



## NORTH TEXAS MUNICIPAL WATER DISTRICT

501 E. Brown Street • Wylie, Texas 75098  
(972) 442-5405 – Phone • (972) 295-6440 – Fax

### MINUTES REGULAR MEETING OF THE BOARD OF DIRECTORS MARCH 28, 2019

The North Texas Municipal Water District (NTMWD) Board of Directors met in regular meeting on Thursday, March 28, 2019, at 4:00 p.m. in the NTMWD Administrative Offices located at 501 E. Brown Street, Wylie, Texas. Notice of the meeting was legally posted in accordance with Government Code, Title 551, Open Meetings.

I. CALL TO ORDER

President John Sweeden called the meeting to order at approximately 4:49 p.m.

II. INVOCATION – Director Larry Parks offered the invocation.

III. PLEDGE OF ALLEGIANCE

IV. PLEDGE OF ALLEGIANCE TO THE TEXAS FLAG

V. ANNOUNCEMENT OF QUORUM

Secretary Larry Parks announced a quorum was present. Directors absent are noted below, and any reference to unanimous votes excludes the Directors identified as being absent from the meeting

1	Anderson, Terry Sam	
2	Carr, John	
3	Crump, George	
4	Dyer, Phil	
5	Farmer, Joe	
6	Fuller, Marvin	
7	Glass, Bill	
8	Gordon, Don	
9	Grooms, Darrell	
10	Hogan, Rod	
11	Hollifield, David	
12	Island, David	
13	Johnson, Blair	
14	Joplin, Joe	
15	Kerr, James	
16	Lofland, Bill	

17	May, Jack	
18	McKissick, Charles	
19	Murphy, John	
20	Parks, Larry	
21	Peasley, Richard	
22	Shuyler, Lynn	
23	Sweeden, John	
24	Vacant- Wylie	
25	Vacant- Mesquite	

The following NTMWD legal and financial consultants attended the meeting:

- Lauren Kalisek – Lloyd Gosselink Rochelle & Townsend
- Lewis Isaacks and Mark Walsh – Saunders Walsh & Beard
- Molly Carson and Alan Raynor – McCall Parkhurst & Horton
- David Medanich and Nick Bulaich - Hilltop Securities

VI. PUBLIC COMMENTS

There were no public comments.

VII. OPENING REMARKS

A. Presentations of awards, recognitions, achievements, etc., of the District, Board members, and staff

1. Recognition of Robert McCarthy’s retirement

Executive Director Tom Kula and Assistant Deputy Jim Shirley recognized Robert McCarthy for 15 years of service with the North Texas Municipal Water District by presenting him with a service pin and a plaque for his years of service. Mr. Kula also presented Mr. McCarthy with a memento of the Bois d’Arc Lake groundbreaking. Deputy Director Mike Rickman offered his appreciation to Mr. McCarthy as well. Mr. McCarthy spoke briefly regarding the friendships and relationships that developed during his time with the District.

B. President’s Remarks concerning current events, conduct of meeting, posted agenda items, committee assignments, and related matters

President Sweeden reviewed the April Board/Committee meeting schedule as follows:

- Proposed Schedule for April 2019
  - April 1 – NTMWD/Member City Manager meeting
  - April 2 – 4, 2019 – Texas Water Day, Washington, DC
    - Directors Sweeden, Gordon, Parks, Johnson attending
- Thursday, April 11, 2019
  - 11:30 a.m. – Executive Committee meeting
  - 1:00 p.m. – Policy Committee meeting
  - 1:30 p.m. – Legislative Committee **(if needed)**
  - 2:00 p.m. – Wastewater Committee meeting
  - 3:00 p.m. – Water Committee meeting

- Thursday, April 25, 2019, to be located at the John Bunker Sands Wetland Center in Seagoville, Texas
    - 3:00 p.m. – Special Board Meeting - Informational Work Session regarding the Wetland Facility/JBS Wetland Center (spouses invited)
    - 4:00 p.m. – Board Meeting
    - To follow with reception with refreshments
- C. Executive Director’s Status Report concerning legislation and regulatory matters, budgets, current projects and ongoing programs of the District including the Regional Water System, Regional Wastewater System, Regional Solid Waste System, Watershed Protection, and Water Conservation

Executive Director Kula advised that the monthly progress report for the Bois d’Arc Lake is available in the packet with additional photos located on the new website [www.boisdardlake.org](http://www.boisdardlake.org).

Executive Director Kula also noted that the change in disinfectant (chlorine maintenance) began on March 1, 2019, and will end on April 1, 2019. He added that very few complaints had been received, and he thanked the staff for their collaboration with the cities to educate the public on the process.

#### VIII. CONSENT AGENDA ITEMS

Upon a motion by Director Joe Joplin and a second by Director Joe Farmer, the Board of Directors unanimously approved the consent agenda items as follows:

- A. Consider approval of Board of Directors Regular Meeting Minutes – February 28, 2019  
(Please refer to Consent Agenda Item No. 19-03-01)
- B. Consider approval of Board of Directors Special Meeting Minutes – February 28, 2019  
(Please refer to Consent Agenda Item No. 19-03-02)
- C. Consider approval of Monthly Construction Report – March 2019  
(Please refer to Consent Agenda Item No. 19-03-03)
- D. Consider authorizing contribution in aid of construction to the City of Dallas in the amount of \$63,000 on Project No. 101-0326-13, Casa View Pump Station Control Structure Improvements and Ground Storage Tank, Drainage Improvements  
(Please refer to Consent Agenda Item No. 19-03-04)
- E. Consider adoption of Resolution No. 19-07 expressing official intent to reimburse costs of acquiring, constructing, and improving the Buffalo Creek Wastewater Interceptor System for cash financed expenditures incurred 60 days prior to March 28, 2019, and thereafter, in an amount not-to-exceed \$5,000,000  
(Please refer to Consent Agenda Item No. 19-03-05)
- F. Consider authorizing execution of Hold Harmless, Indemnification, and Reimbursement Agreement with ICR Holdings, LLC, and the City of Plano for construction of retaining wall within Lower White Rock Creek Force Main easement

(Please refer to Consent Agenda Item No. 19-03-06)

IX. AGENDA ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Consider adoption of Resolution No. 19-11 authorizing the issuance, sale and delivery of NTMWD Mustang Creek Wastewater Interceptor System Contract Revenue Bonds, Series 2019, in the amount of approximately \$19,800,000; and approving and authorizing instruments and procedures relating thereto (Please refer to Administrative Memorandum No. 5361)

Nick Bulaich of Hilltop Securities provided the results of the bond sale. He advised six bids were opened today (March 28<sup>th</sup>). The successful bidder is Robert W. Baird & Company, Inc., and the true interest rate is 3.2363962% on \$19,620,000, with a cash premium received from the purchaser of \$537,500.70. The bonds are for 30 years.

Director Phil Dyer stated that the Finance/Audit Committee reviewed this item on March 14, 2019, and the Wastewater Committee reviewed it March 28, 2019.

Upon the recommendation of the Finance/Audit Committee and the Wastewater Committee, a motion by Director Phil Dyer to adopt Resolution No. 19-11 authorizing the issuance, sale, and delivery of NTMWD Mustang Creek Wastewater Interceptor System Contract Revenue Bonds, Series 2019, and a second by Director Bill Glass, the Board of Directors voted unanimously to approve.

- B. Consider adoption of Resolution No. 19-12 authorizing the issuance, sale, and delivery of NTMWD Regional Water System Revenue Bonds, Series 2019, in the not-to-exceed amount of \$101,345,000 to fund Bois d'Arc Lake related projects; and approving and authorizing instruments and procedures relating thereto (Please refer to Administrative Memorandum No. 5362)

Deputy Director Rodney Rhodes briefed the Board of Directors regarding Agenda Item Nos. B., C., and D., stating that because the NTMWD is involved in a Public Utility Commission case, any bond sale must go before the District Court in Collin County for validation. The date for the validation hearing is April 29, 2019.

Director Phil Dyer advised that the Finance/Audit Committee reviewed this item on March 14, 2019, and it was also reviewed by the Water Committee on March 28, 2019.

Upon the recommendation of the Finance/Audit Committee and the Water Committee, Director Phil Dyer made a motion to adopt Resolution No. 19-12 authorizing the issuance, sale, and delivery of NTMWD Regional Water System Revenue Bonds, Series 2019. The motion was seconded by Director Jack May. The Board of Directors voted unanimously to approve.

- C. Consider adoption of Resolution No. 19-13 authorizing the issuance, sale, and delivery of NTMWD Water System Revenue Bonds, Series 2019A, in the not-to-exceed amount of \$150,000,000; and approving and authorizing instruments and procedures relating thereto (Please refer to Administrative Memorandum No. 5363)

Nick Bulaich advised this bond issuance sale will be an open market sale to be held later this year.

Director Phil Dyer stated this item was reviewed on March 14, 2019, by the Finance/Audit Committee and was also reviewed by the Water Committee on March 28, 2019.

Upon the recommendation of the Finance/Audit Committee and the Water Committee, Director Phil Dyer made a motion to adopt Resolution No. 19-13 authorizing the issuance, sale, and delivery of NTMWD Water System Revenue Bonds, Series 2019A. The motion was seconded by Director Jack May. The Board of Directors voted unanimously to approve.

- D. Consider adoption of Resolution No. 19-14 authorizing the issuance, sale, and delivery of NTMWD Water System Revenue Refunding Bonds, Series 2019, in the not-to-exceed amount of \$115,000,000 to refund remaining principal amounts of 2009 bond issues to generate debt services savings; and approving and authorizing instruments and procedures relating thereto  
(Please refer to Administrative Memorandum No. 5364)

Mr. Bulaich advised this refunding opportunity will result in a savings of approximately \$7.2M.

Director Phil Dyer stated this item was reviewed by the Finance/Audit Committee on March 14, 2019, and by the Water Committee on March 28, 2019.

Upon the recommendation of the Finance/Audit Committee and the Water Committee, Director Phil Dyer made a motion to adopt Resolution 19-14 authorizing the issuance, sale, and delivery of NTMWD Water System Revenue Refunding Bonds, Series 2019. The motion was seconded by Director James Kerr. The Board of Directors voted unanimously to approve.

- E. Consider authorizing additional funding in the amount of \$400,000 with Lloyd, Gosselink, Rochelle & Townsend, PC, for legal support for response to petition appealing wholesale water rates filed by Cities of Garland, Mesquite, Plano, and Richardson before the Public Utility Commission  
(Please refer to Administrative Memorandum No. 5365)

Director Phil Dyer advised the Finance/Audit Committee reviewed this item on March 14, 2019.

Upon the recommendation of the Finance/Audit Committee, Director Phil Dyer made a motion to authorize additional funding in the amount of \$400,000 with Lloyd, Gosselink, Rochelle & Townsend, PC, for legal support for response to petition appealing wholesale water rates filed by Cities of Garland, Mesquite, Plano, and Richardson before the Public Utility Commission. The motion was seconded by Director Joe Farmer. The Board of Directors voted unanimously to approve.

- F. Consider adoption of Resolution No. 19-19 rejecting all bids and authorizing rebid of the Wylie Water Treatment Plant III and IV Filter Performance Improvements, Project No. ENG 16-15  
(Please refer to Administrative Memorandum No. 5366)

Director Jack May advised the Water Committee reviewed this item today.

Upon a recommendation of the Water Committee, a motion by Director Jack May and a second by Director Blair Johnson, the Board of Directors voted unanimously to adopt Resolution No. 19-19 as presented.

- G. Consider authorizing award of construction contract with Clark Electric, Inc., in the amount of \$620,000 on Project No. 101-0414-16, High Service Pump Station 2-1 2016 Electrical Improvements, Phase II  
(Please refer to Administrative Memorandum No. 5367)

Upon a motion by Director Terry Sam Anderson and a second by Director Lynn Shuyler, the Board of Directors voted unanimously to approve as presented.

- H. Consider authorizing execution of engineering services agreement with JQ Infrastructure, LLC, in the amount of \$554,431 for final engineering design to fix active leaks and repair cracks in filter gallery concrete walls, Project No. 101-0422-16, Wylie Water Treatment Plant IV Filter Gallery Wall Structural Evaluation  
(Please refer to Administrative Memorandum No. 5368)

Director Jack May advised that the Water Committee reviewed this item today. During the Water Committee meeting the District's attorney provided an update on the mediation in Executive Session. In open session, the Committee voted unanimously to recommend the Board of Directors authorize execution of the engineering services agreement as presented.

Upon a recommendation of the Water Committee, a motion by Director Jack May and a second by Director Joe Joplin, the Board of Directors voted unanimously to approve as presented.

- I. Consider authorizing execution of professional services agreement with Texas A&M Engineering Extension Service in the amount of \$70,448 for preparation of Emergency Response Plan for Bois d'Arc Lake, Project No. 101-0344-13, Bois d'Arc Lake Dam and Intake Structure  
(Please refer to Administrative Memorandum No. 5369)

Director Jack May advised the Water Committee reviewed this item today and voted unanimously to recommend the Board of Directors authorize execution of the professional services agreement as presented.

Upon the recommendation of the Water Committee, a motion by Director Jack May and a second by Director Lynn Shuyler, the Board of Directors voted unanimously to approve as presented.

- J. Consider authorizing execution of Amendment No. 3 to Settlement Agreement with Bois d'Arc Municipal Utility District for extension of water line to NTMWD Bois d'Arc Lake Operations Center and provision of water service and authorizing payment of \$110,215.50 for cost escalation as currently provided in the Settlement Agreement, Project No. 101-0344-13, Bois d'Arc Lake Dam and Intake Structure (Please refer to Administrative Memorandum No. 5370)

Upon a motion by Director Lynn Shuyler and a second by Director Terry Sam Anderson, the Board of Directors voted unanimously to approve as presented.

- K. Consider authorizing execution of engineering services agreement with GSR Andrade Architects in the amount of \$330,000 for final engineering design of new operations building, Project No. 301-0524-19, Rowlett Creek Regional Wastewater Treatment Plant Operations Building (Please refer to Administrative Memorandum No. 5371)

Director Bill Glass advised that the Wastewater Committee reviewed this item today and voted unanimously to recommend the Board of Directors authorize execution of the engineering services agreement as presented.

Upon a recommendation from the Wastewater Committee, a motion by Director Bill Glass and a second by Director Richard Peasley, the Board of Directors voted unanimously to approve as presented.

- L. Consider authorizing additional inspection services with Mbroh Engineering, Inc., in the amount of \$98,800 on Project No. 301-0346-14, Wilson Creek Regional Wastewater Treatment Plant Advanced Treatment and Headworks Improvements (Please refer to Administrative Memorandum No. 5372)

Upon a motion by Director James Kerr and a second by Director Blair Johnson, the Board of Directors voted unanimously to approve as presented.

- M. Consider authorizing additional electrical inspection services with Mbroh Engineering, Inc., in the amount of \$261,535 on Project No. 301-0328-13, Rowlett Creek Regional Wastewater Treatment Plant Peak Flow Management Improvements, Phase 1 (Please refer to Administrative Memorandum No. 5373)

Upon a motion by Director Bill Glass and a second by Director Terry Sam Anderson, the Board of Directors voted unanimously to approve as presented.

- N. Consider adoption of Resolution No. 19-17 authorizing and directing the execution of the City of Melissa – Trinity East Fork Regional Wastewater System Contract and adoption of Resolution No. 19-18 authorizing and directing the execution of the Upper East Fork Interceptor System Supplemental Contract (City of Melissa, Texas) (Please refer to Administrative Memorandum No. 5374)

Director Bill Glass advised that the Wastewater Committee reviewed this item today and voted unanimously to recommend the Board of Directors adopt Resolutions Nos. 19-17 and 19-18 as presented.

Upon a recommendation of the Wastewater Committee, a motion by Director Bill Glass and a second by Director Charles McKissick, the Board of Directors voted unanimously to approve as presented.

- O. Consider authorizing award of construction contract to Crescent Constructors, Inc., in the amount of \$15,197,000 on Project No. 509-0455-17, Forney Mustang Creek Lift Station, Phase I  
(Please refer to Administrative Memorandum No. 5375)

Director Bill Glass advised that the Wastewater Committee reviewed this item today and voted unanimously to recommend the Board of Directors authorize award of a construction contract as presented.

Upon a recommendation of the Wastewater Committee, a motion by Director Bill Glass and a second by Director Joe Farmer, the Board of Directors voted unanimously to approve as presented.

- P. Consider authorizing Change Order No. 3 with Archer Western Construction, LLC, in the amount of \$920,070.79 and 316 days of additional contract time on Project No. 501-0381-15, Lower White Rock Creek Lift Station Improvements  
(Please refer to Administrative Memorandum No. 5376)

Director Bill Glass stated that the Wastewater Committee reviewed this item today and voted unanimously to recommend the Board of Directors authorize award of a construction contract as presented.

Upon the recommendation of the Wastewater Committee, a motion by Director Bill Glass and a second by Director Richard Peasley, the Board of Directors voted unanimously to approve as presented.

President Sweeden advised that a Change Order to amend the requested dollar amount will be presented for consideration at the April meeting due to the agenda having an error in the posted dollar amount. The correct contract amount should be \$972,070.79.

- Q. Consider authorizing additional inspection services with Dietz Engineering in the amount of \$190,365 on Lower White Rock Creek and Preston Road Lift Station Improvements, Project Nos. 501-0381-15 and 501-0391-15  
(Please refer to Administrative Memorandum No. 5377)

Upon a motion by Director Bill Glass and a second by Director Lynn Shuyler, the Board of Directors voted unanimously to approve as presented.

- R. Consider authorizing execution of engineering services agreement with Biggs and Mathews Environmental in the amount of \$77,700 for construction phase services on Project No. 401-0527-19, 121 Regional Disposal Facility Bypass Lane Improvements  
(Please refer to Administrative Memorandum No. 5378)

Upon a motion by Director Richard Peasley and a second by Director John Murphy, the Board of Directors voted unanimously to approve as presented.



- S. Consider authorizing award of construction contract with Hammett Excavation, Inc., in the amount of \$417,530.30 to install clay liner and leachate collection system for the 121 Regional Disposal Facility on Project No. 401-0531-19, Sector 5C Construction  
(Please refer to Administrative Memorandum No. 5379)

Upon a motion by Director Richard Peasley and a second by Director George Crump, the Board of Directors voted unanimously to approve as presented.

- T. Consider authorizing award of construction contract with Clean Air and Water Systems, LLC, in the amount of \$411,198.40 to purchase and install geosynthetic liner material for the 121 Regional Disposal Facility, Project No. 401-0531-19, Sector 5C Construction  
(Please refer to Administrative Memorandum No. 5380)

Upon a motion by Director Richard Peasley and a second by Director Phil Dyer, the Board of Directors voted unanimously to approve as presented.

- U. Consider authorizing execution of engineering services agreement with CP&Y, Inc., in the amount of \$15,000 on Project No. 401-0532-19, Lookout Drive Transfer Station Mechanical Room Ventilation Improvements  
(Please refer to Administrative Memorandum No. 5381)

Upon a motion by Director Richard Peasley and a second by Director Terry Sam Anderson, the Board of Directors voted unanimously to approve as presented.

- V. Consider authorizing right-of-way acquisition program in the amount of \$58,000 and adoption of Resolution No. 19-15 authorizing the acquisition of right-of-way for Phase I of the North System Air Valve Improvements, Project No. 101-0442-16  
(Please refer to Administrative Memorandum No. 5382)

Assistant Deputy Cesar Baptista provided an update on the Air Valve Improvement project that began in 2014. He reviewed the costs of components in progress as well as the future costs. He noted that the East System has been completed. The remainder should be completed in 2021.

Upon a motion by Director Terry Sam Anderson and a second by Richard Peasley, the Board of Directors voted unanimously to approve as presented.

- W. Consider adoption of Resolution No. 19-16 declaring 0.303 acres of property surplus to the needs of the NTMWD and conveying property at Tawakoni Water Treatment Plant to the City of Dallas for the amount of \$10,065  
(Please refer to Administrative Memorandum No. 5383)

Director Jack May stated that the Water Committee reviewed this item today and voted unanimously to recommend the Board of Directors adopt Resolution No. 19-16 as presented.

Upon a recommendation by the Water Committee, a motion by Director Jack May and a second by Director Rod Hogan, the Board of Directors voted unanimously to approve as presented.

- X. Consider adoption of Resolution No. 19-20 authorizing Settlement of Pending Litigation styled NTMWD vs. Sloan Creek, Ltd., and PLF, Ltd., Cause No. 001-01737-2017; authorizing execution of Settlement Agreement and Agreed Judgment and taking steps required to effectuate the terms of the Settlement Agreement; and authorize additional funding of \$100,000, resulting in a total sum of \$900,000, to settle the above titled litigation  
(Please refer to Administrative Memorandum No. 5384)

At 5:34 p.m. Board President John Sweeden announced that an Executive Session of the Board of Directors was being called in order to discuss Agenda Items IX. X. (above) and Discussion Item X. A. 1. (below) in a closed session pursuant to Section 551.072 of the Texas Government Code regarding Real Property. Discussion Items X. C. 1-5 and X. D. 1-3 were not discussed.

X. DISCUSSION ITEMS

- A. Update on Bois d'Arc Lake
  - 1. Bois d'Arc Lake acquisition program

Open Session reconvened at 5:57 p.m.

Upon a motion by Director Charles McKissick and a second by Director David Island, the Board of Directors voted unanimously to approve Item IX. X. as presented (above).

- B. 86<sup>th</sup> Texas legislative session update

Executive Director Tom Kula updated the Board regarding legislation that is under consideration that would require the NTMWD and some other water districts to begin recording and videotaping Board meetings. The legislation as written does not include committee meetings, nor does it require live-streaming of the Board meetings. The proposed legislation was drafted by Representative Jeff Leach. Mr. Kula expressed support for the legislation as it is written. He added that Senator Angela Paxton has submitted a companion bill in the Senate. Senator Paxton has also requested some information on the pipeline failure that occurred in 2018.

Mr. Kula stated meetings with Representative Leach and Senator Paxton went well and he thanked staff member Dave Kelly who helped facilitate those meetings.

Items C. and D. below were not discussed.

- C. Discuss status of Member City contract matters including:
  - 1. *Petition of the Cities of Garland, Mesquite, Plano and Richardson Appealing Wholesale Water Rates Implemented by North Texas Municipal Water District, Docket No. 46662 before the Public Utility Commission of Texas*
  - 2. *Petition of the Cities of Garland, Mesquite, Plano and Richardson Appealing Wholesale Water Rates Implemented by North Texas Municipal Water District, Docket No. 47863 before the Public Utility Commission of Texas*
  - 3. *Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing Wholesale Water Rates Implemented by North Texas Municipal*

*Water District*, Docket No. 49043 before the Public Utility Commission of Texas

4. *Ex Parte, North Texas Municipal Water District*, Cause No. 429-01462-2018 in the 429th Judicial District, District Court of Collin County, Texas
5. Facilitation with Member Cities Regarding Alternate Cost Methodologies to the Amendatory Water Supply Contract

D. Update on pending litigation involving North Texas Municipal Water District/advice from legal counsel, including:

1. Knight et al. vs. U.S. Army Corps of Engineers, Case No. 18-352-ALM in the U.S. District Court for the Eastern District of Texas, Sherman Division
2. North Texas Municipal Water District v. Bar Constructors, et al., Cause No. 366-02550-2017 in the 366th Judicial District Court, Collin County, Texas
3. NTMWD v. Sloan Creek, Cause No. 001-01737-2017, pending in Collin County, Texas

E. Review of items for follow up raised during meeting

There were none requested.

F. Opportunity for Board members to request potential future agenda items  
**(No substantive discussion of items will take place at this time)**

There were none requested.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at approximately 6:02 p.m. The next regular meeting of the NTMWD Board of Directors will be held Thursday, April 25, 2019 at 4 p.m. at the Bunker Sands Wetland Center, 655 Martin Ln, Seagoville, Texas 75159.

APPROVED:

  
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JOHN SWEEDEN, President

ATTEST:

  
\_\_\_\_\_  
LARRY PARKS, Secretary

