

MEETING OF THE BOARD OF DIRECTORS
PLUM CREEK CONSERVATION DISTRICT
LOCKHART, TEXAS 78644
April 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. The following Board members were present: Peter Reinecke (Vice President), Lucy Knight (Secretary/Treasurer), Fred Rothert (Director) and Tom Owen (Director). PCCD Attorney Bob Wilson, and PCCD Geologist Feathergail Wilson (via ZOOM). Walter Stephens and Shannon Vogel, Site 28 landowners, were present. 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 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 March 19th, 2024. Mrs. Knight made a motion that the minutes of the regularly scheduled meeting held on March 19th, 2024, be accepted as mailed out. Mr. Rothert provided the second and the motion was approved unanimously.

1:01 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 PCCD Quarterly Investment Report. Mrs. Knight stated that the report had been received, reviewed, and signed.

1:01 PM President Holt requested discussion of agenda item VI regarding an update from the desalination research project. Mr. Meyer stated that the project was at a standstill. Mr. Meyer stated that Quantum Wei of Harmony Desalting had informed him that power to run the unit and an evaporation pond to handle the brine water were still needed, resulting in additional costs. Mr. Meyer stated that Dr. Wei wanted to ask if PCCD would consider paying for solar panels at a cost of \$75,000 and a portion of the cost for the evaporation pond, if needed. Mr. Meyer also stated that an agreement had not been reached with the landowners, Gardeners of Eden. Mr. Meyer asked for direction from the Board on whether they wanted to stop the project altogether because PCCD had designated \$300,000 for drilling the well or if the Board would be interested in looking for another site location for the project. Mr. Meyer stated if the Board chose to search for another site location, this would need to be completed in 90 days. Mr. Bob Wilson stated that he did not think the agreement between Gardeners of Eden and Harmony Desalting was viable and that an agreement between PCCD and Gardeners of Eden, specifically regarding access, had not been reached. Mr. Meyer also informed the Board that as part of the agreement, Gardeners of Eden wanted the well to provide 300,000 gallons per month of fresh water to be used for irrigation, which could not be guaranteed. A discussion ensued regarding these issues. Mr. Reinecke

made a motion that PCCD withdraw the offer of \$300,000 for this project because agreements could not be finalized with the landowner. Mrs. Knight provided the second and the motion was approved unanimously. Mr. Bob Wilson stated that he would draft a letter to notify Harmony Desalting of the Board's decision.

1:28 PM

President Holt requested discussion of agenda item VII regarding an agreement between the Site 28 landowners and PCCD regarding the Site 28 Rehabilitation Project. Mr. Bob Wilson stated, as previously instructed by the Board, he drafted an agreement to offer the landowners \$3.00 per cubic yard to pay for dirt that would be used for the rehabilitation project and should there be a need for soils in the future, the landowner would allow the dirt to be used without any additional cost. Mr. Wilson stated that the landowners had responded that they could not agree to this draft. Mr. Wilson told the landowners that the Board would be considering this agenda item and he invited them to the meeting so they could explain their objections. Mr. Wilson stated that the landowners submitted edits to the draft agreement, but the primary objection was the limit on future payments. Mr. Bob Wilson then asked the landowners to address the Board regarding this matter. Mrs. Shannon Vogel stated that they appreciated the offer, but they could not agree to PCCD having unlimited access to the soil in perpetuity. Mrs. Vogel stated that they would be willing to allow for a 20% overage of the estimated amount of soil needed for the rehabilitation project, which would be 43,729 cubic yards. Mr. Wilson stated that part of the reason he drafted the agreement to include no future payments was because it was NRCS' interpretation that dirt from anywhere in the easement area could be used to construct, reconstruct, or alter the dam. Mr. Wilson discussed that if an agreement was not reached, the Board could file a lawsuit seeking a declaratory judgment of NRCS' interpretation of the easement language and, if it was deemed to be incorrect, then the Board would have the option of filing an eminent domain suit. Mr. Wilson stated these actions would probably take years. The landowners stated that they did not want to be involved in a lawsuit. Mr. Owen stated the agreement could state that the payment for the dirt would be limited to this transaction only. Mr. Meyer had concerns regarding whether the landowner would object to using soil for erosion or emergency type repair projects. The landowner stated that they would not object to this. Mr. Bob Wilson and the landowners stated they would work on a revised agreement to present to the Board. Mr. Meyer pointed out that this needed to be done quickly because NRCS wanted to get the bid packets sent out as soon as possible.

1:58 PM

President Holt requested discussion of agenda item VIII regarding proposed access easements for Site 10. Mr. Meyer stated Sunfield had prepared a metes and bounds survey for two alternate access easements. Mr. Meyer informed the Board that he had contacted the firm that had done the rehabilitation designs, M&E Consultants, to review the survey and they found no issues with the survey. Mr. Meyer stated he was also in agreement with the proposed survey, and he had asked Mr. Bob Wilson what type of instrument would be needed to record these changes. Mr. Bob Wilson stated he would draft a replacement easement to incorporate the revised metes and bounds descriptions, but all the original terms would remain in place.

2:05 PM

President Holt requested discussion of agenda item IX regarding approving an "indemnification" agreement with Alliance Regional Water Authority. Mr. Meyer informed the Board that the attorney for Alliance Regional Water Authority (ARWA) had sent a draft agreement to Mr. Bob Wilson for review. Mr. Wilson stated that the NRCS letter stated PCCD needed to get indemnity

based upon any damage to the dam, structure, or operation based on the installation of the pipeline. Mr. Bob Wilson informed the Board that the draft agreement stated if damage occurred, ARWA could seek proportional liability from other responsible parties, which technically could include PCCD. Mr. Wilson stated that the draft would need to give PCCD total indemnity and that he would work with ARWA's lawyer regarding this. Mr. Wilson stated he would keep the Board informed regarding this matter.

2:07 PM President Holt requested discussion of agenda item X regarding amending the PCCD Records Retention Schedule. Mr. Meyer informed the Board that PCCD staff had begun working on implementing the Records Retention Policy and had discovered that there were documents that were not on the current Records Retention Schedule. Mr. Meyer stated that the Retention Schedule could be amended to state that for documents that were not specifically listed in PCCD's approved Records Retention Schedule, the retention period of those documents would be subject to the most current and applicable versions of Texas State Library and Archives Commission (TSLAC)'s Local Government Retention Schedules. Mr. Meyer stated that if this amendment was acceptable to the Board, PCCD would schedule the appropriate public hearing and bring it back to the Board for final consideration. Mrs. Knight made a motion that PCCD staff schedule a public hearing to amend the Records Retention Schedule. Mr. Owen provided the second and the motion was approved unanimously.

2:10 PM President Holt requested a report from the PCCD Geologist, Mr. Feathergail Wilson. Mr. Feathergail Wilson's presented a slideshow on several topics including a detailed explanation of the formation and complex geological characteristics of the Carrizo-Wilcox aquifer.

2:21 PM President Holt requested a report from the NRCS' District Conservationist, Mr. Jeremy Hasty. Mr. Hasty was not in attendance.

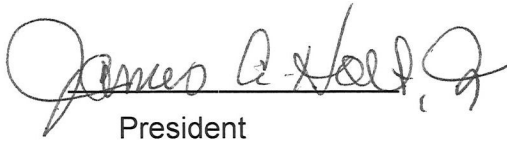
2:21 PM President Holt requested a report from the PCCD Executive Manager, Mr. Daniel Meyer. Mr. Meyer stated two GMA members had signed the GMA 10 interlocal agreement and he hoped to present the Interlocal Agreement to the Board next month for their consideration. Mr. Meyer gave an update on Site 12 and stated that PCCD was still working on the U.S. Army Corps of Engineers (USACE) 404 permit. Mr. Meyer stated that USACE was concerned about the wetlands upstream since the proposed designs would raise the port level one foot and had asked for confirmation of the wetlands location in relationship to the port level. Mr. Meyer stated that PCCD staff researched this, and it was determined that the port had been blocked, most likely by a landowner. Mr. Meyer stated unblocking the port would result in a reduction of the water level, which could impact the wetlands. Mr. Meyer stated he would continue to work on this and would keep the Board apprised of this matter. Mr. Meyer gave an update on Site 21 and stated irrigation lines had been installed and the dam had areas that were sprigged and seeded. Mr. Meyer stated there had been a review of the roller-compacted concrete (RCC) repair. Mr. Meyer stated he had a concern regarding the appearance of the end walls and had asked the contractor to address this; however, the contractor stated they were not willing to do this, as the RCC structural integrity specifications had been met. Mr. Meyer gave an update on Site 2 regarding permanent seeding of the dam. Mr. Meyer stated that the City of Kyle was still under Stage III water restrictions, so the contractor had applied for a temporary permit from the Texas Commission on Environmental Quality (TCEQ).


2:42 PM Mr. Meyer stated he had sent a letter to the contractor that stated he expected them to fulfill the permanent vegetation requirements as specified in the contract. Mr. Meyer stated that he had attended a Texas Alliance of Watershed Sponsors (TAWS) meeting and one of the concerns that districts were facing occurred when someone bought property and was not made aware of the easement. Mr. Meyer stated that San Antonio River Authority was now issuing a Notice of Memorandum to the title companies, which attached the previous easement information. Mr. Bob Wilson stated that unless the easement had been released, removed, or modified, the easement would still exist.

2:43 PM President Holt requested a report from PCCD's Attorney, Bob Wilson. Mr. Wilson stated that he had no further comments but did ask that the attendees from Texas Disposal Systems introduce themselves to the Board.

2:43 PM President Holt requested public comments. There were no public comments.

2:43 PM Mrs. Knight made a motion to adjourn. Mr. Owen provided the second and the motion to adjourn passed unanimously.


President


Vice-President