

MEETING OF THE BOARD OF DIRECTORS
PLUM CREEK CONSERVATION DISTRICT
LOCKHART, TEXAS 78644
January 16th, 2024

Notices of this regular meeting were posted in the Caldwell and Hays County Courthouses at least 72 hours prior to the meeting. Receipts of the notices are on file in the office of Plum Creek Conservation District.

Checks were reviewed and signed just prior to the call to order by Treasurer/Secretary, Mrs. Lucy Knight.

1:00 PM The meeting/hearing was called to order by President of the Board, James Holt. Stacy Britton of Montemayor, Britton, Bender, PC; Quantum Wei of Harmony Desalting; Eric Vaughn of Gardeners of Eden; Graham Moore of Alliance Regional Water Authority; Brian Rice of BGE Engineering; Trey Jones and Brad Bechtol both of Montoya Anderson Construction were present. The following Board members were present: Peter Reinecke (Vice President), Lucy Knight (Secretary/Treasurer), Fred Rotherth (Director) and Tom Owen (Director). PCCD Attorney Bob Wilson, PCCD Geologist Feathergail Wilson (via ZOOM), and PCCD staff members Daniel Meyer, Nora Lopez-Castillo, Alan Burklund, and Tyler Farco were present. Nora Lopez-Castillo transcribed the minutes.

1:00 PM President Holt called the meeting to order.

1:00 PM President Holt requested public comments. There were no public comments.

1:00 PM President Holt requested motions or comments regarding the minutes of the regularly scheduled meeting held on December 19th, 2023. Mr. Reinecke made a motion that the minutes of the regularly scheduled meeting held on December 19th, 2023, be accepted as mailed out. Mrs. Knight provided the second and the motion was approved unanimously.

1:00 PM President Holt asked if there was any unfinished business that required the Board of Directors' attention. Mr. Meyer stated that there was no unfinished business.

1:01 PM President Holt requested discussion of agenda item V regarding the 2022 to 2023 audit from Montemayor, Britton & Bender. Mr. Meyer introduced Stacy Britton to the Board. Stacy Britton outlined the responsibilities of the management staff and the auditors during the audit process. Ms. Britton stated the audit resulted in a "clean opinion," meaning that PCCD's financial statements were fairly stated in all material respects in accordance with generally accepted accounting principles. Ms. Britton pointed out that PCCD has a strong picture of financial health and sufficient liquid resources on hand to meet short-term operating liabilities. Ms. Britton reported there were no compliance issues with federal or state funds. Mrs. Knight made a motion to accept the 2022-2023 audit. Mr. Reinecke provided the second and the motion was approved unanimously.

1:14 PM President Holt requested discussion of agenda item VI regarding a financial request from Harmony Desalting for a desalination research project. Mr. Meyer stated that Harmony Desalting's research specialized in developing innovative technology, specifically batch reverse osmosis (RO). Mr. Meyer stated that one of the requirements of PCCD's Management Plan was to look at the potential benefits of desalination, alternative water sources, and the needs and feasibility of developing a project to research different technologies. Mr.

Meyer briefly summarized the events that had connected PCCD and Harmony Desalting. Mr. Meyer introduced Dr. Quantum Wei to the Board. Dr. Wei informed the Board that after submitting his desalination research project proposal to the Bureau of Reclamation, they had been awarded \$300,000 in federal funding contingent on contributing additional cost-share funding. Dr. Wei explained the project would require digging a well into the Edwards Aquifer and desalinating the water, which would then be used for research purposes and by the Gardeners of Eden for irrigation and livestock. Dr. Wei stated that the research project would be used for proof of concept to confirm that their technology could efficiently desalinate water with high water recovery in an energy efficient manner. Feathergail Wilson presented slides to the Board regarding the location of the well and discussed that the depth of the well would be 2100 feet. Feathergail Wilson discussed issues that could arise from the leftover minerals/salts that could require remediation/cleanup or the use of an approved injection well. Mr. Owen asked Dr. Wei what the goal was after the two-year research project was completed. Dr. Wei stated if his technology proved successful, the goal would be to build small/modular, energy efficient desalination plants that would be located closer to where water was needed. Dr. Wei stated he needed an additional \$170,000 in financial assistance before the Bureau of Reclamation would release the \$300,000 grant. A lengthy discussion was held regarding topics including additional costs that could be incurred, jurisdiction, future access to landowner's property once project completed, need for easements, the amount of land that would be needed, and the use and costs associated with an evaporation pond. Mr. Holt stated that if the Board decided to commit funding for this project, it would be an investment in research and education of the desalination process, without any monetary return. Mr. Owen made a motion that Plum Creek Conservation District fund a minimum of \$170,000, up to a maximum of \$300,000, toward drilling the well and for research and development contingent on all involved parties reaching an approved agreement on the issues raised. Mrs. Knight provided the second and the motion was approved unanimously. Mr. Reinecke stated that as part of the agreement, he would like PCCD to maintain rights and access to the well, should the project be abandoned, for future projects. Mr. Owen agreed to include this in his previous motion and Mrs. Knight provided the second and the motion was approved unanimously.

2:19 PM

President Holt requested discussion of agenda item VII regarding the PCCD Quarterly Investment Report. Mrs. Knight stated that both the audit and the report showed that PCCD was accumulating the money needed to perform necessary work on the dams and assist with projects, such as the desalination project. Mrs. Knight stated that the report had been received, reviewed, and signed.

2:19 PM

President Holt requested discussion of agenda item VIII regarding the Site 2 rehabilitation project. Mr. Meyer gave a quick summary of the events that occurred after the December 2023 Board Meeting. Mr. Meyer stated that PCCD sent Montoya Anderson Construction (MAC) a letter that notified them of the Board's decision to take no action on the two requests to have a sit-down to discuss options for resolving respective claims and took no action on considering revisiting the seeding options. Mr. Meyer also stated that at the December meeting, Jean Ann Maynard, PCCD Contracting Consultant, outlined the general procedures under the contract for the contractor to file a claim and the responsibilities the Contracting Officer had for responding to a claim. Mr. Meyer stated at that meeting the Board also decided not to send the retainage check to MAC. Mr. Meyer introduced Brad Bechtol to the Board. Mr.

Bechtol stated that there may have been confusion and that he understood that the previous agreement was that MAC complete the winter seeding and PCCD would release 50% of the retainage. Mr. Bechtol stated the seed had been planted by December 5th, 2023. A discussion was held regarding this matter. Mr. Owen made the motion to release the 50% retainage check. Mr. Reinecke provided the second and the motion was approved unanimously.

2:39 PM

President Holt requested discussion of agenda item IX regarding the Site 28 rehabilitation project. Mr. Bob Wilson informed the Board that he, National Resources Conservation Service (NRCS) representatives, Jean Ann Maynard, and Mr. Meyer held a meeting to discuss the \$250,000 the landowners were claiming for soil that would be used during the rehabilitation project. Mr. Bob Wilson stated he had recommended that PCCD not pay for the soil, but if a contractor thought it was necessary under the contract, then the contractor would be free to negotiate with the landowner for this. Mr. Bob Wilson stated that a clause would be added to the Invitation for Bid (IFB) regarding this. Both NRCS and Jean Ann Maynard stated that on-site materials had always been used as part of the construction project. Mr. Bob Wilson stated under Texas easement law, PCCD's easement stated a structure could be built, but it did not explicitly state that dirt (on-site material) was included. During the meeting, Jean Ann Maynard asked whether the cost of the soil could be paid for using construction funds. NRCS had calculated that 36,000 cubic yards of material would be needed. NRCS recommended that PCCD negotiate with the landowner regarding the soil, not the contractor. Mr. Bob Wilson informed all the parties that PCCD could not negotiate with the landowner because he had previously informed the Board that under the easement it was the contractor's obligation to negotiate. Mr. Bob Wilson also stated he had informed all the parties that if litigation ensued regarding this matter, it could take years, the federal funds could be withdrawn, and the project abandoned. Mrs. Knight made a motion that Mr. Bob Wilson and Mr. Meyer offer the landowner a total of \$109,323 (\$3.00 a cubic yard times 36,441 cubic yards needed) for the on-site soil. Mr. Owen provided the second and the motion was approved unanimously. The Board agreed that if the negotiated amount exceeded this total, it would need to be brought back to the Board for consideration.

2:49 PM

President Holt requested discussion of agenda item X regarding NRCS' review of Alliance Regional Water Authority's Water (ARWA) Phase 1B Segment C. Mr. Meyer reminded the Board that back in August of 2020, BGE came in on behalf of ARWA to request that the designs for the northern route of the water line be sent to NRCS for review; the Board agreed. Mr. Meyer stated that changes were made to the water line route and, in 2023, the 100% designs were sent to NRCS. Mr. Meyer stated that in January, NRCS sent PCCD a letter with their recommendations. One of NRCS' recommendations was that "the owner of the pipe should indemnify the District to be held harmless for the operation of the dam and its impact on the pipe within the easement." Mr. Graham Moore asked whether this recommendation would need to be a separate agreement between PCCD and ARWA and, if so, what language should be used by ARWA to provide this indemnification. Mr. Bob Wilson stated that if the Board made a motion to approve NRCS' recommendations, PCCD's approval letter could include this language. Mrs. Lucy Knight made the motion that PCCD follow the recommendations of the NRCS regarding the Alliance route. Mr. Reinecke provided the second and the motion was approved unanimously.

3:00 PM President Holt requested discussion of agenda item XI regarding GMA 10's Interlocal Agreement. Mr. Meyer stated that per the Board's request at the December 2023 Board meeting, the GMA-10 interlocal agreement (ILA) now included a provision that would require the GMA 10 members to reimburse PCCD for costs incurred as the contract administrator. Mr. Meyer stated that a provision had also been added indicating that if a GMA member did not sign the ILA, then no work would be done for that District under the consulting agreement. Mr. Meyer stated that if the Board made a motion to approve the revised ILA version, he would take it to the next GMA 10 meeting for the other districts to review. Mrs. Knight made a motion to approve the latest/ revised version of the GMA 10 interlocal agreement. Mr. Rothert provided the second and the motion was approved unanimously.

3:06 PM President Holt requested discussion of agenda item XII regarding a Contract between PCCD & Collier Consulting to assist GMA 10 in developing DFCs and performing modeling. Mr. Meyer suggested holding off on this agenda item until the GMA 10 ILA had been signed by all members. The Board agreed.

3:06 PM President Holt requested discussion of agenda item XIII regarding a Resolution to authorize PCCD's Executive Manager to amend the Contract with Collier Consulting. Mr. Meyer suggested holding off on this agenda item until the GMA 10 ILA had been signed by all members. The Board agreed.

3:07 PM President Holt requested discussion of agenda item XIV regarding a request for Recordable Release & Termination of Site 10 Temporary Construction Working Space and Access Easement. Mr. Bob Wilson stated that this document was not ready because he had asked Mr. Meyer to determine if the areas described in this easement were released, would PCCD still have sufficient area to perform operations and maintenance on the dam. The Board tabled this agenda item until this information was determined.

3:08 PM President Holt requested discussion of agenda item XV regarding quotes received to drill and install a Wilcox monitoring well. Mr. Meyer stated that the monitoring well would be located on Mr. Tom Owen's property and drilled to a depth of 600 feet. Mr. Meyer informed the Board that PCCD had received one quote. Mr. Holt then announced that 2 bid amounts were received from Hydro Resources. Mr. Meyer stated that the driller submitted 2 bids, one using concrete and one using bentonite. President Holt stated that Exhibit A was at two hundred twenty thousand dollars and zero cents (\$220,000.00) and Exhibit B was at one hundred sixty-five thousand dollars and zero cents (\$165,000.00). Mrs. Knight made a motion to accept the \$165,000.00 bid from Hydro Resources for the drilling of the Wilcox monitoring well. Mr. Rothert provided the second and the motion was approved unanimously.

3:19 PM President Holt requested a report from the PCCD Geologist, Mr. Feathergail Wilson. Mr. Feathergail Wilson presented a slideshow on the drawdown/well pump test that had been performed on Mr. Reinecke's well. Mr. Feathergail Wilson stated that the data collected from this well would be used as a point of control; thus, a spreadsheet was created to collect future test data, which would be used to create contour maps and could indicate where the best wells were located. Mr. Feathergail Wilson stated that Central Texas remained in a severe drought.

3:28 PM President Holt requested a report from the NRCS' District Conservationist, Mr. Jeremy Hasty. Mr. Hasty was not in attendance.

3:28 PM President Holt requested a report from the PCCD Executive Manager, Mr. Daniel Meyer. Mr. Meyer stated that PCCD held an Emergency Action Plan (EAP) tabletop exercise with both Hays and Caldwell Emergency Management. Mr. Meyer reminded the Board that the Texas Commission on Environmental Quality (TCEQ) required this to be done every five years. Mr. Meyer presented a slide on Site 2 that showed some rye grass visible in the reseeded areas. Mr. Meyer gave an update on Site 21 and stated that the designs, which extended the dam, had not anticipated the removal of portions of the access road. Mr. Meyer stated arrangements had been made with the contractor to install an access road around the eastern end of the dam. Mr. Meyer also stated the contractor continued to work on the roller-compacted concrete (RCC) repairs. Mr. Meyer informed the Board that he had received an email from Kimley-Horn, engineers for Sunfield, regarding upcoming development near PCCD's Site 10 and easement encroachment. Mr. Meyer stated it appeared there would be encroachment on PCCD's easement and access easement. Mr. Meyer indicated he informed the engineers that a PCCD Easement Use Application would need to be submitted. Kimley-Horn stated they would begin working on the required application.

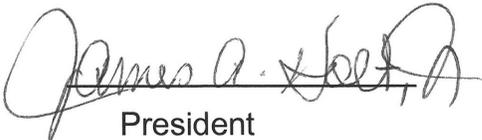
3:34 PM President Holt requested a report from PCCD's Attorney, Bob Wilson. Mr. Bob Wilson stated that S.B. No. 2440 legislation had passed and now required anyone who was attempting to file a subdivision plat, which would depend on groundwater as a source for water, would need to include a groundwater study that certified adequate water was available for the subdivision. Mr. Bob Wilson recommended a letter be written to the County Commissioners as well as Planning and Zoning Departments informing them that PCCD would be available to answer questions regarding water availability.

3:38 PM President Holt President Holt moved the meeting into Executive Session for yearly employee reviews and subjects allowable.

3:48 PM President Holt called the meeting back into Regular Session. Mr. Reinecke made a motion to increase the salary of each employee by 5% to account for the cost of living. Mr. Reinecke proposed a separate motion to reclassify Nora Lopez-Castillo's position from Office Secretary to Administrative Assistant with a base salary of \$60,000 plus 5%. Mrs. Knight provided the second. All Board members voted aye, and the motion passed unanimously.

3:55 PM President Holt requested public comments. There were no public comments.

3:55 PM Mrs. Knight made a motion to adjourn. Mr. Rothert provided the second and the motion to adjourn passed unanimously.


President


Vice-President