

UPPER BRUSHY CREEK
WATER CONTROL AND IMPROVEMENT DISTRICT
460 TEXAS AVENUE, ROUND ROCK, TX 78664
REGULAR BOARD MEETING MINUTES
FEBRUARY 23, 2023

CALL TO ORDER: The Regular meeting was called to order at 4:00 p.m. by President Williams and he announced a quorum was present.

DIRECTORS PRESENT: Jeremiah D. Williams, President; Greg Brill, Secretary; Lyle Grimes, Director; and Ed Orlin, Director.

DIRECTORS ABSENT: Casey Clawson, Vice President

STAFF PRESENT: Alysha Girard, General Manager; Lisa Moravitz District Clerk; Stefanie Albright-BHDA, District Counsel; Gregor Forbes, Chief Project Manager; Laura Harris, Capital Programs Manager; Tiffany White, Executive Assistant; Don Childs-S&C, District ROW agent

CITIZEN COMMUNICATIONS: No public input received.

CONSENT AGENDA:

- C.1 Consider approval of the Minutes for December 15, 2022 Regular Meeting.
- C.2 Consider approval of the Minutes for January 19, 2023 Special Meeting.
- C.3 Consider approval of the Financial Statement and Quarterly Investment Report.

Hearing no objection, the consent agenda was approved.

ACTION ITEMS:

- D.1 General Discussion and Update on Dam 101.
The General Manager provided an update on the Dam 101 Project.

Change in agenda order and move into executive session at 4:19 p.m.

- F. EXECUTIVE SESSION PURSUANT TO CHAPTER 551, TITLE 5, TEXAS GOVERNMENT CODE.**
 - F.1 Executive session as authorized by §551.072 (Real Property) related to the deliberation regarding purchase, exchange, lease, or value of real property: Land and/or Easement acquisition for the Dam 101 project.
 - F.2 Executive session as authorized by §551.071 (Consultation with Attorney) regarding ongoing and possible litigation as it relates to: Construction, Permitting, and/or Landowner issues at Dam 3 and 4, including:
 - a. *Charles Tremblay and Leah Tremblay v. Upper Brushy Creek Water Control & Improvement District* in the Williamson County 395th Judicial District Court (Cause No. 22-1167-C395).

The Board reconvened into open session at 4:43 pm. No action was taken.

- G. RECONVENE TO OPEN SESSION TO TAKE ACTION, IF ANY, ON MATTERS DISCUSSED IN EXECUTIVE SESSION.**
 - G.1 Consider, discussion and/or possible action related to Land and/or Easement acquisition for the Dam 101 project.
 - G.2 Consider, discussion and/or possible action related to possible litigation as it relates to:

UPPER BRUSHY CREEK
WATER CONTROL AND IMPROVEMENT DISTRICT
REGULAR MEETING MINUTES FEBRUARY 23, 2023

Construction, Permitting, and/or Landowner issues at Dam 3 and 4, including:

- a. *Charles Tremblay and Leah Tremblay v. Upper Brushy Creek Water Control & Improvement District* in the Williamson County 395th Judicial District Court (Cause No. 22-1167-C395).

Back to regular meeting agenda order at 4:43 pm.

Items D2 through D5 will have one motion:

- D.2 Consider authorizing the General Manager to negotiate and complete any necessary actions to purchase the proposed fee structure 8.307-acre tract of land and the proposed inundation easement 9.710-acre tract of land from 304 Joint Venture or other Robinson family related entities (Parcel 1) as needed for the Dam 101 construction project.
Don Childs, Attorney S&C was present to answer any questions.
- D.3 Consider authorizing the General Manager to negotiate and complete any necessary actions to purchase the proposed fee structure a 4.1101 (part 1) and 3.364-acre (part 2) tracts of land and the proposed inundation easement 83.299-acre tract of land from Robinson Land or other Robinson family related entities (Parcel 2) as needed for the Dam 101 construction project.
Don Childs, Attorney S&C was present to answer any questions.
- D.4 Consider authorizing the General Manager to negotiate and complete any necessary actions to purchase the proposed fee structure 3.205-acre tract of land and the proposed inundation easement 8.077-acre tract of land from GER Land or other Robinson family related entities (Parcel 3) as needed for the Dam 101 construction project.
Don Childs, Attorney S&C was present to answer any questions.
- D.5 Consider authorizing the General Manager to negotiate and complete any necessary actions to purchase the proposed inundation easement 2.642-acre and 0.027-acre tracts of land (Parcels 13&15) from Robinson Ranch or other Robinson family related entities as needed for the Dam 101 construction project.
Don Childs, Attorney S&C was present to answer any questions.

Motion by President Williams, second by Secretary Brill authorizing the General Manager to negotiate a purchase agreement and complete any necessary closing documents for Parcels 1, 2, 3, 13 and 15 as contemplated in items D2, D3, D4 and D5 for a total purchase amount not to exceed \$15,750,000. Motion carried unanimously.

- D.6 Consider authorizing the General Manager to execute a letter agreement with Lewis Woods, LLC for acquisition of a 0.557-acre inundation easement required for construction of Dam 101 project.
Don Childs, Attorney S&C was present to answer and questioned.

Motion by Secretary Brill, second by Director Grimes authorizing the General Manager to execute a letter of agreement and closing documents with Lewis Woods, LLC for acquisition of a 0.557 acre inundation easement required for construction of Dam 101 project in an amount not to exceed \$32,000. Motion carried unanimously.

- D.7 Consider authorizing the General Manager to execute an Agreement with Sundt Construction, Inc. for the Dam 101 flood mitigation project.
Kevin Graf, PE, Project Manager; Chad Yount, PE, Area Manager with Sundt were present to answer any questions.

Motion by Secretary Brill, second by President Williams authorizing the General Manager to execute an Agreement with Sundt Construction, Inc. for an amount not to exceed \$34,261,913. Motion carried unanimously.

UPPER BRUSHY CREEK

WATER CONTROL AND IMPROVEMENT DISTRICT REGULAR MEETING MINUTES FEBRUARY 23, 2023

D.8 Consider authorizing the General Manager to execute an Agreement with HDR, Inc. for construction engineering and inspection services on the Dam 101 project.

Cris Parker, Principal; Prad Shrestha, Project Manager; Derrick Woodruff, RPR with HDR were present to answer any questions.

Motion by Director Grimes, second by President Williams authorizing the General Manager to execute an Agreement with HDR, Inc. for an amount not to exceed \$2,000,000. Motion carried unanimously.

D.9 Consider authorizing the General Manager to negotiate and complete any necessary actions to purchase Temporary Construction Easements from 304 Joint Venture, Robinson Land Ltd, and GER Land or other Robinson family related entities as needed for the Dam 101 construction project.

Don Childs, Attorney S&C was present to answer any questions.

Motion by President Williams, second by Director Orlin authorizing the General Manager to negotiate and execute any necessary actions to purchase Temporary Construction Easements from the Robinson family related entities as needed for the Dam 101 construction project for an amount not to exceed \$250,000. Motion carried unanimously.

D.10 Consider authorizing the General Manager to negotiate and complete any necessary actions to execute a possession and use agreement with O'Farrell (parcel 7) for the 12.341-acre inundation easement needed for the Dam 101 construction project.

Don Childs, Attorney S&C was present to answer any questions.

Motion by Secretary Brill, second by President Williams authoring the General Manager to execute a possession and use agreement with O'Farrell for the 12.341-acre inundation easement in an amount not to exceed \$1,006,889.40. Motion carried unanimously.

D.11 Consider authorizing the General Manager to negotiate and complete any necessary actions to execute a possession and use agreement with RDO Assets, Ltd. (parcels 10 & 11) for 10.737 acre and 7.026 inundation easement needed for the Dam 101 construction project.

Don Childs, Attorney S&C was present to answer any questions.

Motion by Director Grimes, second by Director Orlin authorizing the General Manager to execute a possession and use agreement with RDO Assets, Ltd. in an amount not to exceed \$1,325,011.50. Motion carried unanimously.

PRESENTATIONS AND REPORTS:

E.1 General Manager's Report providing updates on various O&M and CIP activities.

ADJOURNMENT. There being no further business, the meeting was adjourned at 5:02 pm.

DATED AT ROUND ROCK, TEXAS ON THIS 30th DAY OF MARCH, 2023.

ATTEST:



Lisa Moravitz, District Clerk



Jeremiah D. Williams, President