

MINUTES

**RIO GRANDE REGIONAL WATER AUTHORITY (RGRWA)
BOARD OF DIRECTORS MEETING
9:00 A.M. – WEDNESDAY, APRIL 6, 2011
LRGVDC TRANSPORTATION CENTER
510 PLEASANTVIEW DRIVE, WESLACO, TX**

PRESIDING: JIM DARLING, PRESIDENT

The Rio Grande Regional Water Authority (RGRWA) Board of Directors held a meeting at 9:00 a.m. on Wednesday, April 6, 2011 at the LRGVDC Transportation Center in Weslaco, Texas. In attendance were:

RGRWA Board Members

President Jim Darling, Hidalgo County
Vice President Sonia Lambert, Irrigation Dist.
Secretary/Treasurer Joe Barrera, Irrigation Districts
Ms. Karran Westerman, Zapata County
Mr. Ricardo Gutierrez, Starr County
Mr. Fitzgerald Sanchez, Webb County
Mr. John Bruciak, Cameron County
Mr. Paul Heller, Irrigation Districts
Mr. Jimmie Steidinger, Irrigation Districts
Mr. Joe Pennington, Irrigation Districts
Mr. Jo Jo White, Irrigation Districts
Mr. Bobby Sparks, Irrigation Districts
Mr. Sonny Hinojosa, Irrigation Districts
Mr. Brian Macmanus, Water Supply Corporations
Mr. D.V. Guerra, Public

Others

Ms. Marcie Oviedo, LRGVDC
Ms. Ludy Saenz, LRGVDC
Mr. Victor Morales, LRGVDC
Mr. Erasmo Yarrito, TCEQ
Mr. Othal Brand, Jr. HCWID#3
Ms. Macarena Ortiz, HCWID#3
Mr. John Trevino, TDA
Mr. Troy Allen, DLID
Mr. Glenn Jarvis, Region M Group
Dr. John Goolsby, USDA-ARS

1. Call to Order & Roll Call

President Jim Darling called the meeting to order at 9:03 a.m. and announced that a quorum of the Board was present.

2. Consider Approval of February 2, 2011 Meeting Minutes

Mr. Joe Barrera made a motion for approval of the minutes as presented. Mr. Jimmie Steidinger seconded the motion, and upon a vote the motion carried unanimously.

3 Public Comment

No Public Comments were received.

4. Discussion of Open Meetings Requirements

Ms. Sonia Lambert was recognized and stated that the reason she requested this item placed on the agenda was due to an email sent to the majority or quorum of the Board; however as some members were not in attendance at this meeting she requested that this item be tabled. Aside from the Open Meetings Act issue Ms. Lambert would like to address each issue stated in the email message and if it is not properly stated in the agenda she requested that it be so for the following meeting.

President Darling noted that when an email notification of an issue is sent to a committee or board there is a tendency for members to “reply to all”. Even though all parties on the email list are not participating in the back and forth discussion they are participating simply by receiving the information. President Darling advised that when answering email messages the best practices would be to respond only to the sender in order to avoid any potential violation of the Open Meetings Act. ***Mr. Joe Barrera made a motion to table this item. Mr. Jimmie Steidinger seconded the motion, and upon a vote the motion carried unanimously.***

5. Consideration and Possible Action on Resolution RE: Commitment to Mediate Dispute between Hidalgo County Water Improvement District #3 and the City of McAllen

President Jim Darling stated that although he does not have a particular conflict of interest on this item because he does not have a financial interest in it, he turned the gavel over to Vice President Sonia Lambert to preside over this matter due to his affiliation with the City of McAllen as a City Commissioner.

Vice President Lambert then recognized Mr. Othal Brand, Jr., President and General Manager of Hidalgo County Water Improvement District #3 (HCWID #3). Mr. Brand gave a brief, general summary of HCWID #3’s efforts to date and informed the Board that the HCWID #3 Board of Directors asked him to request the RGRWA consider a resolution or other form of support regarding this local issue, and stated that this issue should be able to be resolved through the district’s peers. HCWID #3 provided a draft resolution for consideration.

Upon conclusion of Mr. Brand’s comments Mr. Jo Jo White stated that he felt this had merit and that of all the entities in the Rio Grande Valley the RGRWA is the best suited to mediate a situation like this; it is worth pursuing and provides an additional option to resolve this dispute.

Mr. Kevin Pagan, Attorney for the City of McAllen (the City) was recognized and expressed some doubt about submitting this matter to the RGRWA for mediation; Mr. Pagan stated that the RGRWA membership does not seem to be as neutral as his client and he had hoped for in regard to mediators.

Mr. Pagan stated that as an attorney he always recommended mediation to his clients. However, the City has tried mediation with HCWID #3 once before in 2005 and at the request of well intentioned people, the City and the Brownsville PUB were persuaded to withdraw a legislative bill. After the bill was withdrawn, one mediation session took place and after the legislative session ended, there were no more mediation sessions. Mr. Pagan stated that he will not recommend to his client that the bill be pulled back on the prospect that this dispute, which pre-dated his seventeen years at the City of McAllen, could be resolved in the middle of a legislative session. And further, Mr. Pagan stated he and his client have met with HCWID #3 during the session and in between sessions with a variety of proposals that they thought would at least facilitate the beginnings of negotiations; additionally, six weeks ago McAllen City Commissioner Scott Crane and Mr. Pagan met with the President of HCWID #3, at his request, and Mr. Brand’s opening comment was “we don’t have a dispute, what is the dispute about?” Mr. Pagan stated that it is difficult to mediate with someone who does not think they are in a dispute. Despite the fact that Mr. Pagan and his client suggested possible solutions, including a joint Board with the McAllen PUB and HCWID #3, a transition period, and a number of other things; they have received no response.

Mr. Pagan stated that the only thing the City would be comfortable saying to the RGRWA Board is that if HCWID #3 has a suggestion to resolve the difficulties the City has with them, the City will certainly entertain said suggestions. Mr. Pagan stated that he and his client had gone the extra mile which met with no response to any of their suggestions. Mr. Pagan stated that he understood complaints of the City going to the State to settle this and explained that HCWID #3 was created by the State, and the State could be the mediator in this case. This has gone to the State legislature because unfortunately this has not been resolved locally. Mr. Pagan stated that, meaning no disrespect to anyone on the RGRWA Board, where have all the mediators and efforts to help resolve this dispute been in the last six years? Mr. Pagan added that most of the members of the RGRWA Board of Directors were aware of this dispute and agreed that this dispute is between the City and HCWID #3 and it is unfortunate that it

has to be taken to the State Capitol for resolution.

At the conclusion of Mr. Pagan's statement Mr. Joe Barrera asked if there would be any objection to an independent mediator, and not a member of the RGRWA Board. Mr. Pagan stated that he and his client have no objection to anybody who wants to help resolve this issue, but they will not recommend that the legislative bill be pulled back based on their experience in 2005.

Mr. Paul Heller asked why it was imperative to resolve the dispute in this legislative session. Mr. Pagan stated that his opinion would have been less strong even two weeks ago; he thought the relationship between HCWID #3, McAllen PUB and the City could not get any worse, but he was wrong. Every cycle it seems more and more tax payer's and rate payer's money is being spent at the district, that in McAllen Mayor Richard Cortez' opinion should not be spent. There are monies that are paid directly to the district that are spent on "a gold plated nuclear holocaust resistant pump station", but Mayor Cortez feels that that \$3 million could have been better spent elsewhere. The answer to the question is that it costs the tax payers and rate payers money that could be better spent without that layer of government. Mr. Pagan added that this dispute may not even be resolved in this legislative session and that he would be willing to talk with anyone who is willing to help settle this dispute.

Mr. Barrera stated that the concern he had about the resolution is that, and noted that he was not advocating anything, if the legislation does not go through, what other option is there to help solve the problem if the Board does not pass a resolution that is neutral? At this time **Mr. Jimmie Steidinger made a motion to approve the resolution. Mr. Jo Jo White seconded the motion.**

Mr. Brian Macmanus asked for discussion and stated he had never heard of a situation where one governmental entity would mediate a dispute between two other governmental entities and expressed doubt that the Board should provide support in the form of mediation. Mr. Macmanus predicted that the RGRWA would become tangled in the middle of the dispute and anger either one or both sides, and asked what would the RGRWA gain from this and what does the RGRWA have to risk from this. Mr. Macmanus asked if the RGRWA was to mediate this dispute, would the Board then mediate all disputes between local entities that are members of the RGRWA and he cited a dispute between the City of Pharr and the North Alamo Water Supply Corporation. Mr. Macmanus stated that mediation is not the responsibility of the RGRWA and that is not what it was created for. Mr. White disagreed with Mr. Macmanus. Mr. Heller stated it would be a non-binding type of mediation that would attempt to get the parties to begin a dialog.

Mr. Barrera suggested the use of an independent mediator and to revise the draft resolution accordingly. Mr. D.V. Guerra stated that this is a local issue and should be settled by local people; we are a regional authority and like Mr. Macmanus stated, if we become involved in disputes such as this we may be obliged to solve disputes throughout the region, from Webb County to Cameron County.

President Darling suggested reading the last paragraph in the resolution because it seemed to go beyond what the Board desires to do; it says, "that if no conclusion can be reached that the Authority will draw its own recommendations as to the resolution to the differences between both entities". President Darling stated that he had not heard a Board Member suggest that, and secondarily the draft resolution requests, "At this time the Authority approves the submission of a request for the 82nd legislature to allow the Authority to attempt a resolution in a local setting". By that statement the RGRWA would ask the legislature to hold the bill while the Board "attempts a resolution in a local setting" and that is not what has been discussed. Vice President Lambert recalled that Mr. Brand suggested the RGRWA draw up an original resolution should the Board not approve of the draft provided by HCWID #3 and if the Board decided to become involved in this issue.

Mr. Ken Jones was recognized and suggested revising the draft resolution by deleting the last paragraph and also suggested that the LRGVDC Procurement Department facilitate finding a legal firm able to provide mediation services between the two parties. Mr. Barrera commented that the Board

may have to consider some expense for a mediator. Vice President Lambert recommended that the RGRWA not assume the costs for a mediator.

Mr. Pagan was recognized and stated that he did not have authority to commit his client to participate in mediation with a mediator selected by the RGRWA, however, their decision may be influenced if the RGRWA selected a firm and paid for the services. Mr. Pagan also specified that if the Board did procure a professional, independent, outside mediator his client would want to be involved in the selection process, in which case, Mr. Pagan noted with all due respect, the RGRWA would be completely away from being involved in the mediation.

Mr. Brand was recognized and stated that HCWID #3 could pay for its part and the City's part, if the City was unwilling to participate financially. He added that HCWID #3 was willing to exhaust anything to try to bring this dispute to some conclusion, if that is what the Board chooses it would be acceptable to HCWID #3.

Upon conclusion of discussion **Mr. Jimmie Steidinger amended his motion to adopt the resolution with the omission of the last paragraph, and to have the RGRWA facilitate the selection of an independent mediator acceptable to both parties, and that the mediation cost would be borne by one or more of the parties in dispute and not the RGRWA. Mr. Jo Jo White seconded the amended motion.** Mr. Jones added that in terms of moving forward with choosing a mediator, the LRGVDC staff would initiate that process and do a follow through to try to be as successful as possible. **Vice President Lambert then called for a vote and the motion carried 7 to 5; President Jim Darling abstained.** At the conclusion of action Vice President Lambert handed the gavel back to President Darling to preside over the remainder of the meeting.

Mr. Barrera commented that in light of this resolution, he has always felt that the RGRWA should work on legislation that allowed for a dissolved irrigation district's assets and water rights to go to the RGRWA so that the RGRWA would be able to work like all the other water authorities in the State of Texas. The RGRWA is the only water authority in the State that does not have water rights or assets to work with, even the smallest water authorities have water rights to work with and manage where needed throughout their area. No matter what happens with the dispute between the City and HCWID #3 the RGRWA should consider legislation to that effect whether it be his district or any other that may be next, those assets should go to the RGRWA to be managed and not be argued about by anybody else. Mr. Barrera suggested talking to attorney Glenn Jarvis after this current dispute is settled.

6. Consider Resolution Opposing Closure of the Kika de la Garza Subtropical Agricultural Research Facility in Weslaco

Mr. Jones was recognized and stated that during a previous federal session this USDA-ARS Weslaco facility was in danger of being closed or reduced and all of the area's regional groups at that time supported recommendations to prevent that from happening, which would be a tremendous loss to the region. The Weslaco facility is apparently on the federal chopping block again. Staff thought it would be appropriate to provide a resolution of support to continue funding this facility and, if passed, could be sent to our federal delegation.

Dr. John Goolsby, researcher from the USDA-ARS Weslaco facility was recognized and thanked the Board for the opportunity to speak about this resolution. Dr. Goolsby informed the Board that President Obama and Congress were planning to propose budget cuts and staff was in the final stages of negotiations. Staff realized that there will be cuts, but there will also be considerable discretion on how those cuts will be metered out. Staff believes that many labs are on the closure list and the government is trying to gauge support for each lab. Resolutions such as the one the Board will consider today are very important because they send the message back to the USDA regional office in College Station and the national office in Washington, DC that what the USDA-ARS staff is doing in the Rio Grande Valley is relevant locally. Dr. Goolsby thanked the Board for its efforts as a water authority and if this resolution is passed it will make the Board's voice heard by helping to conserve this local research facility. Once it is lost, it may never be brought back again. At the conclusion of discussion **Mr. Ricardo Gutierrez made a motion for approval of the resolution as presented. Mr. Jo Jo White seconded the**

motion, and upon a vote the motion carried unanimously.

7. Consider Ratification of Executive Committee Action RE: Letter of Intent to apply for Funding to US Bureau of Reclamation

President Darling informed the Board that it was necessary for the Executive Committee to act on this letter in order to meet the deadline for the US Bureau of Reclamation (BOR) funding cycle. Mr. Jones was recognized and reminded the Board of the draft scope of work NRS Consulting Engineers completed on a Regional Water Supply Feasibility Study for the lower three counties of the RGRWA and Region M. At that time there were discussions of considering brackish groundwater, and the potential of accessing water from the north being piped down to this region, this scope of work has evolved through recommendations from the Ad Hoc Groundwater Management Committee. At that time there was an anticipated cost of about \$300,000 to complete the study which the Board has not, until now, found an opportune funding source to offset that cost. Staff became aware of the BOR application process with very little notice. This letter includes a scope of work and an anticipated cost of \$400,000. The BOR requires a 55% match and they essentially do the majority of the work. If the Board does receive a response from this letter of intent with an invitation for full application, one of the questions would be who would do which part of the study and where the match would come from. The current anticipated cost of the study is \$400,000 and the 55% match for that amount would be \$220,000, which, of course, is better than \$300,000 if the Board funded the study by itself. The \$220,000 would be cost shared from local partners and maybe the Board would consider contributing 25% - 50%. President Darling suggested contacting the municipalities in the affected areas prior to making a commitment. Mr. Jones suggested staff could coordinate with Mr. Roy Rodriguez, Chairman of the Committee, to determine what amount could be received from municipalities and possibly water supply corporations and PUB's before submitting the application. Upon conclusion of discussion ***Mr. Paul Heller made a motion to ratify this Executive Committee Action. Ms. Sonia Lambert seconded the motion, and upon a vote the motion carried unanimously.***

8. Status Reports

A. Report from TCEQ Watermaster

Mr. Erasmo Yarrito reported the status of the U.S. and Mexican reservoirs and noted that this region is currently considered to be in drought. Mr. Yarrito also reported on the Rio Grande salinity levels and TCEQ's efforts to work with Mexico on operations of El Morillo Drain.

B. Report from IBWC

No one from IBWC was able to attend the meeting however, Mr. Ken Jones gave a report provided by Mr. Rodolfo Montero, IBWC Mercedes Office. By the end of this calendar year all four pumps at El Morillo drain should be operational. Mexico is working on sediment removal and levee improvements to bring capacity up to design capacity; this should be completed by the end of the year. The transition of El Morillo Drain operations from CONAGUA to CILA is scheduled to take place at the end of this June.

C. Report from Rio Grande Regional Water Planning Group

Mr. Glenn Jarvis was recognized and reported that the Group has completed the Rio Grande Regional Water Plan and submitted it to the TWDB; it will be combined with all the other regional plans to form the State Water Plan. The Group is soliciting RFQs for consultants for the Fourth round of planning of the five year cycle.

D. Report on Middle Pecos County GCD Pending Permit Application Submitted by Fort Stockton Holdings

There was no new information to report on this item.

E. Status RE: Field Release of Arundo Scale – Rhizaspidiotus Donacis

Dr. John Goolsby was recognized and gave a presentation on the progress the USDA-ARS has made with research and experiments using insects to control invasive weeds in the Rio Grande. Dr. Goolsby showed photos taken by one of only two thermal cameras in the United States that illustrated how much water the invasive weeds use. The thermal image showed the plants in shades of blue indicating that they were cool from high water consumption. Dr. Goolsby added that the USDA - ARS has released more than a million insects between Del Rio and Brownsville in their efforts to control invasive plants. Dr. Goolsby thanked the Board for its past support and noted that research and further experiments were on going.

9. Committee Reports

A. Community Outreach

There was no new information to report.

B. Finance and Planning

1. Consider Approval RE: List of Future Projects

Mr. Barrera was recognized and stated the Finance and Planning Committee developed a list of four projects to consider:

- Seek Funding (\$200,000 - \$300,000) for Regional Water Supply Feasibility Study, project of the Ad Hoc Groundwater Management Committee Chaired by Mr. Roy Rodriguez
- Seek funding for additional security along the Rio Grande for cities, water districts and farm employees
- Seek funding to do a study on the possible effect that a weir could have on Falcon Lake in Zapata County if a weir was built upstream at Laredo
- Seek funding to improve water supply to Webb County colonias outside the incorporated areas

Mr. Barrera turned the floor over to Mr. Fitzgerald Sanchez to discuss the Webb County Colonias issue. Mr. Sanchez stated that there are several colonias outside the incorporated area of the City of Laredo that rely on water from brackish wells or water hauled daily from Laredo for their daily water supply. Hundreds of families are affected and hauling water is not a cost effective solution. Mr. Sanchez would like the Board to consider including development of a solution to this water supply problem in the Regional Water Supply Feasibility Study proposed by the Ad Hoc Groundwater Management Committee.

President Darling thanked Mr. Sanchez for his input and stated that the Board needs to encourage its members to develop projects the Board could consider for sponsorship. He noted that Webb County is in the South Texas Development Council's region and asked Mr. Jones to contact their staff regarding this project. **Mr. Joe Barrera made a motion to request Mr. Ken Jones to follow up and bring a report back at the next meeting. Mr. Paul Heller seconded the motion, and upon a vote the motion carried unanimously.**

Upon conclusion of discussion Mr. Barrera stated that these are the four projects the Committee recommends for consideration. **Mr. Ricardo Gutierrez made a motion to approve the list of four projects as presented. Ms. Karran Westerman seconded the motion and upon a vote the motion carried unanimously.**

2. Financial Report

Ms. Debby Morales was recognized and reported that the current cash balance was \$340,338.95 and there was \$2,155.07 in expenses for January, February and March 2011 pending approval. **Ms. Sonia Lambert made a motion for approval of the pending expenses as presented. Mr. Bobby Sparks seconded the motion and upon a vote, the motion carried unanimously.**

Mr. Barrera was recognized and gave the Budget Report for January, February and March noting that the Board was under budget so far this year.

Mr. Barrera brought to the Board's attention the Texas Water Foundations "Texas Water Day at the Capitol" event scheduled for April 27, 2011 and recommended the Board become a sponsor of this event. **Mr. Ricardo Gutierrez made a motion to sponsor Texas Water Day at the Capitol with a contribution of up to \$500.00. Ms. Sonia Lambert seconded the motion, and upon a vote the motion carried unanimously.**

3. Status of Assessments

Mr. Joe Barrera reported that a total of \$84,086.06 has been received from the 2011 Assessments; Ms. Morales noted the omission of the City of Brownsville's payment of \$3,017.64 which brings the total assessments received to \$87,103.70.

C. Personnel and Professional Services

1. Archiving Photos of Flooding from Hurricane Alex

Mr. Erasmo Yarrito reported that TCEQ staff has almost completed identifying these photos.

D. Legislation

There was no new information at this time.

E. El Morillo Drain

This item was addressed under TCEQ's report.

F. Ad Hoc Groundwater Committee

Consider Approval of RFQ to Procure Technical Consultants for the Regional Water Supply Project Feasibility Study and Authorization to Advertise

Mr. Jones was recognized and stated that this item came through the Ad Hoc Groundwater Management Committee whose recommendation was to consider the brackish groundwater desalination feasibility study, which is the same activity discussed earlier on the Bureau of Reclamation application. The Bureau of Reclamation is a potential funding source that was identified after discussion of hiring a consultant group. Mr. Jones recommended moving forward with advertising so the Board could have a firm on a no-cost retainer. Once the firm was selected a contract would not be executed until a funding source was determined.

Mr. Sonny Hinojosa was recognized and stated he did not recall such discussion from the Ad Hoc Groundwater Management Committee, of which his is a member. Mr. Jones noted that this recommendation was made at the last Board meeting in Zapata under the status report for the Regional Water Supply Study where the Board approved the release of the RFQ; however Mr. Jones noted if there was hesitation until more is known about funding, action could wait until the next meeting. **Mr. Joe Barrera made a motion to table this**

item. Mr. Joe Pennington seconded the motion, and upon a vote the motion carried unanimously.

G. Scholarship Committee

Mr. Paul Heller was recognized and stated that in follow up to questions that were asked at the previous meeting staff received the following information: Mr. Juan Vargas, a senior at Texas A&M Kingsville was awarded the scholarship and Mr. Vargas was the only student who met all the qualifications. The next student will be selected this coming fall semester and Texas A&M staff has discussed alternating this scholarship award with the Engineering Department since the scholarship is available to their Environmental Engineering students as well. In addition staff met potential scholarship applicants at a conference on South Padre Island and encouraged them to check the RGRWA website for details about the scholarship.

H. Drainage Committee

There was no new information to report at this time.

11. Discussion and Possible Action RE: Meeting Schedule

It was the consensus of the Board to schedule the next meeting on June 1, 2011 at 9:00 a.m. at the LRGVDC Transportation Center Board Room.

12. Adjourn

There being no further business to come before the Board the meeting was adjourned at 10:55 a.m.

Jim Darling, President, RGRWA

ATTEST:

Joe Barrera, Secretary-Treasurer, RGRWA