



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

**MINUTES OF A REGULAR MEETING
OF THE BOARD OF DIRECTORS
Thursday, March 15, 2018 at 1:00 p.m.**

Pursuant to a notice duly posted on March 12, 2018, the Board of Directors of the Port O'Connor Improvement District held their regular meeting on Thursday, March 15, 2018, at 1:00 p.m. at the District Office, 39 Denman Drive, Port O'Connor, Texas.

- A. **CALL TO ORDER.** President Brown called the meeting to order at 1:00 p.m., welcoming everyone and announced that a quorum was present.

DIRECTORS PRESENT: Leon Brown, Marshall Bradford, Bobby Raybon, and Nathan O'Neill.

DIRECTORS ABSENT: David Randolph

ALSO PRESENT: Dottie Palumbo, Bojorquez Law Firm, General Counsel
Joel Valdez, CP&Y, District Engineer
Royce Macha, District Project Manager

- 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 was taken on these items at this meeting.

Allen Juneke requested that the Board discuss Consent Agenda items:

- a. AirVac agreement,
- c. preliminary plat,
- d. On Call Contactor Advertisement,
- e. Joe Rivera Service agreement,
- g. Appraisal District Exemptions,
- h. Purchase of router and internet services, and
- i. internet cloud services.

Terry Koehler commented that at the last meeting Allen Junek had questioned that he would like to get answers and that the answers be made public. He would like the Board to have a tax payer and rate payer forum.

Clay Smith requested an update on his water and sewer request.

MEMBERS OF PUBLIC PRESENT NOT REQUESTING TO SPEAK: Jessica Priest, Dwayne Pinscher, Judy Whitworth, David Whitworth, and Teddy Hawes.

C. CONSENT AGENDA.

1. APPROVAL OF MINUTES
 - a. Minutes of Regular Meeting February 15, 2018
 - b. Minutes of Special Meeting March 1, 2018. *Minutes were pulled from the agenda for corrections, no action taken.*
2. APPROVAL OF PAYABLES
 - a. Port O'Connor Improvement District – Director Nathan O'Neill requested that Billy Goode's payment for water repair be recoded by Municipal Accounts. This check was pulled.
 - b. Reimburse LaSalle for credit cards payments
 - c. Defined Area 1.
3. CONSENT AGENDA ITEMS
 - a. Authorize the President to execute a professional services agreement with Air Vac to support the wastewater system in one-week blocks for up to three weeks at a rate of approximately \$3,800-dollars per week with additional one week extensions.
 - b. Approve a proposal by CP&Y, Inc. for Bird Habitat Compliance Walkthrough. (District Engineer).
 - c. Approve a preliminary plat for Captain's Corner Subdivision. (District Engineer).
 - d. Approve an On-Call Contractor Advertisement. (District Engineer).
 - e. Authorize the President to execute an agreement with Joe Rivera for services for Defined Area 1.
 - f. Authorize direct deposit for POCID payroll checks and notify First National Bank that Kaye Townly and Carol Morrison of Municipal Accounts are authorized users.
 - g. Authorize the President to notify Calhoun County Appraisal District of the 2017 Tax rate and exemptions
 - h. Authorize the District Project Manager to purchase an additional router and internet service for the security system.
 - i. Authorize the District Project Manager to execute an agreement for internet cloud storage for electronic data from Carbonite.

- j. Approve the promotion of POCID employee, Brian Riley, from Laborer to Equipment Operator and authorize the District Project Manager to adjust the salary to equipment operator.

DISCUSSION: Back up information on all consent items was provided in the Board packet. A Board packet was available for public viewing in the District office lobby. General Council, District Engineer and the District Project Manager reviewed consent items with the Board as follows:

- a. Authorize the President to execute a professional services agreement with Air Vac to support the wastewater system in one-week blocks for up to three weeks at a rate of approximately \$3,800-dollars per week with additional one week extensions. The agreement provides for preventative maintenance, operation, inspection of 2 POCID vacuum stations and one LaSalle vacuum station and for staff training.
- b. Approve a proposal by CP&Y, Inc. for Bird Habitat Compliance Walkthrough. (District Engineer). *This item was pulled and no action was taken.*
- c. Approve a preliminary plat for Captain's Corner Subdivision. (District Engineer). District Engineer provided the staff report that all of the District rules and regulations have been met. State law requires Board approval. Nathan O'Neill requested the number of connections. This information is not required for Preliminary Plats. The applicant is subdividing the property to sell lots.
- d. Approve an On-Call Contractor Advertisement. (District Engineer). This is an advertisement for any contractors responding, then it will be brought back to the Board for approval.
- e. Authorize the President to execute an agreement with Joe Rivera for services for Defined Area 1. *This item was pulled and no action was taken.*
- f. Authorize direct deposit for POCID payroll checks and notify First National Bank that Kaye Townly and Carol Morrison of Municipal Accounts are authorized users. This item is to allow POCID to have direct deposit of employee checks.
- g. Authorize the President to notify Calhoun County Appraisal District of the 2017 Tax rate and exemptions. This is pursuant to a request by Calhoun County. The information was provided by Calhoun County and the exemptions are the same as the Board approved last year.
- h. Authorize the District Project Manager to purchase an additional router and internet service for the security system. This is to avoid conflicts with the AVR system.
- i. Authorize the District Project Manager to execute an agreement for internet cloud storage for electronic data from Carbonite. This agreement allows for the storage of District information on a cloud based system.

- j. Approve the promotion of POCID employee, Brian Riley, from Laborer to Equipment Operator and authorize the District Project Manager to adjust the salary to equipment operator. District Project Manager explained that Brian Riley meets the qualifications and he is recommending the promotion.

A motion was made by Bobby Raybon with a seconded by Marshall Bradford to approve items 1.a, 3.a., c, d, f, g, h, i, and j on the Consent agenda above with the exception for items: C.1.b. the March 1 minutes, C.2.b. a payment to Billy Goode, C.3.b. for the bird habitat walkthrough, and C.3. e. for the Joe Rivera service agreement, being pulled from the agenda with no action being taken.

The motion was approved and carried.

Voting: 3 Ayes to 1 Nay, with Nathan O'Neil voting Nay.

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

1. Report of US Water District Project Manager
 - a.) District Status
 - b.) Work in Progress
 - c.) Water Production Report
 - d.) Wastewater Treatment Plant Summary
 - e.) Approval of repairs and/or inventory

These reports were due from US Water for the January 2018 time period. As of these dates, no reports were submitted. General Counsel to notify US Water to provide reports.

2. Report of Engineers
 - a.) Water Supply Status
 - b.) Wastewater System Status
 - c.) TWDB Project 21750 Updates; Construction Material Testing proposals
 - d.) Other project updates

DISCUSSION: The District Engineer reported on his activities as follows:

Overall Summary: District Engineer and Team responsibilities for the period stated above primarily assisted in the operation of the District, TCEQ Site Investigations for Water and Wastewater, assist in securing of an operator, securing technical support and interacting with the Board. In addition, CPY worked to help identify operational support including job-order-contractors, AirVac support and other related services.

Water analyzer and injection system: As previously reported by USW, WaterTalent and CPY, the existing water analyzer and injection system is deficient. CP&Y does not agree with USWs recommendations and have no objection to the WaterTalent report and recommendation. The Board had asked CPY to locate a qualified turn-key contractor to perform the work. He contacted numerous contractors to perform turnkey operation work

and is reaching out to an electrical sub consultant to support on the design of the system and we are preparing a proposal for the design. There was discussion of contacting Port Lavaca for a proposal under the Interlocal Agreement.

Water TCEQ CCI: The District was notified on February 21, 2018 that a TCEQ Comprehensive Compliance Investigation (CCI) was scheduled for Wednesday, February 28, 2018. The following issues were reported by TCEQ:

Rule Citation	Description of Issue	Notes
290.44 (c)	Failed to prohibit more than 10 connections for each 2" line and prohibit the installation of a new waterline less than 2" in diameter in the distribution system.	This Violation is over 10-years old.
290.44 (d)(6)	Failed to provide all dead-end mains with acceptable flush valves and discharge piping.	This Violation is over 10-years old.
290.46 (e)(4)(C)	Failed to use at least 2 operators who hold a Class C or higher license	In talking with TCEQ, this is most critical item.
290.46 (f)(3)(B)(iii)	Failed to maintain records of disinfectant residual monitoring from the distribution system for at least 3 years (January 2018, February 2018).	USW did not perform or maintain the records for January. February records were not performed or maintained by Mike Raby until his departure. Current Staff are not allowed to record data without an operator.
290.46 (l)	Failed to flush all dead end mains at monthly intervals (January 2018, February 2018).	USW did not perform or maintain the records for January. February records were not performed or maintained by Mike Raby until his departure. Current staff have started to flush the system and document these activates.
290.46 (s)(2)(C)(i)	Failed to verify the accuracy of the Hach Pocket Colorimeter II at least once every 90 days.	USW did not perform or maintain the records as required by TCEQ Regulations.
290.44 (h)(4)	Copies of annual backflow assembly tests.	USW did not perform or maintain the records as required by TCEQ Regulations.

Area of Concerns	TCEQ stated that the District has not been performing the adequate well testing and reporting.	Either cap wells or have wells tested and monitored.
------------------	--	--

General Counsel explained that the previous District Engineer Don Rauschuber had researched the first 2 issues and presented to the Board previously that the first 2 violations are being handled informally by TCEQ. Operator compliance is being met by Robert Macias; use of Port Lavaca personnel through the Interlocal Agreement and March 9, 2018 board authorization to hire Lance Roy as the water/wastewater operator. USW failures to perform and not maintain records will be followed up.

Wastewater TCEQ Investigation: TCEQ performed a second inspection on 3/8/2018. TCEQ received a complaint concerning the Plant not being operated properly. The following issues were reported by TCEQ:

Rule Citation	Description of Issue	Notes
	Failed to operate the WWTP by a chief operator with a minimum of a Class C license or higher from 2/26/2018.	In talking with TCEQ, this is most critical item. It is noted that the plant did not experience sanitary sewer overflows.
30TAC20 5.125	Failed to have adequate vector control for screenings.	The screenings and debris were being placed on the WWTP wall which is acceptable by TCEQ. All screenings need to be stored in a container with a lid.
30TAC30 5.125 (1)	Failed to maintain the bar screens free of debris.	The screenings and debris were being placed on top of the screen box which is not acceptable by TCEQ. All screenings need to be stored in a container with a lid.
---	Flow meter calibration records for flow meter in 2017 and 2018.	USW did not perform or maintain the records accessible to TCEQ.
---	Records for the calibration of backflow device at the WWTP	USW did not perform or maintain the records accessible to TCEQ during the inspection.

Area of Concern	TCEQ reported that the storage shed and rear offices were not properly isolated with a backflow device from the main water supply and the WWTP.	This item is not a citation but reported by TCEQ of an area of concern.
-----------------	---	---

District Engineer reported that TCEQ found the wastewater treatment plant was functioning properly and that he and staff have addressed the screening and debris issues. TCEQ recommends a secondary line be placed to the storage shed with a backflow preventer. This will be brought back to the Board for a decision.

Water and Wastewater Operations: CPY assisted the District in installing two water connections including piping, meters and related appurtenances. The District currently has a backlog of water and sewer connections to be completed. Staff is starting with the oldest request from September 2015. A Job-Order-Contractor advertisement was drafted to help secure a contractor or multiple contractor to support the district during emergency times. On March 12, 2018 and March 13, 2018, new operators at the Waste Water Treatment Plant will ensure that the plant maintains compliance with TCEQ. CP&Y assisted the District on help troubleshooting items, these typically include identify the water and wastewater water complaint related items, service connections, water flushing, wastewater checking and administrative items.

Water and Sewer Maps: Several issues with the Maps have been identified. We understand 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. Ultimately, the goal is to upload the maps to the website for public use.

TWDB 21750: Construction is slated to start on March 19, 2018. Easements are being verified. The District Legal Counsel is assisting in the process. I have asked LCI to revise the schedule and perform construction within the ROW Areas. The schedule will be dynamic. CP&Y is having discussions with the County on open road cutting for lines where approved by the County. The County may require for a warranty bond to be issued between LCI and the County for any roadway work. A secured Microsoft Sharepoint Site 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.

GBRA Records Request: The CPY Team has been working with local staff to assemble the necessary information that GBRA requested. The process included reviewing the historical operational data, meter records, work orders, financial information and previous engineering reports. Information has been scanned and assembled for GBRA review.

Plat Reviews: Urban Engineering submitted a mobile park development on February 13, 2018. The District does not have a process for these larger developments. We have

requested from Urban Engineering to submit an engineering letter report and recommendations for the improvement. CPY is currently reviewing the data. We will review the information and report back to the District. GSW submitted a preliminary plat for Captain Corner Subdivision. CPY has reviewed the plat for Board's Consideration.

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 in June 2018.

USW Status Report: CPY has been working on an assessment of the USW deficiencies of the POCID and LaSalle systems CPY witnessed. During the TCEQ process we witnessed additional deficiencies that were not first witnessed by CPY. These deficiencies included in the reporting and record keeping of TCEQ required compliance records. This information will be updated in the Engineer's Assessment Letter.

Water and Sewer Service Applications: The District Manager has received a few requests for new services. CPY will work with the District on revising and implement a new process.

Maintenance Plan: We have assembled the Maintenance Plan for the District's use based on the existing equipment.

Technical Memorandum: CPY is preparing a technical memorandum to summarize its findings, discussions and recommendations based on recent findings from numerous sources including the finding:

- ☐ FlowVac 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

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.
- ☐ 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.

Water Flushing: In January and February, flushing of the POCID and LaSalle systems had not been completed or was completed but not documented. CPY worked with the District to re-start that process of flushing.

File Management: The current File Management system is lacking attention. We have had a hard time reviewing and finding data. A lot of the Data needs to be backed up digitally and other paper copies need to be disposed of through its proper channels.

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. We have made initial discussions with Alligator Head Subdivision to help identify issues.

Homeland Security CPY assisted the District in updating the records for Homeland Security as required by TCEQ.

E. CONSIDER AND TAKE APPROPRIATE ACTION ON THE FOLLOWING:

1. Approve a Resolution Reviewing Procedures for Continuing Disclosure Compliance, Making No Changes to the Policy and Instructing Staff to Fulfill the Financial Reporting Obligations in the Policy. (General Counsel).

DISCUSSION: There was discussion with no action being taken. The Board was advised that the financial statement and audit are not ready.

2. Review and Approve the District's General Purpose Financial Statements for the Fiscal Year Ended September 30, 2017, audited by Goldman, Hunt & Notz, L.L.P and Direct Staff to file the Audited Financial Statements with the Texas Commission on Environmental Quality. (Auditor)

DISCUSSION: There was discussion with no action being taken. The Board was advised that the financial statement and audit are not ready.

3. Approve Annual Report and Authorize Filing of Same in Accordance with the District's Continuing Disclosure of Information Agreement and as required by SEC Rule 15c2-12.; including Hurricane Harvey disclosures. (General Counsel)

DISCUSSION: There was discussion with no action being taken.

4. Request of Jay Bonano, Newmark, Mark and Frank to address the Board concerning Defined Area 1.

Mr. Bonano is President of the Caracol Homeowner's Association. General Counsel has contacted him about an agreement with the HOA for Defined Area 1 services.

5. TCEQ Operator Compliance as related to water and wastewater services. (General Counsel).

DISCUSSION: General Counsel advised that the District has now employed 2 Wastewater Operators to meet the TCEQ compliance issue to have a licensed operator on site. Director O'Neill stated that he was concerned about the issue of him being listed as the licensed operator for the District, even though his name was withdrawn the following day. His concern was that there may have been a violation of the District's Code of Conduct. He requested that a session be held to review the Code with General Counsel, with all Directors, especially now that there are new directors on the Board. General Counsel also advised that the TCEQ Local Government Assistance for compliance was contacted and provided the Board with the following information ... "As for your question regarding an additional request for extension of time for coming into compliance with having a Class C Operator, that would best be worked out with the TCEQ investigator or enforcement coordinator who is handling the case, as they may have leeway to work with you on deadlines".

There was no action taken on this item.

6. Authorize one or more Order Contractors to be available to perform emergency repairs. (District Engineer)

DISCUSSION: There was discussion under consent agenda with no action being taken.

7. Review Engineer's Opinion on line breaks along FM 1289 and Powder Horn Lake Bridge Crossing. (District Engineer)

DISCUSSION: The District Engineer will bring back an assessment for Board consideration. No action was taken.

8. Discuss outstanding water and sewer connections. (District Engineer)

DISCUSSION: The District Engineer has been working with staff to address connection requests. For the Drusilla Road connection, a contract was contacted. No action was taken.

9. Review Turn-Key Operation for implementing Water Quality Improvements at the Water Pump Station. (District Engineer)

DISCUSSION: The District Engineer will contact the manufacturer for a list of authorized contractors. He will also check with Port Lavaca under the Interlocal Agreement. There was no action taken.

10. Procedures and requirements for the November 2018 Board of Director Election.

DISCUSSION: The Calhoun County Elections Administrator was contracted for election assistance. The administrator uses the Secretary of State Standard agreement to conduct joint elections. Voting machines will be provided by the County. General Counsel will follow up. There was no action taken.

11. Discuss and consider amendments to the application to TCEQ Bond Issue No. 2 and amendments to the Capital Improvements program.

There was no action taken.

12. Discuss and consider insurance coverage for POCID facilities and operations, rerate with TMLIRP, Defined Area 1 improvements; TWIA and Flood.

DISCUSSION: USW never followed up on assessment of District assets. TMLIRP has assessed assets and will assess 5 more. District Project Manager and General Counsel to follow up. General Counsel working with Caracol HOA President Bonano to coordinate insurance. TMLIRP sent information on TWIA and Flood renewal. There was no action taken.

13. Discuss and consider authorizing the District Project Manager, with assistance from General Counsel, to advertise for bids for the construction of the parking lot.

DISCUSSION: Texas Water Code section 49.271(d) requires advertisement for bids for projects over \$75,000. Estimate of the parking lot includes road to wastewater treatment plant is \$120,000. The District Project Manager will follow up with Port Lavaca under the Interlocal for a proposal.

A motion was made by Leon Brown with a second by Marshall Bradford to authorize the District Project Manager to request a proposal from Port Lavaca and to advertise for bids if Port Lavaca does not want to submit a proposal. The motion was approved and carried unanimously.

Voting: 4 Ayes; 0 Nays

F. EXECUTIVE SESSION

The Open Meeting was recessed at 2:17 p.m. with President Brown announcing that the Board would convene into Executive Session under the authority and items below:

The Port O'Connor Improvement District may consider in Executive Session any of the identified items posted on the agenda pursuant to the following exceptions:

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

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 and authorize an agreement for the defense of the lawsuit.
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 to POCID.
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.

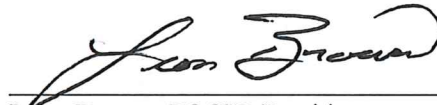
The Executive Session adjourned at 2:46 p.m. and the Open Meeting was reconvened. No action was taken in Executive Session.

G. TAKE ANY ACTION AS A RESULT OF EXECUTIVE SESSION. No action was taken on the items below:

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 and authorize an agreement for the defense of the lawsuit.

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 to POCID.
 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.
- 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.)
- Nathan O'Neill requested that future agendas not include consent agendas items and to include an item on the next meeting agenda to discuss changing the meeting times back to 7:00 p.m.
- I. ADJOURN. President Brown adjourned the meeting at 2:47 p.m.

Respectfully submitted,



Leon Brown, POCID President



Bobby Raybon, POCID Secretary

Minutes were approved on the 19 day of April, 2018.