



ORIGINAL

**Port O'Connor Improvement District
39 Denman Drive
Port O'Connor, Texas 77982**

**MINUTES OF A REGULAR MEETING OF
THE BOARD OF DIRECTORS
Thursday, June 21, 2018**

- A. CALL TO ORDER. President Brown called the meeting to order of the Board of Directors of the Port O'Connor Improvement District, (POCID), on Thursday, June 21, 2018, at 1:00 p.m. at the District Office, 39 Denman Drive, Port O'Connor, Texas, announcing that a quorum was present and welcomed citizens and guests.

DIRECTORS PRESENT: Leon Brown, Marshall Bradford, Bobby Raybon
DIRECTORS ABSENT: Nathan O'Neill and David Randolph

ALSO PRESENT: Royce Macha, District Project Manager
Dottie Palumbo, Bojorquez Law Firm, LLC, General Counsel, Erin Seltera and Debbie Loesch, also with the Bojorquez Law Firm, LLC, participated by phone
Joel Valdez, CP&Y, Inc., District Engineer

- B. PUBLIC COMMENTS. At this time, any person with business before the Board not scheduled on the agenda may speak to the Board. No formal action can be taken on these items at this meeting.

President Brown opened the meeting to receive public comments. Mr. Steve Ferguson, a resident of Port O'Connor for 3 years, commented that he has certain concerns within the business of the District, stating he is concerned about the uncertainty with the conduct of the Directors and the lack of transparency of the Board and the meetings. He asked that the Board open up more to the community the activities of the District. He also stated that the Board needs to work better together.

Scott Mason, with G&W Engineers, indicated that he would prefer to speak on Agenda Item E.6, the Matagorda Bay Subdivision Section 1 Water plans, when it comes up for discussion.

- C. **CONSENT AGENDA:** *The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of POCID Board meetings, it is intended that these items will be acted upon by the POCID Board with a single motion because no public hearing or determination is necessary. However, a POCID Board Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the POCID Board voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the POCID Board may add additional items that are listed elsewhere on the same agenda.*

1. **APPROVAL OF MINUTES**
 - a. Minutes of Regular Meeting May 17, 2018
2. **APPROVAL OF PAYABLES**
 - a. Port O'Connor Improvement District
 - b. Reimburse LaSalle for credit cards payments
 - c. Defined Area 1

MOTION: A motion was made by Marshall Bradford

SECOND: With a second by Bobby Raybon

To approve the Consent Agenda items 1 and 2 above approving the Minutes and Payables as presented.

The motion carried unanimously.

D. **ITEMS FOR CONSIDERATION AND TAKE APPROPRIATE ACTION IF NEEDED:**

1. Report of District Project Manager. The District Project Manager, Royce Macha, presented his monthly report. There was discussion and actions taken on the following:

- a.) District Status

- b.) Work in Progress

The emergency generator rental was needed since one of the backup generators would not start up. The unit should not be used at all since it is circulating super-heated air. This unit is at Vac Station #2. The generator was never repaired by USW and the age and condition puts it at risk. A vendor in Houston was contacted to come on site to inspect and a rental unit was brought in. The cost for the rental unit is \$4800 per month with the District responsible for the fuel. President Brown, under his emergency purchasing authority, approved the leasing of \$4800 with Loftin Equipment in Houston in order to keep the station up and running.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Marshall Bradford

To approve the lease agreement with Loftin Equipment in Houston for the rental of an emergency generator at \$4800 per month.

The motion carried unanimously.

c.) Water Production Report.

d.) Wastewater Treatment Plant Summary. The pump at Station #1 went out and was replaced by District Staff. During recent rains, staff looked for I&I (Inflow & Infiltration), observing nothing more than usual conditions. The same exists in Alligator Head Subdivision. Manhole covers need to be placed by the District Project Manager with assistance from General Counsel or District Engineer.

e.) TCEQ follow up. A response letter to TCEQ has been prepared by General Counsel and will be discussed in Executive Session.

f.) Approval of repairs and/or inventory. Repairs are needed for the chatter box control for Station #1. Mercer Controls was contacted to perform the repairs at a cost of approximately \$3800.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Bobby Raybon

To approve the repair by Mercer to repair the chatter box control for Station #1 in an amount not to exceed \$3800 from Mercer Controls, due to the failure of the chatter box on June 18, 2018.

The motion carried unanimously.

g.) 2018 Storm Plan. Changes are needed to the 2017 plan to be considered before any storm event gets close. Review off the set up for staging areas outside the District for emergency purposes. Any items that need to be considered for changes in the current year plan should be emailed to President Brown and will be discussed at the next Board meeting.

h.) Quotes for District logo shirts. Royce Macha presented a proposal and requested approval for purchasing new logo shirts for employees, indicating 7 employees at 3 shirts per employee, for total of 21.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Bobby Raybon

To approve the purchase of 21 District logo shirts in an amount not to exceed \$400. The motion carried unanimously.

2. Report of District Engineer. Joel Valdez, District Engineer, provided a written report in the Board's packet. He is primarily assisting in the operation of the District including reviewing plan submittals, responding to questions and providing guidance on electrical-generator sizing. In addition, he provided an update on the status of the following:

a.) Wastewater System Status.

Water and Sewer Maps. There are several issues with the Water and Sewer Maps. He understands the maps to be schematic but the maps are ineffective for field crews to help locate and find data. CPY staff is reviewing the record drawings, plans and other available information to update the water and sewer maps. The

goal is to upload the maps to the website for public use by Summer 2018, pending Board Approval.

Water analyzer and injection system. No information has been received.

b.) TWDB Project 21750 Updates and Schedules.

Construction is underway throughout the District. CPY has been working with District Staff and Calhoun County Commissioner concerning the easement and access across the Community Center.

Calhoun County has expressed concerns on the current alignment. During a windshield survey, it was determined that portions of the road surrounding the community center are private and gated. Access through these areas will make construction access difficult for LCI (Lester Contracting Inc.). Letters have not been mailed yet, however legal has provided a template letter to allow access to areas. CPY performed the following site visits:

- A site visit on April 6, 2018
- A site visit on April 19, 2018
- A site visit on May 8, 2018
- A site visit on May 15, 2018
- A site visit on May 17, 2018
- A site visit on June 21, 2018 to inspect conditions

A secured Microsoft Sharepoint Site (online app with TWDB) has been created for the project to help monitor the project. The TWDB has access to the site. Additional access can be granted to other staff members as needed or as requested.

Harrison Street still has a lot of bird baths in the roadway. Water lines are beneath the roadway with the road settling. This is LCI's problem. They have acknowledged the problem exists.

c.) TCEQ Bond Amendment. CPY has reached out to TCEQ concerning an update and status. The Bond Amendment is in Technical Review. TCEQ needs to provide a response by August 9, 2018.

TCEQ Coordination - CPY has not received any coordination items from TCEQ.

d.) Outstanding Items – Outstanding water and sewer connections. *The report was not available for this meeting, but will be provided at the next meeting.*

e.) Standard Details. CPY has been working with Airvac and local entities on the assembly of standard details and drawings for the District. Files have been received by Airvac. The deadline for these items are June 2018.

f.) USW Status Report. CPY has been working on an assessment of the USW deficiencies of the POCID and LaSalle systems CPY witnessed. We are on hold until we can confirm if additional documentation can be provided by USW to show that they did perform the necessary calibrations and testing required by TCEQ.

g.) Maintenance Plan. Mr. Valdez has assembled the Maintenance Plan for the District's use based on the existing equipment. This information has been shared with the District but has not been implemented.

h.) Technical Memorandum (TM). CPY is on hold for a technical memorandum to summarize its findings, discussions and recommendations based on recent findings from numerous sources including the finding:

- Flow Vac Report
- Input from Airvac
- Water Report Talent by Jim Kaylor
- Brown and Gay Bond Report
- Operational Staff Input
- Review of Equipment Specifications, Operation and Maintenance Manuals and Other related literature
- CPY independent analysis of the water and wastewater analysis
- CPY walkthroughs and process interactions (need inspections performed)

There has been some delays impacting the submittal of the report including lack of proper record keeping caused by USW and former USW/POCID employee that walked off the job. The proposed TM will help address the following:

- Asset Management Plan: This plan will prioritize the list of improvements and develop a plan to implement the projects. These improvements may impact generator sizing and asset acquisition. Existing generators can only run a portion of the system. Need to obtain turnkey pricing which could cost between \$3-4,000.
- Generator Sizing: The current generators are undersized or old.
- Add Redundancy in the system
- Bond Revaluation and Reorganization
- Address Inflow and Infiltration
- Recommendations to Address security including Homeland Security
- Make recommendations on equipment and other items as necessary.

(i) Inflow and Infiltration Issues. The CPY Team is currently monitoring the Inflow and Infiltration issues in the system. Currently, we have identified some areas where I&I is currently an issue. CPY have made initial discussions with Alligator Head Subdivision to help identify issues. This item is on hold. The Board suggested that Lester Contracting be contacted for assistance.

E. CONSIDER AND TAKE APPROPRIATE ACTION ON THE FOLLOWING:

1. Discuss TML Employee Benefits Health Benefit Coverage for POCID Employees and authorizing contributions for adding vision coverage for employees and additional health coverage for family members.

DISCUSSION: This item was deferred from the last meeting to obtain additional information and costs. Erin Selvera, with the Bojorquez Law Firm LLC, provided a summary of the costs to add the additional coverage to the current plan based on current employee requests. The monthly cost for coverages for current 7 employees plus family members' coverage is as follows:

	Current	Projected FY 2018-2019
Medical	\$4,184.24	\$5,168.72
Dental	\$ 336.66	\$ 371.72
Vision	\$ <u>112.50</u>	\$ <u>125.00</u>
Total	\$4,629.40	\$5,665.44

There is a difference of \$1,036.04 per month for a projected increase in rates for the next fiscal year for a total budget increase of \$12,432.48 in annual costs.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Marshall Bradford

To approve adding Vision and Dental coverage to the existing benefit plan with TML for all employees and their family members.

The motion carried unanimously.

2. Update on CP&Y, Inc. District Engineer Contract. (District Engineer)

DISCUSSION: CP&Y, the District's Engineer and Engineer on TWDB Project 21750 is recommending that the best value for the District is to retain either a local engineering firm or retain a part-time professional engineer within Port O'Connor. Over 25% of their billings in the past six months have been associated with travel time from San Antonio. The intent of the letter was to address the amount of funds spent on travel time that could be spent better for the District. The June 20, 2018 letter presented to the District was read publicly for the record and was placed in the District files. President Brown requested that the Board appoint him to work with CP&Y during the possible transition for engineering services.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Bobby Raybon

To appoint President Brown, along with General Counsel, to work with CP&Y to continue as District Engineer to explore options that were raised in the June 20th letter, and authorizing an expenditure not to exceed \$100,000.

The motion carried unanimously.

3. Authorize Payment No. 12 to Lester Contracting for TWDB Project 21750. (District Engineer)

DISCUSSION: TWDB Project Engineer Joel Valdez presented Payment No. 12 from Lester Contracting for approval for payment, review indicated site visits were made during April and May and observed 3 pads have not been installed.

MOTION: A motion was made by Leon Brown.

SECOND: With a second by Bobby Raybon

To authorize Payment No. 12 for payment

The motion carried unanimously.

4. Discuss and consider TWDB Project 21750 Community Easement, provide direction on CP&Y scope of work for easement acquisition services. (District Engineer)
DISCUSSION: There was discussion with no action taken. General Counsel will take over getting the easements researched, noting there are 9 parcels requiring easements. Joel Valdez will provide the contact for Calhoun County.
No action was required.
5. Review and approve TWDB Project 21750 Change Orders. (District Engineer)
DISCUSSION: District Engineer Joel Valdez notified President Brown by letter on June 15 of field changes experienced by Lester Contracting. President Brown stated that previous TWDB Project Engineer Rauschuber had a detailed list from Lester Contracting on field changes that is lacking in the CP&Y letter and that the credit of \$104,369.82 of Change Order No. 1 has nothing to do with field changes. The Board noted that the contractor should be making the change order with these field changes. The contractor should submit the change order to the District Engineer for review and recommend approval. It was recommended that LCI prepare change order #2 and have Joel Valdez and TWDB to review before submitting to the District for payment.
The item was deferred to obtain documentation.
6. Review and consider Matagorda Bay Subdivision Section 1 Water Plans. (District Engineer)
DISCUSSION: G&W Engineers submitted revised plans to the District Engineer on Thursday, June 14, 2018. The revised plans were provided during the meeting. Scott Mason addressed the Board and requested consideration to place this on the agenda for a special meeting before the next regular meeting.
No action was taken. President Brown indicated that depending on the review by the District Engineer, he would consider placing this on a future special meeting which would be the budget workshop coming up in July before the regular meeting.
7. Discuss easement and land access across Community Center and along W. Harrison Avenue. (District Engineer)
DISCUSSION: General Counsel will research the easements. Same as in item E.4.
No action was taken.
8. Discuss the POCID Code of Ethics, First Amended Code of Ethics and review the Second Amended Code of Ethics.
DISCUSSION: General Counsel prepared a memo with recommended provisions and will add the misuse of information for personal gain to the amendment.
Deferred to the next meeting, no action needed.
9. Discuss Director O'Neill's compliance with Chapter 171 of the Texas Local Government code and the First Amendment to the Port O'Connor's Rules of Ethics concerning Special Meeting on March 28, 2018 agenda items B. 7 relating to Billy Goode and take appropriate action.
DISCUSSION: General Counsel was directed at the May 17, 2018 Board meeting to send a letter to Director O'Neill for compliance with Chapter 171. The letter was sent certified, regular mail and by POCID email. Director O'Neill has not filed the affidavit,

was not in attendance at this meeting, and he has not replied or responded to the letter or email.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Bobby Raybon

To authorize General Counsel to forward the letter to the Calhoun County District Attorney for further handling.

The motion carried unanimously.

10. Discuss under what authority Director O'Neill had to demand the immediate resignation of Leon Brown and Marshall Bradford.

Postpone to next regular meeting.

11. Discuss refunding tap fees for customers who paid for a private plumber to connect to the system.

Postpone to next regular meeting.

12. Discuss Director O'Neill's actions and/or conversations with TCEQ and the TCEQ investigator on during the TCEQ site visits and what under what authority did Director O'Neill have to represent the Board with his actions and/or conversations with TCEQ or the TCEQ site visits; including under what authority Director O'Neill acted in directing the operations of the District.

Postpone to next regular meeting.

13. Discuss and consider Joint Election Services agreement with Calhoun County, Voting Equipment Lease, and authorize President Brown to enter into the agreements.

DISCUSSION: These agreements were provided to the Board at a previous meeting review and direction as to whether the District would contract with Calhoun County for election services for the November 6 election. Debbie Loesch, City Secretary Consultant with the Bojorquez Law Firm, provided a summary of the requirements in the agreement and lease of the voting equipment. The County will conduct and supervise Early Voting and Election Day Voting, providing personnel, materials, equipment required to perform these duties in accordance with the Texas Election Code. The District will be responsible for handling the calling of the election, publication and required notices, filing authority for candidates and language for the ballot. The County will invoice the District for the actual cost of expenditures incurred plus a 10% administrative fee. At this time, the total cost is not clear depending on the cost of supplies and printing of ballots.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Bobby Raybon

To approve the Contract for Election Services and the Voting Equipment Lease and authorize President Brown to execute the agreements with Calhoun County on behalf of the Board for the November 6, 2018 election.

The motion carried unanimously.

14. Discuss and consider the appointment of an agent during the November 6, 2018 Director's Election period.

DISCUSSION: To consider the appointment of a District employee to serve the role of agent of the District during the November 6 election period from July 21 to December 18, 2018. President Brown recommended Evangelina Trevino to serve in this capacity.

MOTION: A motion was made by Leon Brown

SECOND: With a second by Marshall Bradford

To appoint Evangelina Trevino as the agent of the District during the election period for the November 6 election.

The motion carried unanimously.

15. Discuss FY 2018 – 2019 budget planning calendar.

DISCUSSION: The Budget and Tax rate planning schedule was provided for review and comment. President Brown stated he would like to schedule a special meeting in July for a Budget workshop. He asked members to send available dates in July to Royce Macha.

F. EXECUTIVE SESSION

The Board recessed the Open Meeting and following a short break, convened an Executive Session at 3:45 p.m. in accordance with the authority contained in:

Texas Government Code Ann. § 551.071: Consultation with Attorney

Texas Government Code Ann. § 551.072: Real Property

Texas Government Code Ann. § 551.074: Personnel Matters

more specifically for, Consultation with General Counsel pursuant to Texas Government Code Section 551.071, Consultation with Attorney, on pending or contemplated litigation; or a settlement offer; or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Texas Government Code Chapter 551 for the purpose of receiving legal advice concerning status of pending projects, including but not limited to:

1. *USW Utility Group v Port O'Connor Improvement District*: Cause No. 2018-CV-3268-DC, pending in the 24th Judicial District Court, Calhoun County, Texas.
2. Interlocal Agreement with Guadalupe-Blanco River Authority for services relating to the operation of POCID facilities; including operation, maintenance, repair laboratory and testing services.
3. Defined Area 1 Agreement for Maintenance and Operation for Port O'Connor Defined Area 1 between Port O'Connor Municipality Utility District and Caracol Community Association dated January 1, 2011 and past due amounts owed.
4. Interlocal Agreement between the Port O'Connor Improvement District and LaSalle Water Control and Improvement District No. 1A for Operations and

Maintenance Services dated June 14, 2006, as amended and past due amounts owed to POCID.

5. TCEQ Notices of Alleged Violations and POCID legal remedies.

The Executive Session adjourned at 4:00 p.m. and reconvened the Open Meeting.


- G. TAKE ANY ACTION AS A RESULT OF EXECUTIVE SESSION.

There was no action taken on items discussed in Executive Session.

- H. ITEMS FROM BOARD MEMBERS (Note: Board members may request specific factual information, recitation of existing policy, or placement of items on the Agenda for discussion at a later meeting.)

1. Marshall Bradford advised the Board that he has an ethical issue.
2. Address of President ??
3. Reminder of scheduling the budget and tax planning workshop in July.

- I. ADJOURN. President Brown adjourned the meeting at 4:02 p.m.



Leon Brown, President

Bobby Raybon, Secretary

Signed this _____ day of July, 2018.

These minutes were approved on July ___, 2018.