

# BROOKSHIRE MUNICIPAL WATER DISTRICT

## MINUTES OF BOARD OF DIRECTORS SPECIAL MEETING

January 27, 2020

The Board of Directors (the "Board" or "Directors") of Brookshire Municipal Water District (the "District") met in special session on the 27<sup>th</sup> day of January, 2020, at 6:00 p.m., in the meeting room of the District, 4004 6<sup>th</sup> Street, Brookshire, Texas, pursuant to notice of said meeting posted in accordance with Chapter 551 of the Texas Government Code, whereupon the roll was called of the members of the Board, to-wit:

Edith Penrice-Kelley	President
Albert Wilkins	Vice President
Stephanie Green	Investment Officer
Havanaugh Glover	Secretary
Victor Alardin	Assistant Secretary

All members of the Board were present. Also attending were: Tonya Pierre ("General Manager"); John Taylor of Municipal Operations and Consulting, Inc. ("Operator" or "MOC"); Mr. Bruce Albright; Monica A. Garza, attorney, of Radcliffe Bobbitt Adams Polley PLLC ("Attorney" or "RBAP"); Linda Guerra, employee of the District; and all persons on the attached Attendance Roster.

The Vice President, after finding that the notice of the meeting was posted as required by law and determining that a quorum of the Board was present, called the meeting to order at 6:06 p.m. and declared it open for such business as may regularly come before it.

### 1. Public Comment.

The Vice President first opened the meeting to public comment. Mr. Elton Foster, the pastor of Curry Chapel Baptist Church ("Curry Chapel"), introduced himself and requested that he be allowed to reserve his comments regarding the status of the District's performance of customer service evaluations to determine what, if any, backflow prevention assembly devices ("BFPA") are needed by customers (the "Evaluations") until later in the evening.

There being no further public comments, the President directed the Board to proceed with the agenda.

### 2. Update Regarding Backflow Prevention Requirements, Including Status of Customer Service Evaluations.

Mr. Taylor explained that there are multiple types of BFPAs available and that the manual he previously provided for the Board's review may not include all such types.

It was the consensus of the Board to discuss each customer's Evaluation individually. Director Green reminded the Board that the purpose of such meeting is to meet with all customers who had Evaluations performed by Mr. Albright in order to discuss how the District can assist

such customers in resolving the issues cited in the Evaluations. Director Green noted that only some of the affected churches and small businesses have attended Board meetings to address their concerns and stated that this meeting was held to afford all affected individuals an opportunity to address their concerns.

The Board then reviewed each customer's Evaluation who was in attendance. Regarding the First Baptist Church of Brookshire, Mr. Albright reported that he has not yet inspected such church.

Regarding Bible Fellowship Baptist Church ("Bible Fellowship"), Mr. Albright reported that he has not yet performed a second (2<sup>nd</sup>) inspection. A representative from Bible Fellowship stated that he was originally informed that such church did not need to install a BFPA, and is therefore unclear as to why he must have a second (2<sup>nd</sup>) inspection performed. Mr. Taylor explained that initially, inspections were performed because the District's Rate Order required certain types of buildings to install a particular kind of BFPA known as a reduced pressure device, also known as a reduced pressure zone assembly devices ("RPZA"). The initial inspections were performed in order to determine whether or not customers had a BFPA installed. Mr. Taylor clarified that the Board subsequently amended the District's Rate Order, and Mr. Albright performed a second (2<sup>nd</sup>) inspection to determine which type of device is needed pursuant to the amended Rate Order.

Director Penrice-Kelley entered the meeting at this time.

In response to a question from those in attendance, Mr. Albright explained that backflow prevention requirements are determined by the State and the Environmental Protection Agency (the "EPA"). In response to a question regarding property owners who cannot afford to comply with such backflow prevention requirements, Mr. Albright reiterated that such requirements are implemented to protect the public water supply and stated that the District is authorized to terminate water service to noncompliant property owners.

Mr. Albright then explained the requirements of Texas Administrative Code, Chapter 290, implemented by the Texas Commission on Environmental Quality ("TCEQ") and of which the District is subject to. Mr. Albright further stated that the District is requiring customers to do the minimum to be in compliance with such regulations.

Regarding Greater Mount Zion Missionary Baptist Church ("Greater Mount Zion"), Mr. Albright reported that he performed an exterior inspection, but did not inspect the interior of such church, including the baptismal pool. Mr. Albright stated that Greater Mount Zion passed the Evaluation as a result of the inspection only being performed on the exterior. Mr. Albright reported that he was initially under the impression that he was only hired by the District to conduct premises inspections, not internal inspections. Mr. Albright further stated that Greater Mount Zion has a water trough being filled by a garden hose from the Church for horses in the back of the property and that such set up is a health hazard that requires a permanent piped-in air gap or a reduced pressure backflow assembly device on the main water line.

In response to a question regarding whether the Evaluations are incomplete since internal inspections were not conducted, Mr. Albright stated that he understood Mrs. Pierre had previously completed full inspections. Mr. Albright stated that he used modified inspection forms to conduct

his Evaluation. Mr. Albright explained that the District's jurisdiction extends to the location at which the meter ends, but that the District still has the authority to conduct internal inspections. Mr. Albright clarified that while originally he only conducted external inspections, now that internal inspections are being performed it may alleviate some of the financial burden from the affected customers.

Mr. Albright noted that certain TCEQ regulations are contradictory, and stated that in situations where a system meets the requirements of one (1) code but not another, it is the responsibility of the inspector to determine whether the potential for cross-connection exists. Mr. Albright explained that the Board has the authority to decide whether or not to require a customer to install an air gap at the site of a (baptismal) pool, an RPZA, or some other method of backflow prevention. Mr. Albright noted that the TCEQ updates their rules regarding backflow prevention every ten (10) years.

Mr. Joe Mora reported that his apartment complex has coin-operated washing machines, and that his Evaluation indicated that he must install an RPZA because such washing machines are considered to be for commercial use. Mr. Mora stated that the Evaluation did not indicate any risk for cross-contamination. Mr. Albright explained that the TCEQ requires commercial laundry facilities to install RPZAs and that his apartment complex meets the TCEQ definition of a commercial business. In response to a question by Mr. Mora regarding whether the Board has discretion to waive such requirement, Mr. Albright explained that the Board must meet the minimum standards established by the TCEQ.

Regarding Brookshire Methodist, a representative of such church stated that they did not receive an Evaluation regarding the inspection conducted by Mr. Albright. Mr. Albright then reviewed such Evaluation and stated that the existing BFPAs must be re-installed to meet TCEQ regulations and due to the age of such device, must be tested to determine whether it contains any lead. Director Penrice-Kelley stated that the District has not yet set a deadline by which customers must comply with backflow prevention requirements recommended by Mr. Albright. Director Penrice-Kelley explained the importance of customers complying with such requirements because if a customer is not in compliance, then the District is not in compliance.

In response to a question from the representative from Scot Industries, Inc. regarding deadlines for compliance, Mr. Albright stated that industrial facilities are required to comply right away pursuant to the TCEQ.

In response to a question by Dorothea Dumas regarding whether Mr. Albright will perform the annual testing of customer's BFPAs, Mr. Albright stated that he is licensed to conduct such testing, but would prefer not to as it may be a conflict of interest. Mr. Taylor stated that customers can find a licensed inspector on the TCEQ's website or contact a plumber to perform such testing. Mr. Taylor further stated that once customers have obtained an annual test of the BFPAs, they need to provide the report for such test to the District. Mr. Taylor confirmed that if a customer is being required to re-install an existing BFPAs, then such BFPAs must be re-tested upon re-installation and such report provided to the District. Mr. Albright added that re-testing of such devices is recommended on an annual basis.

Reverend Lee Jones, Jr., the representative from Zion Missionary Church, reported that his church does not have an irrigation system. Mr. Albright stated that during his evaluation, he was

informed by Zion Missionary Church that the property has a T-shaped pipe connection off the water main line and a Y-shaped connection that creates two (2) hose bib connections. Mr. Albright explained that such piping connections are classified as an irrigation system by the TCEQ. Mr. Albright stated that he can only inspect the hose bib connections, and that the T and Y connections are underground. Director Penrice-Kelley expressed concern that Mr. Albright may have inspected an incorrect church for the Evaluation and requested that Mr. Albright make sure that Zion Missionary Church truly needs the BFPA indicated in such Evaluation.

Mr. Foster stated that in 20 years, the District has never previously raised the issue of possible contamination from Curry Chapel's pipe connections. Director Penrice-Kelley stated that the Board has always enforced the rules set forth by the TCEQ. Director Penrice-Kelley added that if contamination were to occur, the public would be upset if the Board had not enforced such rules. Director Penrice-Kelley reminded everyone that the District has thus far not shut off anyone's water as a result of non-compliance with the backflow prevention requirements. Director Green stated that the purpose of this meeting is not to circumvent the TCEQ's rules regarding backflow prevention, but rather to explain to residents their Evaluations and the options for compliance with such rules.

Pastor Johnson explained that the two (2) issues established in Greater Mount Zion's Evaluation were a hose-to-hose trough and the church's baptismal pool. Pastor Johnson further stated that Greater Mount Zion intends to install a bib without a hose on the outside of the trough. Director Penrice-Kelley requested that Mr. Albright re-inspect the baptismal pool when he returns to Greater Mount Zion to inspect the trough. Pastor Johnson expressed frustration at the amount of time that lapsed between the first meeting regarding backflow prevention and the current meeting. Director Green explained that she had requested that the District notify the members of the public in attendance at the July 3, 2019 and July 22, 2019 Board meetings about tonight's meeting, even though some of such members of the public had not yet had a second (2<sup>nd</sup>) inspection performed on their property.

Regarding Zion Hill Baptist Church ("Zion Hill"), Mrs. Pierre reported that Mr. Albright only conducted an exterior inspection of the property. Director Penrice-Kelley stated that Mr. Albright needs to inspect the baptismal pool located inside such church and requested that Mrs. Pierre coordinate with Mr. Albright to schedule such interior inspection.

Reverend Jones of St. Paul Baptist Church ("St. Paul") reported that such church passed the inspection conducted by Mr. Albright and that no action is needed by St. Paul. Director Penrice-Kelley requested that Mrs. Pierre coordinate with the other churches in attendance at tonight's meeting to schedule further inspections. In response to a question by LaKethia Connor regarding which properties will be required to have re-inspections conducted, Director Green stated that those members of the public in attendance at the July 3, 2019 and July 22, 2019 Board meetings will need re-inspections of their property. Ms. Connor stated that misinformation has been spread by word of mouth throughout the community regarding backflow prevention requirements.

### **3. Adjournment.**

There being no further business to come before the Board, the meeting was adjourned.

**PASSED AND APPROVED** on this 2 day of March, 2020.



  
Secretary, Board of Directors