylor explained the simultaneous failure of both the blower motor and lift pump was likely caused by an electrical surge, and stated that he will file a claim with the District's insurance provider for the damage. Mr. Taylor then stated that following the replacement of the blower motor, the Operator tested the ammonia levels from samples of effluent taken from the WWTP on five (5) consecutive days to assure the TCEQ that such WWTP regularly operates satisfactorily.

Mr. Taylor next reported that the Operator has found an increase in non-flushable items being flushed, likely as a result of more District customers at home due to COVID-19, which is causing damages to the District's lift stations' pumps.

In response to a question from Mr. Alardin, Mr. Taylor stated that he is not aware of any repairs being made to the fence at the WWTP, and noted that the fence was not an area of concern for the TCEQ during its recent inspection of the WWTP inspection.

Ms. Garza and Mr. Taylor then updated the Board regarding the deterioration of a meter vault located at the Flying J Travel Center ("Flying J") on FM 359. Mr. Taylor reported that the Operator has inspected the site several times and has spoken with an employee of the Flying J regarding the meter vault but that no repairs have been made thus far. Mr. Taylor reported that TxDOT is in the process of cleaning up its rights-of-way and has requested that the District resolve the issue. Mr. Taylor recommended that the Board authorize RBAP to send a letter to the property owner informing them of the necessary repair to such meter vault. Mr. Taylor explained that for commercial taps, the meter vault is typically paid for by the customer. Mr. Taylor further explained that such meter vault was installed 50 years ago, and that such deterioration is likely the result of age. Director Penrice-Kelley requested that an item be included on the agenda of the next regular Board meeting regarding adding language to the District's Rate Order establishing customer responsibility for repairs to meter vaults.



In response to a question by Mrs. Pierre regarding a resolution authorizing checks to be signed by two (2) Directors instead of three (3), Ms. Garza explained that the Board has the option to elect to have just one (1) Director sign the checks or authorize the District's Bookkeeper to sign the checks in the event that the Board is unable to meet in person due to COVID-19. Ms. Garza clarified that, should the Board adopt such procedures at the May Board meeting, all Directors will continue to receive copies of such checks for review and that such checks will be listed in the Bookkeeper's Report for authorization by the Board at the District's Board meetings.

Next, Mr. Taylor reported that the resident at 810 Grisham Street called the District to complain that their sewer line has backed-up following a significant rainstorm. Mr. Taylor further reported that such sewer line was recently pipe burst as part of one (1) of the projects recently funded through the TWDB grant. Mr. Taylor stated that the Operator sent a crew to the residence to televise such sewer line, which showed that the problem was caused by tree roots damaging two (2) sections of such resident's line. Upon further inspection by the Operator of the sewer line downstream from such resident, a sinkhole was found, which Mr. Taylor explained may be filling with debris and causing a back-up of the sewer line.

Mrs. Pierre then reported that the District's local bank is currently closed, so the District's office staff has been depositing customers' payments weekly at a bank branch located in Katy, Texas.

Mrs. Pierre next presented information regarding the District's contracts with Allegiant Bank and Wells Fargo and stated that an item will be included on the agenda of the next Board meeting regarding review of such contracts.

**10. Adjournment.**

There being no further business to come before the Board, the meeting was adjourned at 7:30 pm.

PASSED AND APPROVED on this 4 day of May, 2020.



Secretary, Board of Directors