



NORTH TEXAS MUNICIPAL WATER DISTRICT

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REAL ESTATE COMMITTEE MEETING MINUTES MAY 25, 2022

The Presiding Officer will be present at the meeting location, the NTMWD Administrative Offices, 501 E. Brown Street, Wylie, Texas 75098, with two-way video and audio communication between Board members participating by videoconference, establishing a quorum. The public may attend the meeting in person at the meeting location. Audio and video of Board members participating by videoconference will be visible to members of the public in attendance at the meeting location. The meeting will be recorded, and the audio recording will be available on the NTMWD website after the meeting.

Members of the public wishing to listen to live audio from the meeting may do so by calling in at (469) 210-7159 or toll free (844) 621-3956 and entering the following access code: 928 587 040. Please note this line will not provide for two-way communication and public comment at the meeting must be made in person at the meeting location.

I. CALL TO ORDER

Chairman David Hollifield served as Presiding Officer and called the meeting of the North Texas Municipal Water District (NTMWD) Real Estate Committee to order at approximately 1:00 p.m. on Wednesday, May 25, 2022. General instructions were provided to attendees. Any reference to unanimous votes refers to a unanimous vote of the Committee members present.

The following Real Estate Committee members were present; therefore, a quorum was present.

	Real Estate Committee Members	Attendance
1	Robert Appolito	Absent
2	John Carr	Remote
3	Marvin Fuller	Remote
4	Geralyn Kever	Absent
5	Keith Stephens	Remote
6.	Jody Sutherland	Remote
7	David Hollifield, Chair	Present

Members of the Executive Committee were present as well as other Board members. Lewis Isaacks with Saunders, Walsh and Beard and Lauren Kalisek with Lloyd Gosselink Rochelle & Townsend were present via videoconference. Executive Director Jenna Covington along with other members of the NTMWD management team were also in attendance.

II. PUBLIC COMMENTS

Prior to the start of the meeting, speakers must complete and submit a "Public Comment Registration Form." During the public comment portion of the meeting, speakers will be recognized by name and asked to provide their comments. The time limit is three (3) minutes per speaker, not to exceed a total of thirty (30) minutes for all speakers. The Committee may not discuss these items but may respond with factual or policy information.

There were no requests for public comment.

III. OPENING REMARKS

- A. Chairman/Executive Director/Committee Champion Report concerning legislation and regulatory matters, budgets, current projects and ongoing programs of the District related to real estate

Chairman Hollifield asked everyone to keep the victims of the Uvalde tragedy in their thoughts and prayers.

Deputy Director Cesar Baptista reviewed the agenda for today. He noted that there are two items on tomorrow's Board agenda that are not on the Committee agenda. Those are for easement acquisitions with no funding involved.

IV. ACTION ITEMS

- A. Consider approval of Real Estate Committee meeting minutes – March 23, 2022

Upon a motion by Director Marvin Fuller and a second by Director John Carr, the Real Estate Committee voted unanimously to approve the meeting minutes for March 23, 2022.

- B. **Adoption of Resolution No. 22-22 authorizing conveyance of property at the Sister Grove Regional Water Resource Recovery Facility (RWRRF) - Consent Agenda Item No. 22-05-07**

- Consider recommendation on adoption of Resolution No. 22-22 authorizing the Executive Director to execute a permanent easement with Rayburn Electric Cooperative in the form of approximately 8.893 acres for Project 301-0426-16, Sister Grove Regional Water Resource Recovery Facility (RWRRF)

Garrett Murphree, Real Estate Manager, presented this item. He advised this item is to recommend executing a permanent easement with Rayburn Electric Cooperative. He reviewed that in March 2018 NTMMWD declared 6 acres of the Sister Grove RWRRF site surplus to the needs of the District. Rayburn acquired

the 6 acres in order to construct a substation to power the RWRRF. Rayburn must install transmission lines across a portion of the RWRRF site to power the substation. Approximately 8.893 acres of permanent easement are needed for Rayburn to install transmission lines. Legal Counsel has reviewed and approved the easement document. A site map was provided.

Mr. Murphree noted that there will be a future action for an easement agreement with Grayson Collin Electric Cooperative (GCEC) for the easement to route power the substation at Sister Grove Regional Water Resource Recovery Facility.

Upon a motion by Director John Carr and a second by Director Keith Stephens, the Real Estate Committee voted unanimously to recommend approval to the Board of Directors.

C. Adoption of Resolution No. 22-23 authorizing the execution of a right-of-way acquisition program to acquire property for the Sister Grove Regional Water Resource Recovery Facility (RWRRF) project - Consent Agenda Item No. 22-05-08

- Consider recommendation on authorizing the Executive Director to authorize a right-of-way acquisition program and adoption of Resolution No. 22-23 authorizing the use of eminent domain to acquire property for the Sister Grove Regional Water Resource Recovery Facility, Project No. 301-0426-16, and delegating authority to initiate condemnation proceedings

Garrett Murphree presented this item. He advised this item is to recommend authorizing the Executive Director execute a right-of-way acquisition program for the acquisition of a permanent easement at the Sister Grove Regional Water Resource Recovery Facility RWRRF.

Mr. Murphree advised that a fiber optic communication line (FOCL) is needed for the plant's business network system. A FOCL is being installed on a separate NTMWD project abutting the Sister Grove RWRRF property. An easement is needed to connect the FOCL from Sister Grove RWRRF to the FOCL located within the permanent easement encumbering the abutting property. Approximately 0.28 acres of permanent easement are needed. A site map was reviewed. Mr. Murphree added that funding exists in other right-of-way budgets allocated for the overall project.

Upon a motion by Director Marvin Fuller and a second by Director John Carr, the Real Estate Committee voted unanimously to recommend approval to the Board of Directors.

D. Authorize amendment to land acquisition program and Adoption of Resolution No. 22-28 authorizing the use of eminent domain to acquire property for the Bonham Water Treatment Plant Intake Improvements project - Administrative Memorandum No. 5838

- Consider recommendation on authorizing the Executive Director to amend a previously executed property acquisition program for additional funding in the amount of \$350,000 and adoption of Resolution No. 22-28 authorizing the use

of eminent domain to acquire property and right-of-way for Project No. 101-0582-21, Bonham Water Treatment Plant Intake Improvements

Garrett Murphree presented this item. He advised this item is to recommend authorizing additional funding to amend a previously approved property acquisition program and to add a temporary construction easement.

Mr. Murphree reviewed that in January 2022, a property acquisition program was approved for this project with a budget of \$86,000 for acquisition of approximately 5 acres of land. The budget did not account for rapidly increasing market values of lake access properties in Fannin County or the value of the improvements within the parcel. The independently appraised value of the parcel cannot be met with the existing budget.

Included in this request is the acquisition of approximately 1.125 acres of temporary easement near the raw water intake structure to facilitate construction activities associated with dredging of the intake tower area.

Additional funding in the amount of \$350,000 is being requested, resulting in a total budget of \$436,000. A site map was reviewed.

Discussion followed regarding the cost of the 5 acres and the fact that the ponds on site were used by the landowner for bait ponds. As such they are ready for use by the District as settling ponds, avoiding further cost to the District for building settling ponds.

Upon a motion by Director John Carr and a second by Director Keith Stephens, the Real Estate Committee voted unanimously to recommend approval to the Board of Directors.

E. Authorize execution of a facility use agreement between NTMWD and the Texas Parks and Wildlife Department (TPWD) for use of the Bois d'Arc Lake (BDL) Operations Center - Consent Agenda Item No. 22-05-05

- Consider recommendation on authorizing the execution of a facility use agreement granting the TPWD access to the Bois d'Arc Lake Operations Center for the purpose of TPWD carrying out law enforcement and public safety activities on and around BDL for an initial 5-year term with the option to renew for an additional 5-year term

Assistant Deputy Galen Roberts presented this item. He advised this item is to recommend approving a Facility Use Agreement between NTMWD and the Texas Parks and Wildlife Department for use of the Bois d'Arc Lake Operations Center.

Mr. Roberts reviewed that NTMWD and Texas Parks and Wildlife Department (TPWD) desire to coordinate and facilitate emergency operations on the lake and to maintain a safe environment for the public, NTMWD staff, TPWD staff and others. TPWD enforces state laws to protect Texas' wildlife, other natural resources and the environment and to provide safe boating and recreational water safety on public waters. TPWD and NTMWD entered into a Public Hunting Lands Agreement for Bois d'Arc Lake on September 27, 2021. The Bois d'Arc Lake (BDL)

Operations Center and associated facilities were designed to accommodate use by TPWD staff.

Mr. Roberts reviewed the components of the agreement as follows:

- TPWD access to and use of the Center for office space, law enforcement purposes, and storage.
- TPWD staff to stay overnight at the center for official purposes such as wildlife management, law enforcement and emergency response.
- Allows TPWD to use on-site fuel facilities and reimburse NTMWD for all costs of fuel utilized by TPWD.
- Stipulates that TPWD is responsible for providing its own office supplies and that TPWD may use NTMWD office supplies for incidental purposes.
- Includes specific provisions limiting NTMWD's liability for personal injury and property damage.
- Initial term of the agreement is five (5) years from the date of execution and may be renewed for a single additional five (5) year term.

Upon a motion by Director Marvin Fuller and a second by Director Keith Stephens, the Real Estate Committee voted unanimously to recommend approval to the Board of Directors.

V. DISCUSSION ITEMS

A. Update on Bois d'Arc Lake Shoreline Development

Galen Roberts presented this item. He advised this is a follow-up to a discussion the Committee had in March regarding a planned residential development on Bois d'Arc Lake. He reviewed that the District purchased lake property up to elevation 541' Mean Sea Level (MSL) and has easement to 545' MSL. He noted that the lake's conservation pool level is 534' MSL. The area between 534' MSL and 541' MSL is referred to for this discussion.

Mr. Roberts advised that Lakewood Capital Group is seeking approval to construct shoreline amenities for a planned residential development on Bois d'Arc Lake (BDL.) They have obtained a preliminary plat and construction plan approval from Fannin County.

Lakewood Capital Group is seeking approval for the following:

- Community docks
- Shoreline erosion control structures
- Land-based amenities (tennis courts, gazebos, etc.)
- Access roads and parking
- Vegetation modification
- Dredging & timber removal below the 534' MSL for boat access

They are also seeking acknowledgement that the physical characteristics of the shoreline adjacent to individual lots are 'dock capable'. Mr. Roberts noted that

there are key considerations for review of planned residential development requests as follows:

- The BDL Shoreline Management Plan (SMP)
- Formal guidance from U.S. Army Corps of Engineers (USACE) on activities below 534' MSL
- Concurrence with Fannin County Planning and Zoning
- BDL water quality and operations
- Input from NTMWD Real Estate Committee

A site map of the lake reflecting the approximate location of the planned residential development was reviewed. A preliminary draft site plan as proposed by Lakewood Capital was provided. Mr. Roberts advised that there are approximately 114 lots proposed ranging from one acre to two acres.

Mr. Roberts advised that at this time the developer is soliciting input regarding general conformance to District standards regarding their development of community facilities as follows:

- Two (2) community docks that will be accessible to all lot owners and one (1) shared dock accessible to a subset of individual lots
 - Preliminary design indicates single-story, 8-20 slips each
 - Generally conform to the specifications for individual docks in the SMP
 - Adjacent shoreline erosion control
- Land-based community amenities, such as:
 - Sports fields and courts (soccer, tennis, pickle ball, etc.)
 - Common use areas (picnic table, gazebo, dog park, etc.)
- Vegetation modification adjacent to community facilities (tree removal, access paths, landscaping)
- Road access and small parking & unloading area

Mr. Roberts advised that for the individual private lots the developer is:

- Proposing to perform vegetation modification and construct paths for individual lot access to shoreline
- Not seeking to construct docks for individual lots:
 - Future lot owners must still come to NTMWD to obtain a lease and use agreement
 - Lakewood has requested NTMWD verify the physical characteristics of their plan conform to shoreline classifications in the BDL SMP, for example, water depth
- Dredging and timber clearing below 534' MSL for boat access

Mr. Roberts reviewed the following concerning activities below 534' MSL prior to lake filling:

- Discussions with USACE indicate some shoreline development activities below the 534' MSL prior to BDL reaching conservation pool could impact NTMWD's permit for construction
 - Activities that require excavation could unearth additional cultural resources and may result in additional requirements

- Activities that do not require excavation or significant soil disturbance may be able to occur prior to BDL reaching conservation pool without impacting NTMWD's permit, such as:
 - Placement of piers for docks
 - Timber clearing (surface only)
 - Placement of rip-rap or floating breakwaters

Mr. Roberts advised that NTMWD is currently seeking written confirmation and legal opinion from the U.S. Army Corps of Engineers on these matters.

Mr. Roberts reviewed some key considerations regarding this development agreement. Those include:

- Considering agreement which contemplates Lakewood constructing facilities which would eventually be owned and operated by the Property Owner's Association (POA)
- NTMWD will only enter into a lease and use agreement with a single entity for community facilities (POA)
- Includes deadline by which construction activities must be completed
- Restricts activities below the 534' MSL until lake reaches conservation pool and NTMWD gives notice to proceed
- All applicable provisions in the Shoreline Lease and Use Agreement would apply during construction phase
- Modified Shoreline Lease and Use Agreement with POA post-construction

Mr. Roberts advised that Lakewood will be providing additional detail on their proposed activities. They will be working with NTMWD legal counsel on a draft development agreement and the Board will consider authorizing an agreement. Board authorization will also be needed for the District to begin accepting applications from individual lot owners for shoreline lease and use agreements under the SMP. Additionally, staff will seek written guidance from the USACE prior to proceeding with any activities below the 534' MSL which may impact NTMWD's permit to construct Bois d'Arc Lake.

Mr. Roberts provided an overview of the on-line permitting software system that will be utilized for applications from individual lot owners for lease and use agreements. He advised that staff is training for its use, as well as the permitting process itself, such as field inspections. Monthly meetings with Fannin County Development Services will be held to coordinate the permitting process.

Mr. Roberts added that in regard to a marina development consultant, staff is currently finalizing the scope of the agreement and will be updating and seeking feedback from the Real Estate Committee on the timeline and process for solicitation of proposals for marina developments. He requested feedback from the Committee.

Director John Carr expressed concerns regarding development activities that could possibly impact the water quality in the lake. Issues mentioned were the number and location of septic tanks for each property owner, vegetation removal, and fences placed on District property that could collect trash. He also commented

that these two docks will not likely be enough (potential for other future dock requests.) He added that septic systems should not be within 1,500 feet of the shoreline. Mr. Roberts responded that there are limitations in the SMP regarding vegetation removal and that fences are not allowed.

Chairman Hollifield inquired about whether the proposed streets are curbed and include storm drains. He also inquired about fuel sales at the marina or fuel storage tanks on the water. Mr. Roberts responded that he is not aware yet of the design of the streets. He advised that this development is only proposing docks which would not include any fuel storage, however fuel at a marina will be discussed once a marina consultant is engaged and as part of the future solicitation process.

Director Jody Sutherland left the meeting at this time.

Director Stephens expressed concerns regarding the effects of construction on the water quality, and the homeowners' uses of pesticides and fertilizers. Mr. Roberts responded that storage of hazardous chemicals is not allowed on the docks. Deputy Director Billy George added that the agreement with Fannin County spells out some of these issues as they pertain to water quality. He advised that the County would participate in enforcement. Mr. Roberts noted that the recently adopted Watershed Protection Plan has voluntary compliance; outreach and education will be key. He added that multiple entities will be involved with enforcement of the rules designed to protect water quality.

In response to comments from a Director in attendance, Mr. George stated that state law gives property owners the right to build septic systems, adding that the County should ensure septic maintenance.

B. Update on continued payment of property tax payments to Fannin County

Galen Roberts presented this item. He advised this discussion is in regard to the agreement with Fannin County that Mr. George referenced in the previous item.

Mr. Roberts reviewed that in 2017 the District executed a Water Supply and Development Agreement with Fannin County to establish respective responsibilities of the District and the County concerning development of Bois d'Arc Lake (BDL.) The agreement recognizes the need for the District to acquire land for construction of the lake and the temporary impacts to property tax revenues resulting from those acquisitions. The agreement provides that the District will make every effort to keep taxing entities whole until property values in Fannin County increase to the extent necessary to offset those impacts. Mr. Roberts reviewed that once construction began in 2018 the acquired properties began being exempt from property taxes.

Mr. Roberts provided a summary of the taxes paid to the taxing entities for the tax years 2017, 2018, and 2019. He noted that that payments for 2019 were estimated due to the complexities of school finance. A consultant has been engaged to review the Fannin County school districts' estimates. Mr. Roberts added that for 2020 Fannin County Central Appraisal District provided an estimate of \$133,344

for District owned properties at the lake. It was noted that this is significantly higher than expected and is being evaluated by a consultant.

Mr. Roberts reviewed the details of payments made to the various school districts in Fannin County and the actual amounts due. The state has provided the school districts with additional funding so the amount actually owed by NTMWD was less than originally estimated. This created credits for NTMWD with the school districts.

It was noted that after construction of the lake began, property values began to increase, particularly because most of the acquired properties had agricultural exemptions. The tax revenues will increase overtime and minimize the District's impact in the future.

- C. Opportunity for Committee members to provide feedback on the Real Estate Committee meeting or request potential future agenda items

Chairman Hollifield expressed his appreciation to staff for the information provided. There were no other comments and no requests for potential future agenda items.

VI. ADJOURNMENT

There being no further business, the Real Estate Committee meeting adjourned at 2:28 p.m.

APPROVED:

A handwritten signature in black ink, appearing to read 'David Hollifield', is written over a horizontal line.

DAVID HOLLIFIELD
Chairman