

GUADALUPE-BLANCO RIVER AUTHORITY

Minutes of the Board of Directors

The Board of Directors of the Guadalupe-Blanco River Authority met in a regular monthly meeting on May 16, 2012, at the GBRA River Annex Board Room, 905 Nolan, Seguin, Guadalupe County, Texas. Directors present were Grace G. Kunde, Oscar H. Fogle, James L. Powers, Frank J. Pagel, Dennis L. Patillo, Tommy Mathews, Myrna P. McLeroy, and Robert “Rusty” Brockman. Director Arlene N. Marshall was absent. Also present were W. E. West, Jr., General Manager; James Lee Murphy, Executive Manager of Water Resources and Utility Operations; Alvin Schuerg, Executive Manager of Finance and Administration; Todd Votteler, Executive Manager of Science, Intergovernmental Relations and Policy; Bruce Wasinger, General Counsel; David Welsch, Executive Manager of Business Development and Resource Management; Gary Asbury, Manager of Project Engineering; Barbara Gunn, Human Resources Manager; Tommy Hill, Chief Engineer; Debbie Magin, Director of Water Quality Services; John Smith, Operations Manager-Upper Basin; LaMarriol Smith, Manager of Communication and Education; Cricket Dietert, Executive Assistant to the General Manager; Connie Rothe, Board Relations and Publication Specialist; Leigh Crettenden, Web Master; Tommy Schulte, Regional Representative; Jaynellen Ladd, Natural Resource Specialist; Charlie Hickman, Engineer; Yolanda Pierce, Operations Assistant; Josie Longoria, Regional Laboratory Director; Tommie Streeter-Rhoad representing the San Antonio Bay Foundation; Roger Nevola, legal counsel; Jim Dublin representing Dublin and Associates; David Engel representing Engel and Associates; Matthew Clark

graduate from Canyon Lake High School; Ana Laura Gonzales graduate from Seguin High School; Marshal Hanzel graduate from San Marcos High School; Christopher Sestak graduate from Navarro High School; Haley Imhoff graduate from Seguin High School and daughter of GBRA employee Billy Imhoff; Calvin Finch representing the San Antonio Water System; Alan Thompson representing Klotz Associates; Gerard Kyle representing Texas A&M University; J. Harmon representing Preserve Lake Dunlap Association; Doug Harrison, Lake Dunlap resident; Humberto Ramos representing Canyon Regional Water Authority; Mike Morrison representing Freese and Nichols; Dan Laroe, Lake Dunlap resident; Carl Adkins, Lake Dunlap resident; Ramon Salazar and Steven Renneker representing Kellogg Brown and Root; Matt Garcia representing MWH; Nick Dornak representing Plum Creek Watershed Protection Plan; Tim Kelley representing Piper Jaffrey; and David Shaw representing Preserve Lake Dunlap Association.

Chair Kunde called the meeting to order at 10:06 a.m., and took note of the certifications presented that notice of the meeting had been properly posted in the office of the Secretary of State, in the Guadalupe County Courthouse, and at the GBRA main office and river annex in Seguin, Texas, pursuant to Title 5, Chapter 551 of the Texas Government Code. A quorum being present, the following proceedings were had:

Director McLeroy led the Pledge of Allegiance to the United States flag and Texas flag.

Chair Kunde asked Director McLeroy to lead a pray for Director Arlene Marshall who is battling a serious health issue and asked everyone to keep Arlene in their prayers.

In the absence of Secretary-Treasurer Arlene Marshall, Chair Kunde appointed Director James L. Powers to serve as Secretary Pro-Tem.

The Chair called for comments from the public. There were no public comments at this time.

The Chair called for **Chair Item 1 - Consideration of and possible action authorizing the expenditure of funds for Directors and staff to attend the Texas Water Conservation Association 2012 Mid-Year Conference June 13-15, 2012, at Horseshoe Bay Resort Marriott in Horseshoe Bay, Texas.** Upon motion by Director Patillo, seconded by Director Powers, the Board unanimously authorized the expenditure of funds for Directors and staff to attend the Texas Water Conservation Association 2012 Mid-Year Conference.

Next, the Chair called for **Chair Item 2 - Consideration of and possible action changing the location of the June 20, 2012 Board Meeting to be held in Gonzales, Texas.** Upon motion by Director Patillo, seconded by Director Powers, the Board unanimously approved changing the location of the June 20, 2012 Board meeting to be held in Gonzales, Texas.

The Chair then called for **Consent Item 3 - Consideration of and possible action approving the April 18, 2012, Board meeting minutes; Consent Item 4 - Consideration of and possible action approving the monthly financial report for**

April 2012; Consent Item 5 - Consideration of and possible action approving the monthly operations report for April 2012; and Consent Item 6 - Consideration of and possible action approving Directors' expense vouchers. Upon motion by Director McLeroy, seconded by Director Patillo, the Board unanimously approved Consent Items 3, 4, 5, and 6.

The Chair called for **General Manager Item 7 - Discussion of the Executive Reports addressing matters relating to safety, utility operations, water resource operations, engineering, coordination with the U.S. Army Corps of Engineers regarding Canyon Reservoir operations, Nueces Recharge Study, the seasonal deviation study for Canyon Reservoir and Cibolo Watershed Study, construction management including the Luling Water Treatment Plant Expansion and ASR Facilities, River Bend pump station replacement matters including easement acquisition, Mid-Basin Project, Clean Rivers Program activities, Plum Creek Projects, Geronimo Creek Watershed Protection Plan, Environmental Flows Project, River Network Project, water quality general, San Antonio Bay Foundation, Economic and Community Development activities, events and projects, Business Development including water and wastewater services activities, Rural Utilities - Dunlap wastewater service area activities, Mid-Basin Water Supply, Project activities, Resource Protection activities including lake management and water safety, implementation of water conservation measures, water strategies, Gorge Preservation Society matters, Gonzales area flood warning matters, information technology, human resources, budget activities,**

accounting and finance. James Murphy briefed the Board on GBRA operation and engineering activities. David Welsch briefed the Board on water quality, regional laboratory, and economic development activities. Debbie Magin recognized Josie Longoria on her receipt of an “Outstanding Service” award from the Laboratory Analysts Association. Debbie introduced Nick Dornak the new Watershed Coordinator for the Plum Creek Watershed Protection Plan. Alvin Schuerg briefed the Board on finance, human resource, and information technology activities. Mr. Schuerg also briefed the Board on the financial statements executive summary for the period ending April 30, 2012. General Manager West informed the Board on Todd Votteler’s receipt of the Texas State University Department of Geography Distinguished Alumnus Award.

Next, the Chair called for **Action Item 8 - Consideration of and possible action authorizing GBRA to utilize alternative contracting methods as statutorily approved in the Texas Government Code, Chapter 2267 and further authorizing the General Manager to establish all necessary policies and procedures related to such alternative contracting methods.** GBRA Board Policy 303 – Procurement provides that GBRA shall conduct its procurement activities in accordance with the spirit and legal intent of the State of Texas procurement laws applicable to river authorities. The current staff directive that effectuates Board Policy 303 requires GBRA’s staff and managers to follow Water Code Section 49.271 – 49.273 when contracting for construction projects. Section 49.271 requires that all construction projects follow a competitive bidding process based on uniform, written plans and specifications. During recent legislative sessions, Texas Government Code Chapter 2267 – Contracting and

Delivery Procedures for Construction Projects was adopted and expanded by the Texas Legislature. Chapter 2267 is applicable to most governmental entities including river authorities and water districts. The basic intent of Chapter 2267 is to authorize the use of alternative contracting methods when constructing a public works project including such methods as competitive bidding, competitive sealed proposals, construction manager-agent, construction manager-at-risk, design–build, and job order. Before GBRA can avail itself of these alternative contracting methods, Chapter 2267 requires GBRA's Board of Directors to affirmatively authorize Chapter 2267 to supersede Section 49.273 of the Water Code. GBRA staff believes that at least some of GBRA's future construction projects, particularly those projects involving potential public-private partnerships, would benefit from the alternative contracting methods authorized by Government Code Chapter 2267. Upon motion by Director Powers, seconded by Director Brockman, the Board unanimously approved the use of alternative contracting methods as authorized in Texas Government Code Chapter 2267, authorizing Government Code Chapter 2267 to supersede Water Code Section 49.273, and further authorized the General Manager to establish procedures that comply with Government Code Chapter 2267.

The Chair then called for **Action Item 9 - Consideration of and possible action authorizing the General Manager to file an application(s) for financial assistance with the Texas Water Development Board to finance construction of GBRA's Mid-Basin Project.** GBRA has been planning the Mid-Basin Water Supply Project for a number of years. This new water supply project will include several components such

as surface water diversions, groundwater well fields, aquifer storage and recovery areas, and the associated infrastructure to treat and transmit the water. GBRA recently sold \$4.4 million in bonds to the Texas Water Development Board to complete the studies related to the Project. The GBRA staff presented an overview of the Project at an April 18, 2012 workshop of the Texas Water Development Board. A component of the Texas Water Development Board workshop related to potential financing sources for the estimated \$380,000,000 Project. One such financing source that was identified was the Texas Water Development Board State Participation Fund. This fund defers much of the debt service during the early years of a project through a Master Agreement in which the State owns a portion of the project. GBRA's requirements for requesting the Texas Water Development Board State Participation Funds are (1) request financial assistance and the amount, (2) designate an authorized representative, and (3) authorize the representative to file a financial application and appear before the Texas Water Development Board. The approval of these requirements does not require GBRA to apply for this financial assistance nor accept the financial assistance from the Texas Water Development Board. Upon motion by Director Mathews, seconded by Director Powers, the Board unanimously approved requesting \$380,000,000 of financial assistance through the Texas Water Development Board State Participation Fund, designated the General Manager as GBRA's authorized representative to act on behalf of the GBRA Board of Directors and authorized the General Manager or his designee to: (1) execute a State Participation Fund financial application, (2) to appear before the Texas Water Development Board of behalf of

GBRA, and (3) to submit all required documentation required by the Texas Water Development Board related to this financial assistance request.

The Chair called for **Action Item 10 - Consideration of and possible action authorizing the General Manager to negotiate and enter into a contract with the lowest qualified bidder for the Lockhart Raw Water Pump Station electrical improvements.** Electrical switchgear for this pump station was originally installed in the early 1980's. Due to severe corrosion, difficulty in effecting repairs, and obtaining replacement parts, GBRA and the City of Lockhart budgeted money to replace this equipment. Bid documents-specifications were developed and properly advertised. The bids were publicly opened on May 3, 2012. Four bids were received from the following: J and K Utility Service - \$113,096.00; Central Texas Water Maintenance - \$124,816.00; SCI, Inc. - \$127,300.00; and Sun-Tech Electrical - \$137,500.00. The Engineer of record, TRC Solutions, has completed several similar projects with John Gray, the owner of J and K Construction in the past. Performance on these projects was very good. Vance Rogers, Lockhart City Manager, has been contacted and agrees with the necessity of this project. Upon motion by Director Fogle, seconded by Director Powers, the Board unanimously authorized the General Manager to enter in to a contract with J and K Utility Service of Creedmore, Texas, the lowest qualified bidder, for the installation of electrical equipment for the GBRA-Lockhart Raw Water Pump Station Improvements Project. Total construction authorization is \$113,096.00 with a five percent (5%) construction contingency allowance \$5,654.80 to be utilized by GBRA staff for unknown items that will develop. Total authorization is for \$118,750.80.

Next, the Chair called for **Action Item 11 - Consideration of and possible action approving a Resolution of the Guadalupe-Blanco River Authority (“GBRA”) declaring a public use and public necessity for the acquisition of certain real property rights for the construction, operation, and maintenance of a wastewater collection and transportation facility with all related improvements, facilities, and appurtenances, and any necessary additions, including construction modifications, improvements and replacement of a wastewater pump station and/or lift station, including a wet-well, pipes, electrical service, access and related facilities and appurtenances (“Lift Station Facilities”), also known as the River Bend Lift Station Improvements, in, over, under, through, across, being and belonging to certain real property located in Guadalupe County, Texas, for the public use of the construction, operation, and maintenance of the Lift Station Facilities, and authorizing all appropriate action by the General Manager and staff, retained attorneys, appraisers, and engineering and technical consultants and staff, in the institution and prosecution of condemnation proceedings to acquire any such necessary real property rights that cannot be acquired through negotiation, including a fee estate for a wastewater pump station site, a permanent utility easement, a temporary construction easement, together with all related rights of ingress and egress and the subordination, waiver and/or release of any and all restrictive covenants of record that may restrict or prohibit GBRA from using the fee estate, permanent utility easement, and temporary construction easement for the construction, operation, and maintenance of the Lift Station Facilities;**

declaring further negotiations futile; ratifying and affirming all acts and proceedings heretofore done or initiated by employees, agents and attorneys of GBRA to acquire such property interests; authorizing all other lawful action including the making of archaeological, environmental, geotechnical and linear surveys necessary and incidental to such acquisitions whether by purchase or eminent domain proceedings; declaring the sections of the Resolution to be severable one from the other in the event any section of this Resolution is determined to be invalid. The fee estate, permanent utility easement, and temporary construction easement are more fully described as follows: A Fee Estate for a Wastewater Pump Station Site, being a 0.246 acre GBRA Wastewater Pump Station Site out of the Sarah Dewitt Survey, Abstract Number 48, Guadalupe County, Texas, and being a portion of a tract of land called 1.208 acres, described in Volume 583, Page 715, Official Records, Guadalupe County, Texas, said 0.246 acre GBRA Wastewater Pump Station Site being more particularly described by metes and bounds and shown in Exhibit "A" attached hereto and incorporated herein for all purposes; SAVE AND EXCEPT that certain 0.024 acre tract of land described in that certain Warranty Deed, dated November 22, 1971, from Lone Star Development Corporation, a Texas Business Corporation, to Guadalupe-Blanco River Authority, recorded in Volume 448, Page 339, of the Real Property Records of Guadalupe County, Texas; A Permanent Utility Easement, being a 0.061 acre GBRA Utility Easement out of the Sarah Dewitt Survey, Abstract Number 48, Guadalupe County, Texas, and being a

portion of a tract of land called 1.208 acres, described in Volume 583, Page 715, Official Records, Guadalupe County, Texas, said 0.061 acre GBRA Electrical Easement being more particularly described by metes and bounds and shown in Exhibit “B” attached hereto and incorporated herein for all purposes; and A Temporary Construction Easement, being a 0.219 acre GBRA Temporary Construction Easement out of the Sarah Dewitt Survey, Abstract Number 48, Guadalupe County, Texas, and being a portion of a tract of land called 1.208 acres, described in Volume 583, Page 715, Official Records, Guadalupe County, Texas, said 0.219 acre GBRA Temporary Construction Easement being more particularly described by metes and bounds and shown in Exhibit “C” attached hereto and incorporated herein for all purposes. GBRA is planning for construction modifications, improvements and replacement of a wastewater pump station and/or lift station, including a wet-well, pipes, electrical service, access and related facilities and appurtenances (“Lift Station Facilities”), also known as the River Bend Lift Station Improvements, in, over, under, through, across, being and belonging to certain real property located in Guadalupe County, Texas, for the public use of the construction, operation, and maintenance of the Lift Station Facilities. This will allow GBRA to provide retail wastewater service to customers through a wastewater and waste collection system improvements in the area served by the GBRA Lake Dunlap Regional Wastewater Treatment Plant and system in Guadalupe County, Texas. Upon motion by Director Brockman, seconded by Director Patillo, the Board unanimously approved a Resolution of the Guadalupe-Blanco River Authority (“GBRA”) declaring a public use

and public necessity for the acquisition of certain real property rights for the construction, operation, and maintenance of a wastewater collection and transportation facility with all related improvements, facilities, and appurtenances, and any necessary additions, including construction modifications, improvements and replacement of a wastewater pump station and/or lift station, including a wet-well, pipes, electrical service, access and related facilities and appurtenances (“Lift Station Facilities”), also known as the River Bend Lift Station Improvements, in, over, under, through, across, being and belonging to certain real property located in Guadalupe County, Texas, for the public use of the construction, operation, and maintenance of the Lift Station Facilities, and authorized all appropriate action by the General Manager and staff, retained attorneys, appraisers, and engineering and technical consultants and staff, in the institution and prosecution of condemnation proceedings to acquire any such necessary real property rights that cannot be acquired through negotiation, including a fee estate for a wastewater pump station site, a permanent utility easement, a temporary construction easement, together with all related rights of ingress and egress and the subordination, waiver and/or release of any and all restrictive covenants of record that may restrict or prohibit GBRA from using the fee estate, permanent utility easement, and temporary construction easement for the construction, operation, and maintenance of the Lift Station Facilities; declared further negotiations futile; ratified and affirmed all acts and proceedings heretofore done or initiated by employees, agents and attorneys of GBRA to acquire such property interests; authorized all other lawful action including the making of archaeological, environmental, geotechnical and linear surveys

necessary and incidental to such acquisitions whether by purchase or eminent domain proceedings; and declared the sections of the Resolution to be severable one from the other in the event any section of this Resolution is determined to be invalid. A copy of the Resolution is attached and made a part of these minutes.

The Chair then called for **Action Item 12 - Consideration of and possible action authorizing the General Manager to negotiate and execute a Purchase and Sale Agreement between the Guadalupe-Blanco River Authority and SJW Corporation.** No discussion or action was taken of Action Item 12.

The Chair recessed the open meeting at 11:12 a.m. The open meeting reconvened at 11:23 p.m.

The Chair called for **Discussion Item 13 - Discussion regarding alternatives for achieving water safety and a balance for surface water recreation, fishery habitat and other uses for Lake Dunlap as discussed by the GBRA Lake Dunlap Temporary Committee on lake usage.** David Welsch gave an overview of meetings held by the GBRA Lake Dunlap Temporary Committee. Mr. Welsch introduced Dr. Gerald Kyle. Dr. Kyle discussed three scenarios for management of Lake Dunlap including pros and cons of each alternative. These scenarios were discussed with the Temporary Lake Committee. J Harman addressed the Board and supports a no-wake zone around the stump field only and requested the current no-wake zone be removed. Doug Harrison thanked the GBRA Board and staff for creating the Temporary Lake Committee. Mr. Harrison requested that GBRA reconsider the removal of the current no-wake zone. Dan Laroe addressed the Board and supports the current no-wake zone

and has seen more use of the lake with the current no-wake zone. Carl Adkins addressed the Board and did not feel the current no-wake zone increases the use of other portions of the lake and supports the current no-wake zone for safety and recreational purposes. Mr. Adkins also stated that the current no-wake zone increases the recreational purposes for other types of recreational users. General Manager West stated that GBRA will take this under advisement.

Next, the Chair called for **Discussion Item 14 - Discussion regarding the activities and transactions of the Edwards Aquifer Authority, South Central Texas Water Advisory Committee, and the Guadalupe Basin Coalition.** Todd Votteler briefed the Board on activities of the Edwards Aquifer Authority and water levels of the Edwards Aquifer.

The Chair then called for **Discussion Item 15 - Discussion regarding the activities and transactions of the Guadalupe-Blanco River Trust, the San Antonio Bay Foundation, and the Gorge Preservation Society.** There was no discussion on Discussion Item 15.

The Chair called for **Discussion Item 16 - Discussion regarding Base Flow Report, Water Quality Index, and condition of the Guadalupe Basin.** Tommy Hill introduced Charlie Hickman, GBRA's new engineer. The reports were discussed with the Board. Tommy Hill briefed the Board on the Comal Springs level, elevation of Canyon Reservoir, rainfall events, and the U. S. Drought Monitor Seasonal Outlook.

Next, the Chair called for **Discussion Item 17 - Discussion regarding local, State and national water planning and water resource issues.** General Manager

West briefed the Board on an Eagle Ford Shale article and articles in the latest publication of the *Irrigation Leader* magazine.

The Chair called for the **Presentation of 2012 annual GBRA Scholarships.** Connie Rothe introduced the 2012 GBRA Scholarship recipients Matthew Clark graduate from Canyon Lake High School; Ana Laura Gonzales graduate from Seguin High School; Marshal Hanzel graduate from San Marcos High School; Haley Imhoff graduate from Seguin High School; and Christopher Sestak graduate from Navarro High School.

The Chair recessed the open meeting at 12:40 p.m. The Chair closed the open meeting and convened the meeting in executive session at 12:40 p.m. The open meeting reconvened in open session at 2:02 p.m.

There being no further business to be brought before the Board, the meeting was adjourned at 2:03 p.m. subject to call by the Chair.

Chair

Secretary Pro-Tem