

AGENDA

REGULAR MEETING OF THE BOARD OF DIRECTORS

SAN ANTONIO RIVER AUTHORITY

January 21, 2009, 2:00 p.m.

**Estimated Presentation Time: 2.25 hours*



GENERAL AND CEREMONIAL ITEMS:

Estimated Presentation Time: 10 minutes

1. **CALL TO ORDER BY THE CHAIRMAN, MR. THOMAS G. WEAVER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL BY THE SECRETARY, MS. SALLY BUCHANAN**

BEXAR COUNTY:

- Sally Buchanan
- Hector Morales
- Jeff Neathery
- Názirite Rubén Pérez
- Roberto G. Rodríguez
- Thomas G. Weaver

GOLIAD COUNTY:

- Terry E. Baiamonte
- Adair R. Sutherland

KARNES COUNTY:

- Gaylon J. Oehlke
- H.B. Ruckman III

WILSON COUNTY:

- John Flieller
- A.D. Kollodziej, Jr.

**Represents estimated presentation times of staff and routine Board member items; does not account for Board member discussions that may occur.*

4. CERTIFICATION OF A QUORUM BY THE SECRETARY

5. INTRODUCTION OF VISITORS

6. CITIZENS TO BE HEARD

7. EMPLOYEE RECOGNITIONS

AWARDING OF SERVICE PINS

8. APPROVAL OF THE MINUTES OF THE REGULAR BOARD OF DIRECTORS MEETING HELD ON DECEMBER 17, 2008

9. SAN ANTONIO RIVER AUTHORITY BOARD OF DIRECTORS EXECUTIVE, COMMUNICATIONS, FISCAL AND OPERATIONS COMMITTEE; SPECIAL PURPOSE COMMITTEE; AND BOARD MEMBER CONFERENCE ATTENDANCE REPORTS

- Board Member Conference Reports

- *Operations Committee: Last meeting was held on December 8, 2008, and a report has already been given by Committee Chairman, H.B. Ruckman III at the Regular Board Meeting held on December 17, 2008.*

- *Executive Committee: Last meeting was held on November 10, 2008, and a report has already been given by Committee Chairman Weaver at the Regular Board Meeting held on November 19, 2008*

- *Fiscal Committee: Last meeting was held on October 6, 2008, and a report has already been given by Committee Chairman Oehlke at the Regular Board Meeting held on October 15, 2008*

- *Communications Committee: Last meeting was held on September 25, 2008, and a report has already been given by Committee Chairman Rodríguez at the Regular Board Meeting held on October 15, 2008*

- *General Manager Appraisal Special Purpose Committee: Last meeting was held on November 10, 2008, and a report has already been given by Tom Weaver at the Regular Board Meeting held on November 15, 2008.*

- *Board Handbook Special Purpose Committee: Last meeting was held on September 17, 2008, and a report has already been given by Committee Chairman Jeff Neathery at the Regular Board Meeting held on December 8, 2008.*

INDIVIDUAL AGENDA ITEMS:

10. PRESENTATION ON RECENT SAN ANTONIO RIVER FOUNDATION ACTIVITIES

11. PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE TAX INCREMENT FINANCING EVALUATION CRITERIA

12. **PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING APPLICATION OF THE OPEN MEETINGS ACT TO SARA'S BOARD COMMITTEE STRUCTURE**
13. **BRIEFING ON CONSTRUCTION ACTIVITY AT N. SAN JACINTO STREET AND ALAZAN CREEK**
14. **PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING THE 81st SESSION OF THE TEXAS LEGISLATURE**
15. **STATUS REPORT REGARDING THE ACTIVITIES OF THE JOINT COMMITTEE ON OVERSIGHT OF BEXAR METROPOLITAN WATER DISTRICT**
16. **BRIEFING ON WATER RESOURCES AND DEVELOPMENT ACTIVITIES**
17. **STATUS REPORT ON THE SAN ANTONIO RIVER IMPROVEMENTS PROJECT**
18. **GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:**
 - UPCOMING EVENTS CALENDAR,
 - FUTURE BOARD AND/OR COMMITTEE MEETINGS:
 - DISCUSSION OF SPECIAL BOARD MEETING AGENDA FOR JANUARY 26, 2009,
 - MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS.
19. **ITEMS FOR FUTURE CONSIDERATION**
20. **NEXT MEETING DATE**
21. **ADJOURN**

Estimated Presentation Time: 2.25 hours

SAN ANTONIO RIVER AUTHORITY
General Statements

This meeting is wheelchair accessible. Accessible parking is located at 100 E. Guenther St. Requests for an interpreter for the hearing impaired must be received at least 48 hours prior to the meeting, or, to arrange for special assistance to attend this meeting, please call the Operator at 210-227-1373.

The Board of Directors of the San Antonio River Authority may discuss and/or take action on any item listed in this agenda while convened in open session. The Board of Directors of the San Antonio River Authority may also meet in Executive Session, pursuant to Section 551.071 of the Texas Government Code, to receive advice from legal counsel on any item listed in this agenda.

Date: 01/21/2009

EMPLOYEE RECOGNITIONS

Submitted By: Dawn Cunningham, Internal Resources Division
Division: Internal Resources Division

Department: Human Resources

Information

CAPTION

AWARDING OF SERVICE PINS

Presenter

Suzanne B. Scott

GILBERT JIMENEZ – 25 YEARS

Gilbert joined SARA on January 30, 1984, when he was hired on as a Draftsman in Engineering. In 1989 he was promoted to Engineering Technician II. In 2001, Gilbert's diverse skills allowed him to obtain the position of Planning and Development Coordinator. He spent three years in this position before he saw an opportunity for career advancement in Real Estate. Gilbert joined the Real Estate group in 2004 as a Real Estate Representative I. During his time in Real Estate, Gilbert has been able to advance to Real Estate Representative II in 2005 and obtain his Senior Right-of-Way Agent (SRWA) designation. Gilbert was most recently promoted to Real Estate Representative III in September 2008. Gilbert has proven that SARA is an organization you can grow with. He is looking forward to completing a Bachelors Degree in December and will then be keeping an eye out for the next opportunity that SARA might have to offer.

ROBERT CRUZ – 20 YEARS

Bob joined SARA on January 17, 1989, as a Utilities Crewman. In 1990 he was promoted to Operator I, in 1995 he was promoted to Operator II, and in 2001 he was promoted to Operator III. After obtaining his B license, Bob has moved up the ranks even further. He was most recently promoted to Operations Quality Control Supervision for Utilities in September 2008. Bob stays very busy coordinating operations for our wastewater treatment plants. He has a variety of duties which include assessing each plant's needs based on lab reports, visual inspections, and many other variables; staffing; orientation; recognitions; and being available to troubleshoot around the clock. Bob has been described as committed, dedicated, and dependable. His positive attitude is evident by his actions and his big smile.

RAYMOND LOERA – 5 YEARS

Raymond joined SARA on January 26, 2004, as a Utilities Collection System Crewman. Raymond has worked in Line Maintenance for the past five years. In February 2005 he was promoted to Utilities Line Inspector I. Raymond tackles assignments with a sense of

optimism. He listens carefully to citizens' concerns, discerns their needs, and takes appropriate action. Raymond demonstrates a professional attitude, takes personal responsibility to improve unpleasant conditions, maintains control, and channels energy positively to approach and solve problems.

Date: 01/21/2009

Approval of the Minutes

Submitted By: Lupe Moreno, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

**APPROVAL OF THE MINUTES OF THE REGULAR BOARD OF DIRECTORS
MEETING HELD ON DECEMBER 17, 2008**

Presenter

Thomas G. Weaver, Chairman

Recommendation

Motion to approve the minutes as presented.

Discussion

Vote

Attachments

Link: [Dec Reg Brd Draft Minutes](#)

MINUTES

REGULAR MEETING OF THE BOARD OF DIRECTORS

SAN ANTONIO RIVER AUTHORITY

December 17, 2008, 2:00 p.m.



GENERAL AND CEREMONIAL ITEMS:

1. **CALL TO ORDER WAS MADE BY THE CHAIRMAN, MR. THOMAS G. WEAVER AT 2:00 P.M.**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL BY THE SECRETARY, MS. SALLY BUCHANAN**
**Board members present for this meeting are indicated with a checked box:*

BEXAR COUNTY:

- Sally Buchanan
- Hector Morales
- Jeff Neathery
- Názirite Rubén Pérez
- Roberto G. Rodríguez
- Thomas G. Weaver

GOLIAD COUNTY:

- Terry E. Baiamonte
- Adair R. Sutherland

KARNES COUNTY:

- Gaylon J. Oehlke
- H.B. Ruckman III

WILSON COUNTY:

- John Flieller
- A.D. Kollodziej, Jr.

4. CERTIFICATION OF A QUORUM WAS ANNOUNCED BY THE SECRETARY, MS. BUCHANAN.

Staff members present were:

Suzanne B. Scott, General Manager
Steve Graham, Assistant General Manager
Steve Raabe, Director of Technical Services
Larry Anderson, Director of Support Services
Steven Schauer, Manager of External Communications
John Chisholm, Director of Operations
Jim Boenig, Engineering Manager
Dale Bransford, Park Services Manager
Claude Harding, Real Estate Manager
Art Herrera, IT Manager
Tom Pardue, Engineer
Jim Doersam, Engineer
Dawn Cunningham, Human Resources Generalist
Phil Weynand, Internal Resources Administrator
Marilyn Black, Administrative Assistant III
Karen Bishop, Executive Services Supervisor
Lupe Moreno, Executive Assistant

Others present were:

David Ross, Legal Counsel
Lori Houston, City of San Antonio (COSA)

5. INTRODUCTION OF VISITORS

Ms. Moreno reported that none were present at this time.

6. CITIZENS TO BE HEARD

Ms. Moreno reported that no citizens were signed up to speak at this time.

7. EMPLOYEE RECOGNITIONS

Awarding of Service Pins

Chairman Weaver and Suzanne B. Scott presented service awards to Marilyn Black for 30 years of service and to Jim Molina for 5 years of service.

8. PRESENTATION OF TEXAS WATER CONSERVATION ASSOCIATION (TWCA) BEST SAFETY RECORD AWARD

Susan Eason accepted this award on behalf of SARA.

9. APPROVAL OF THE MINUTES OF THE REGULAR BOARD MEETING HELD ON NOVEMBER 19, 2008

After a motion was made by Ms. Sutherland and a second duly made, the minutes were approved unanimously.

10. SAN ANTONIO RIVER AUTHORITY BOARD OF DIRECTORS EXECUTIVE, COMMUNICATIONS, FISCAL AND OPERATIONS COMMITTEE; SPECIAL PURPOSE COMMITTEE; AND BOARD MEMBER CONFERENCE ATTENDANCE REPORTS

- A briefing on the Operations Committee meeting held on December 8, 2008 was given by Committee Chairman H.B. Ruckman III
- A briefing on the Board Handbook Special Purpose Committee meeting held on September 17, 2008 was given by Committee Chairman, Jeff Neathery
- A briefing on the General Manager Appraisal Special Purpose Committee meeting held on November 17, 2008 was given by Mr. Weaver
- With regards to Board Member Conference Reports, a briefing on the NAFSMA meeting was given by Sally Buchanan

CONSENT AGENDA ITEM:

11. AWARD OF A CONSTRUCTION CONTRACT FOR THE SALATRILLO WASTEWATER TREATMENT PLANT SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM IMPROVEMENTS

Mr. Weaver called for approval of the agenda item on consent.

Motion made by H.B. Ruckman III
Seconded by Sally Buchanan
Motion carried unanimously

INDIVIDUAL AGENDA ITEMS:

12. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING AN INTERLOCAL AGREEMENT WITH THE CITY OF SAN ANTONIO FOR THE OPERATION AND MAINTENANCE OF THE MUSEUM REACH URBAN SEGMENT, EAGLELAND AND MISSION REACH

Staff recommended a motion to authorize the General Manager to execute an Interlocal Agreement between the San Antonio River Authority and the City of San Antonio for the Operation and Maintenance of the Museum Reach Urban Segment, Eagleland and Mission Reach Phases 1-4.

Motion made by Jeff Neathery
Seconded by H.B. Ruckman III

Motion carried unanimously

13. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING A RESOLUTION AUTHORIZING THE BOARD CHAIRMAN TO EXECUTE A REVISED INTERLOCAL AGREEMENT BETWEEN THE CITY OF SAN ANTONIO, BEXAR COUNTY AND THE SAN ANTONIO RIVER AUTHORITY TO COMPLETE THE SAN ANTONIO RIVER IMPROVEMENTS PROJECT

This agenda item was tabled for discussion at the Regular Board of Directors meeting to be held on January 21, 2009.

14. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING AWARD OF A CONSTRUCTION CONTRACT FOR THE BRAUNIG LAKE FISHING PIER PROJECT AND THE STATUS OF THE CITY PUBLIC SERVICE ENERGY REQUEST FOR PROPOSAL FOR OPERATION OF THE BRAUNIG AND CALAVERAS LAKE PARKS

Staff recommended a motion authorizing the General Manager to execute a contract with Llexell, Inc. in the amount of \$258,792 and contingency of \$25,800 for the Braunig Lake Fishing Pier Project, and authorizing the General Manager or her designee to amend the contract if field changes are required.

Motion made by Sally Buchanan

Seconded by H.B. Ruckman III

Motion carried unanimously

15. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING PARTICIPATION BY THE SAN ANTONIO RIVER AUTHORITY IN THE CITY OF SAN ANTONIO INITIATED TAX INCREMENT REINVESTMENT ZONE NUMBER 31 TO BE KNOWN AS MIDTOWN

Staff recommended a motion directing the General Manager to perform an analysis of participation by SARA in the City of San Antonio Initiated Tax Increment Reinvestment Zone Number 31, Midtown, applying the guidelines and evaluation criteria in Policy FN 0006, Tax Increment Financing Evaluation Criteria, and present the analysis to the SARA Operations Committee for recommendation to the SARA Board of Directors.

Motion made by Roberto G. Rodriguez

Seconded by Sally Buchanan

Motion carried unanimously

16. BRIEFING REGARDING THE ACTIVITIES OF THE JOINT COMMITTEE ON OVERSIGHT OF BEXAR METROPOLITAN WATER DISTRICT

There being no action taken for Agenda Item 16, Mr. Weaver called for Agenda Item 17.

17. DISCUSSION REGARDING THE POSTING AND NOTICE TO BOARD MEMBERS OF BOARD AGENDA PACKETS ON THE INTERNET

There being no action taken for Agenda Item 17, Mr. Weaver called for Agenda Item 18.

18. BRIEFING ON WATER RESOURCES AND DEVELOPMENT ACTIVITIES

There being no action taken for Agenda Item 18, Mr. Weaver called for Agenda Item 19.

19. STATUS REPORT ON THE SAN ANTONIO RIVER IMPROVEMENTS PROJECT

There being no action taken for Agenda Item 19, Mr. Weaver called for Agenda Item 20.

20. ITEMS FOR FUTURE CONSIDERATION

Mr. Rodríguez stated that he had recently been informed that a bridge on the corner of W. Martin and N. San Jacinto had been removed, and he expressed his concern as to why staff had not provided the Board notification regarding this action. He explained that sometime in 2005 or 2006, Mr. Rothe presented an item regarding the Culebra Bridge that was to be built over Alazan Creek and at that presentation had established that there was to be a courtesy extended to the Board notifying them on those type of activities. Although Mr. Rodríguez did not know if staff was aware, he pointed out that notification protocol had been followed in the past, and he was concerned to find out that in this particular incident, protocol had not been followed. He instructed staff to have this issue addressed as an individual item on the agenda for the upcoming Board meeting.

Both Ms. Scott and Mr. Graham reported that SARA staff had not been informed and assured Mr. Rodríguez that staff would research the issue and provide a full report to the Board in January.

21. GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:

- UPCOMING EVENTS CALENDAR;
- FUTURE BOARD AND/OR COMMITTEE MEETINGS; AND
- MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS.

Ms. Scott distributed a calendar and addressed, in detail, upcoming conferences, meetings and events.

22. NEXT MEETING DATE

The next Regular meeting of the Board of Directors will be held on Wednesday, January 21, 2009 at 2 pm.

23. ADJOURN

There being nothing further to report, Ms. Sutherland moved to adjourn the meeting. Mr. Weaver adjourned the meeting at 4:20 p.m.

PREPARED AND RECOMMENDED FOR BOARD APPROVAL BY THE MANAGER.

SUZANNE B. SCOTT, General Manager

APPROVED BY THE BOARD OF DIRECTORS AT THE REGULAR BOARD OF DIRECTORS MEETING HELD ON JANUARY 21, 2009.

THOMAS G. WEAVER, Board Chairman

ATTEST:

STEPHEN T. GRAHAM, Assistant Secretary

DRAFT

Date: 01/21/2009

Board & Committee Attendance Reports

Submitted By: Lupe Moreno, Executive
Offices

Division: Executive Offices

Department:

Information

CAPTION

SAN ANTONIO RIVER AUTHORITY BOARD OF DIRECTORS EXECUTIVE, COMMUNICATIONS, FISCAL AND OPERATIONS COMMITTEE; SPECIAL PURPOSE COMMITTEE; AND BOARD MEMBER CONFERENCE ATTENDANCE REPORTS

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Presenter

Various Chairmen of the specified Board or Committees.

Date: 01/21/2009

San Antonio River Foundation Update

Submitted By: Karen Bishop, Executive
Offices

Division: Executive Offices

Department:

Information

CAPTION

PRESENTATION ON RECENT SAN ANTONIO RIVER FOUNDATION ACTIVITIES

Presenter

Suzanne B. Scott and Kim K. Abernethy

Estimated Presentation Time: 10 minutes

In response to Board members' recent observation of the San Antonio River Foundation's increased activity, particularly increases by the Foundation's various committees, staff have requested the Foundation to make a presentation to the SARA Board outside the annual reporting cycle.

Kim K. Abernethy, the Foundation's Executive Director, will provide an update on the Foundation's recent and on-going activities and notable accomplishments.

Discussion

Date: 01/21/2009**TIF Evaluation Criteria****Submitted By:** Rudy Farias, Technical Services**Division:** Technical Services**Department:** Water Resources & Cmnty Development

Information**CAPTION****PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE TAX INCREMENT FINANCING EVALUATION CRITERIA****Presenter**

Rudy R. Farias

Estimated Presentation Time: 20 Minutes

The San Antonio River Authority's policy titled Tax Increment Financing Evaluation Criteria states that the Board of Directors will review the policy annually in January.

Texas Tax Code Chapter 311, Tax Increment Financing Act, provides for taxing units that levy real property taxes to participate in a tax increment reinvestment zone (TIRZ). A TIRZ can only be created by a municipality or county, after a municipality or county has determined development or redevelopment within the designated zone will not occur solely through private investment in the foreseeable future.

Requests to participate in TIRZs began in 2003, after the River Authority began collecting a real property tax. River Authority staff was directed to draft an evaluation policy for such requests, and, on September 17, 2003, the Board of Directors approved the Tax Increment Financing Evaluation Criteria policy. The 2003 policy was used to evaluate and recommend participation in Retama Park (2004), Hallie Heights (2005), Heathers Cove (2005), and Butterfield Ranch (2006) tax increment financing projects.

In 2006, based upon three years of tax increment financing (TIF) experience and participation in four TIF projects, the Board of Directors requested staff to reevaluate the policy. Following a review by a team of River Authority departments (Environmental Services, Floodplain Management, Park Services, Utilities, Engineering, Intergovernmental and Community Relations, Planning and Development, Finance, and the General Manager's Office), recommendations were made to the Board of Directors, and a revised policy was adopted on September 20, 2006. Revisions to the policy included:

- Emphasis on the River Authority's service areas: Sixty percent (60%) of the evaluation was based upon water quality/environmental, flood control, parks and recreation, and utilities objectives. Forty percent (40%) was based upon the economic impact to the local community, support from other taxing entities, and the financial impact to the River Authority;

- Notification to Board members: To be provided once an application was deemed administratively complete;
- Development of a standard list of questions regarding the project: The answers assisted staff with their evaluation;
- Development of a scoring matrix: Each item being evaluated correlated to a score;
- Development of a scoring range: The range correlated with staff's recommended level of participation;
- Creation of a definitions section: Intended to assist the applicant in completing the application;
- Development of a checklist: Assisted both the applicant and staff in verifying the completeness of an application.

The 2006 revised policy was used to evaluate and recommend participation in Butterfield Ranch (2006), River North (2007), and Sedona (2007) TIF projects.

Following these three projects, the Board of Directors requested that staff reevaluate the policy. The Board appointed a subcommittee consisting of three Board Directors, Mr. Weaver, Mr. Morales, and Mr. Johnson, to work with staff to evaluate the policy. The subcommittee met with River Authority departments (Environmental Services, Floodplain Management, Park Services, Utilities, Intergovernmental and Community Relations, Planning, Finance, the General Manager's Office, and River Authority legal counsel) and recommendations were made to the Board of Directors, which resulted in the adoption of a revised policy on October 17, 2007.

Revisions to the policy included:

- Maximum River Authority participation: Capped at eighty percent (80%);
- Emphasis on the River Authority's service areas: Ninety percent (90%) of the evaluation was based upon water quality/environmental, flood control, parks and recreation, and utilities objectives. Ten percent (10%) was based upon the economic impact to the local community, support from other taxing entities, and the financial impact to the River Authority;
- Maximum points were allocated in five main categories: The categories and their maximum point allocation were water quality/environmental (30 maximum points), flood control (30 maximum points), parks (10 maximum points), water/wastewater utilities and water resources (20 maximum points), and economic impact (10 maximum points);
- In each of the five categories listed above, each category was required to receive at least half of the total points allowed in order for the proposed request to be considered;
- Applications were deemed administratively complete based upon feedback from each

department assessing the proposed project: For example, Environmental Services would review the category water quality/environmental. If there was not enough information, the applicant would be notified and the application would remain on hold until the additional information was provided;

- Once an application was deemed administratively complete, staff would conduct a site visit and begin the review;
- Following approval by the Board of Directors to participate in a TIF project, staff was to make site visits to ensure the project adhered to the provisions outlined in the application;
- If the provisions were not being adhered to, the River Authority reserved the right to withdraw from the TIF agreement;
- Lastly, the policy was to be reviewed annually in January by the Board of Directors.

The 2007 revised policy was used to evaluate and recommend participation in the Verano (2008) TIF project.

Staff recommends minor revisions to the policy based upon this past year's experience. The revisions include adding references to Developer Initiated requests and Municipality or County Initiated requests. Staff has developed recommended procedures for evaluating Municipality or County initiated requests. Lastly, staff has proposed to include an annual update to the Board of Directors on all TIF projects in which the River Authority is participating.

Please see the attached document showing staff's proposed revisions.

Recommendation

Motion adopting the proposed changes to the Tax Increment Financing Evaluation Criteria policy as presented.

Discussion

Vote

Attachments

Link: [Proposed TIF Criteria](#)



POLICY

Chapter 311 of the Texas Tax Code provides for the use of tax increment financing (TIF) as a tool to promote and attract commercial and residential development or redevelopment in certain areas within the San Antonio River Authority (River Authority) jurisdiction. The River Authority may be requested to participate in a TIF project within a Tax Increment Reinvestment Zone (TIRZ) created by a local municipality or county.

It is the policy of the River Authority to participate in a TIRZ if the proposed development or redevelopment is consistent with the River Authority's long range plans in water quality/environmental, flood control, parks and recreation, utilities development, water resources, and will truly result in a positive economic impact, is supported by other effected taxing entities, and has limited financial impact on the River Authority.

In January of each year, staff will provide an annual update to the Board of Directors on the status of all TIF projects in which the River Authority is participating and may submit, at that time, recommended modifications to this policy, for review and approval by the Board of Directors.

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PURPOSE

The purpose of this policy is to establish River Authority TIRZ evaluation criteria for 1) requests initiated by a developer to a municipality or county to create a TIRZ (Developer Initiated); and 2) requests initiated by a municipality or county for the purpose of creating an incentive for development or redevelopment (Municipality or County Initiated).

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PROCEDURES

A. Developer Initiated

1. Requests for River Authority participation in a TIRZ shall be forwarded to the Director of Support Services or his/her designee. A non-refundable application fee as established in the following schedule must accompany all applications:

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TIF FEE SCHEDULE

<u>Estimated Total Cost of Development</u>	<u>Fee</u>
0 to \$1 million	\$325
\$1 million to \$10 million	\$750

\$10 million to \$100 million	\$1,500
Greater than \$100 million	\$3,000

The application fee should be in the form of a check or money order made payable to the "San Antonio River Authority." The application fee is to support the administrative cost of review, internal presentation and preparation for consideration by the Board.

2. The request will be forwarded by the Director of Support Services or designee to Environmental Sciences, Watershed Management, Park Services, Utilities, Water Resources and Community Development, and the Finance Departments for a preliminary review to determine if the application is administratively complete. Based upon comments provided by these departments, the Director of Support Services or designee will determine whether the request is administratively complete; including discussion on all items identified in the evaluation criteria and receipt of the application fee. (Submit "Attachment 1 - TIF Application Check List" with the application.)
3. Administratively incomplete requests shall be returned to the requesting entity.
4. Once a request is deemed administratively complete, Water Resources and Community Development will coordinate a site visit, administer the evaluation review process, and, if the project is within Wilson, Karnes or Goliad County, notify the two Board Directors representing that county; if the project is within Bexar County, staff shall notify the two at-large Board Directors and the Director representing the district in which the project resides.
5. TIF requests shall be evaluated by the following:

<input type="checkbox"/> Support Services Director (first)	<input type="checkbox"/> Engineering
<input type="checkbox"/> Environmental Sciences	<input type="checkbox"/> Intergovernmental and Community Relations
<input type="checkbox"/> Watershed Management	<input type="checkbox"/> Finance
<input type="checkbox"/> Park Services	<input type="checkbox"/> Assistant General Manager
<input type="checkbox"/> Utility Services	<input type="checkbox"/> Support Services Director (last)
<input type="checkbox"/> Water Resources and Community Development	
6. Each reviewing department shall indicate their review comments and evaluation score on the Tax Increment Financing (TIF) Tax Increment Reinvestment Zone (TIRZ) evaluation form. Each category must receive a score of at least fifty percent (50%) in order for staff to present the TIF to the Board for consideration. If any single category receives a score less than fifty percent (50%) and the applicant desires to have the application reconsidered, the applicant will need to reapply and pay the non-refundable application fee.

7. Based upon the comments and evaluation score, staff will recommend a TIF participation level ~~for the TIRZ. The River Authority's maximum participation shall not exceed eighty percent (80%).~~

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8. Recommendations for approval and participation level shall be presented to the appropriate Board Committee for a briefing and then to the Board of Directors at a board meeting in resolution form.

9. The River Authority will take approximately 90 days to review and approve or disapprove TIF participation requests.

10. Following River Authority Board approval to participate in a TIRZ, River Authority staff will make site visits to ensure the project is adhering to the environmental **service area** provisions outlined in the application. If these provisions are not being adhered to, the River Authority reserves the right to withdraw from the TIRZ agreement.

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B. Municipality or County Initiated

1. Requests for River Authority participation in a TIRZ shall be forwarded to the Director of Support Services or his/her designee by the municipality or county. Once a request is received, the governing body proposing to designate a TIRZ shall make a formal presentation to the Board of Directors. The presentation must include a description of the proposed boundaries, the tentative plans for development or redevelopment, and an estimate of the general impact on property values and tax revenues. The presentation should also address, in general terms, any impacts the proposed TIRZ may have on the River Authority's environmental service areas as they relate to Water Quality/Environmental, Flood Control, Parks, Water and Wastewater Utilities, and Water Resources (see Evaluation section).

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2. Following the presentation, the Board of Directors shall express its general interests for participating in the TIRZ. If there is a lack of interest, the application process shall end. If there is general interest, the Board of Directors shall authorize the General Manager to appoint a designee to meet with the governing body proposing the TIRZ to discuss the project and financing plans.

3. TIF requests shall be evaluated based upon the long range plans described in the Evaluation section by the following:

<u>Support Services Director (first)</u>	<u>Engineering</u>
<u>Environmental Sciences</u>	<u>Intergovernmental and Community Relations</u>
<u>Watershed Management</u>	<u>Finance</u>
<u>Park Services</u>	<u>Assistant General Manager</u>
<u>Utility Services</u>	<u>Support Services Director (last)</u>
<u>Water Resources and Community Development</u>	

4. Each reviewing department shall indicate their review comments.
5. Based upon the comments received, staff will recommend a TIF participation level for the TIRZ.
6. Recommendations for approval and participation level shall be presented to the appropriate Board Committee for a briefing and then to the Board of Directors at a board meeting in resolution form.
7. The River Authority will take approximately 90 days to review and approve or disapprove TIF participation requests.
8. Following River Authority Board approval to participate in a TIRZ, River Authority staff will make site visits to ensure the project is adhering to the environmental **service area** provisions outlined in the application. If these provisions are not being adhered to, the River Authority reserves the right to withdraw from the TIRZ agreement.

EVALUATION

Administratively complete TIF requests shall be evaluated and scored with regards to the following criteria (**Bolded terms appear in the Definitions section.**):

- A. Water Quality/Environmental (maximum score 30 points) – Development associated with the TIF should be consistent with the River Authority’s long range plans regarding water quality/environmental objectives. In general there should be no adverse water quality effects from storm water drainage or runoff from the development. **Best Management Practices (BMPs)** should be used to mitigate water quality problems both during construction and post development. The development design should minimize habitat loss. A TIF may not be accepted where all or part of the proposed TIF boundaries fall over the Edwards Aquifer Recharge Zone.

Highest scoring and consideration will be given to projects that have no adverse water quality effects from storm water drainage or runoff, utilize BMPs to mitigate water quality problems, and minimize or mitigate habitat loss. Projects with 15% or less **impervious cover** will generally score high, 16% to 30% will score medium high, and greater than 30% will score low. Provide the following information and responses under one tab to assist with scoring and consideration:

1. What percentage of the proposed project is **impervious cover**?
2. What is the **median** residential lot size?
3. How is storm water managed?
4. Describe the **BMPs** that will be used to mitigate water quality problems both during construction and post development.
5. Who will maintain the **BMPs** described in question 4?

6. Will **riparian buffer zones** or **conservation easements** be incorporated into the project?
7. What percentage of native **significant** and **heritage trees** will be preserved?
8. What percentage of native **significant** and **heritage trees** will be replaced or added?
9. How will the project impact the following habitat:
 - a. **Upland Habitat**
 - b. **Riparian Habitat**
 - c. **Wetland Habitat**
 - d. **Aquatic Habitat**
 - e. **Critical Habitat**
10. Has an environmental site assessment been performed for the development site? If so, please provide a copy of the report.

- B. Flood Control (maximum score 30 points) – Development associated with the TIF should be consistent with the River Authority’s long range plans regarding Regional Flood Control. In general there should be no net increase in storm water peak runoff from the development associated with the TIF.

Highest scoring and consideration will generally be given to projects that have the same or less peak runoff and have the same or less channel velocity post-development, as they had in their current existing condition or in their natural, undisturbed, pre-development condition. Provide the following information and responses under one tab to assist with scoring and consideration:

Submit a drainage study for the proposed project that addresses the following:

- **Post and Pre-Development Peak Flows:** The change in estimated peak runoff from a site should be made comparing the amount of runoff that occurs from a site in its existing condition versus the amount of runoff post-development. (Indicate structural or non-structural measures to mitigate increased runoff.)
- **Erosion Control:** The change in estimated channel velocity in receiving ditches and creeks from runoff from a site should be made comparing channel velocities in the existing condition versus the channel velocities post-development. (Indicate structural or non-structural measures to address velocity changes.) The velocities should be compared at the point furthest downstream where runoff collects and concentrates on the site in question. Velocities in receiving creeks and ditches should be less than six (6) feet per second to not cause scour or erosion; this includes the property in question and immediately downstream of the development.

For projects within the limits of incorporated or unincorporated Bexar County, provide the following data:

1. Bexar Regional Watershed Management (BRWM): The runoff impacts and mitigation of those impacts are simulated and designed per the engineering criteria contained within the BRWM Watershed Master Plan found at www.bexarfloodfacts.org. Specifically, this includes:
 - Downstream impact analysis to ensure proposed water surface elevations do not increase (2,000 feet downstream.) Have onsite detention if required to have “no rise.” Paying the City of San Antonio regional storm water detention fee in-lieu-of will not score as high as onsite detention.
 - All bridge structures convey 100 year (ultimate) in City of San Antonio ETJ and at least a 50 (existing) year conveyance in rural areas.
 - Natural channels for conveyance are preferred, followed by grassed lined, with concrete or hardened channels as least preferred and lowest scoring.
 2. Regional Watershed Modeling System (RWMS): The engineering models and data are in a digital format and compatible with the BRWM Regional Watershed Modeling System found at www.bexarfloodfacts.org.
- C. Parks (maximum score 10 points): Development associated with the TIF should be consistent with the River Authority’s long range plans regarding development of regional parks and recreation opportunities. Project features that reserve land for public parks are encouraged, especially if they provide linkage to hike, bike, and/or paddling trail opportunities.

Highest scoring and consideration will be given to projects that comply with **county/city park and open space plans** and provide access to water, and/or hike and bike recreational opportunities. Removal of existing park features without mitigation will have a negative scoring effect. State to what extent the project complies with the following questions, and provide the information and responses under one tab to assist with scoring and consideration:

1. How does the project comply with the local **county/city park, recreation, and/or open space plan** and the **San Antonio River Basin Plan for Nature-based Park Resources?** (The plan may be found at www.sara-tx.org.)
 2. To what extent is **public access to lakes, rivers, streams** provided?
 3. To what extent does the project provide **park connectivity** to other parks, trails, schools, libraries, etc?
- D. Water/Wastewater Utilities and Water Resources (maximum score 20 points): Development associated with the TIF should have adequate onsite infrastructure and

offsite water and wastewater service capacity. The development should integrate water conservation within building structures and landscaping.

Highest scoring and consideration will be given to projects that contain **centralized** systems. Provide the following information and responses under one tab to assist with scoring and consideration:

1. Will the development contain centralized water? If yes, provide a letter of availability.
2. What is the source of water?
3. Will the development contain centralized wastewater? If yes, provide a letter of availability.
4. If the answer is no to any of the above, how will water and/or wastewater services be provided?
5. Describe water conservation measures within the development; include building structures and landscaping.

- E. Taxing Entity Support: It is imperative that all other taxing entities official positions be defined prior to seeking the River Authority's participation. This includes participation or non-participation in the TIF and the level of participation. Other taxing entities include the county, local municipality, school district, etc.

Provide letters of support from taxing entities under one tab to assist with the scoring and consideration.

- F. Economic Impact (maximum score 10 points): This is in regards to the economic impact the proposed TIF will have on the local economy.

Highest scoring and consideration will be given to projects that demonstrate a need and positive impact to the local economy. Provide preliminary or final project and finance plans, and a market analysis or economic impact study in the application under one tab to assist with the scoring and consideration. (The market analysis required by the county or city may be submitted.)

The submitted plans, analysis, and/or study need to address projected job creation, economic impact, and benefits to the surrounding area outside of the TIRZ.

- G. Financial Impact and Benefit: This is in regards to the long term impact to the River Authority tax revenues including: The current appraisal value (base value) and tax revenue, the incremental increase in appraised value and tax due to build out of development, and increments of yearly projected appraised values and tax run through TIF closeout.

Projects must demonstrate a positive financial impact and benefit to the River Authority following the expiration of the TIF term.

H. Impact on River Authority Interests/Projects: This is in regards to the degree of direct impact on River Authority interests/projects. This may be in relation to direct River Authority projects, projects that positively impact the River Authority’s **service areas**, or projects that leverage or save financial resources.

Provide a narrative on how the project within the TIRZ will benefit the River Authority's mission or have a direct impact on a River Authority project. Emphasis should be placed on the environmental **service areas**. Information regarding the River Authority's mission and five year plan can be found at www.sara-tx.org.

SCORING

Within each of the above scored evaluation categories, a score of fifty percent (50%) or greater must be received for staff to present the TIF to the Board for consideration. All scored categories will be tallied to determine an overall score that will be used to develop a recommendation to the Board of Directors. Score ranges and staff recommendation ranges are as follows:

<u>Consistent with River Authority Plans</u>	<u>Scoring Range</u>	<u>Staff Recommendation Range</u>
High	84 to 100	67% to 80%
Medium	67 to 83	54% to 66%
Low	50 to 66	40% to 53%

DEFINITIONS

- **Aquatic Habitat** – Ecosystems characterized by the presence of standing or flowing water that supports an association of interacting populations of aquatic organisms in a given water body. The stream channel, lake or estuary bed, water, and/or biotic communities and the habitat features that occur therein.
- **Best Management Practices (BMP)**: A method for preventing or reducing the pollution resulting from an activity. The term originated from rules and regulation in Section 208 of the Clean Water Act.
- **Centralized**: Water distribution and/or sewer collection systems that are provided to each individual lot for connection to a centralized supply/treatment system.
- **Conservation Easements**: Easements granted on property for the purpose of conserving habitat and promoting wildlife.

- **County/City Park and Open Space Plan:** The current adopted Park, Recreation, or Open Space plan of the Town, City, or County having jurisdiction over the proposed development.
- **Critical Habitat:** A unique or special habitat required to support a rare, sensitive, intolerant or endangered wildlife and their associated ecosystems.
- **Decentralized:** Water supply and/or sewer treatment systems that are self-contained systems on each individual lot, and are typically maintained by the lot owner.
- **Diameter at Breast Height (DBH):** A cross-sectional measurement of an existing tree measured 4.5 feet from the ground.
- **Heritage Tree:** A “Heritage” tree means a tree of twenty-four (24) inches or greater **Diameter at Breast Height (DBH)** for all tree species except for the following species where a Heritage tree means a tree with eight (8) inches or greater DBH: Persimmon, Redbud, Mountain Laurel, Condalia, Possum Haw, and Crabapple. (Trees excluded from the definition include Chinaberry, Chinese Tallow, Ligustrum, and Arizona Ash.)
- **Impervious Cover:** Surfaces that do not allow for the percolation of precipitation into the ground.
- **Median:** Relating to or constituting the middle value in a distribution.
- **Park Connectivity:** Hike, bike and/or paddling trail in the area developed, and/or development provides pedestrian connections to adjacent public resources such as other parks, trails, schools, libraries, etc.
- **Public Access to Lakes, Rivers, Streams:** Land for public access to bodies of water within or adjacent to the development.
- **Riparian Buffer Zones:** A natural vegetated corridor along streams and rivers used to temper the impacts of development on an aquatic ecosystem.
- **Riparian Habitat:** The transition zone between **aquatic** and **upland habitat**. These habitats are related to and influenced by surface or subsurface waters, especially the margins of streams, lakes, ponds, wetlands, seeps and ditches.
- **San Antonio River Basin Plan for Nature-Based Park Resources:** The River Authority’s adopted plan for southern Bexar County, Wilson, Karnes, and Goliad Counties.
- **Service Areas:** The San Antonio River Authority defines its service areas to be environmental services and water quality, flood control, water resources, park services, and utility services.
- **Significant Tree:** A “Significant” tree means a tree of six (6) inches or greater **Diameter at Breast Height (DBH)** for all tree species except for the following species where a Significant tree means a tree with two (2) inches or greater DBH: Persimmon, Redbud, Mountain Laurel, Condalia, Possum Haw, and Crabapple. (Trees excluded from the definition include Chinaberry, Chinese Tallow, Ligustrum, and Arizona Ash.)
- **Upland Habitat:** Terrestrial habitats up gradient from **riparian habitats**.
- **Wetland Habitat:** Habitat that is transitional between terrestrial and aquatic where the water table is usually at or near the land surface or land that is covered by shallow water. Wetlands

have one or more of the following characteristics: at least periodically, the land supports predominantly hydrophytic (water loving) plants; the substrate is predominantly un-drained hydric (wet) soils; and the substrate is nonsolid and is saturated with water or covered by shallow water at sometime during the yearly growing season.

Approved

Suzanne B. Scott, General Manager

Date

TIF APPLICATION CHECK LIST

Project Name	Date
Applicant Contact Person)	
Applicant Contact Address	Telephone
\$	
Application Fee Amount	Date Paid
Developer	
Developer Address	Telephone
Developer's Engineer	Civil
Engineer Address	Telephone

Respond to each of the following:

Y	N	N/A	
<input type="checkbox"/>	<input type="checkbox"/>		A. Water Quality/Environmental (Section Tabbed)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	What percentage of the proposed project is impervious cover?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	What is the median residential lot size?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	How is storm water managed?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Describe the Best Management Practices (BMP) that will be used to mitigate water quality problems both during construction and post development.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Who will maintain the BMPs?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will riparian buffer zones or conservation easements be incorporated into the project?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	What percentage of native significant and heritage trees will be preserved?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	What percentage of native significant and heritage trees will be replaced or added?
			How will the project impact the following habitat:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Upland Habitat
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Riparian Habitat
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wetland Habitat
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Aquatic Habitat
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Critical Habitat

Has an environmental site assessment been performed for the development site?
If so, please provide a copy of the report.

Y N N/A

B. Flood Control (Section Tabbed)
Drainage study for the proposed site submitted
Peak flows addressed
Erosion control addressed
Bexar Regional Watershed Management data addressed
Regional Watershed Modeling system data addressed

Y N N/A

C. Parks (Section Tabbed)
How does the project comply with the local county/city park, recreation and/or open space plan and the San Antonio River Basin Plan for Nature-based Park Resources?
To what extent is public access to lakes, rivers, streams provided?
To what extent does the project provide park connectivity to other parks, trails, schools, libraries, etc?

Y N N/A

D. Water/Wastewater Utilities and Water Resources (Section Tabbed)
Who is the water provider? Provide a letter of availability.
What is the source of water?
Who is the wastewater provider? Provide a letter of availability.
How is wastewater managed?
Describe water conservation measures within the development; include building structures and landscaping?

Y N N/A

E. Taxing Entity Support (Section Tabbed)
Provide letters of support from taxing entities

Y N N/A

F. Economic Impact (Section Tabbed)
Provide project and finance plans and a market analysis or economic impact study.

Y N N/A

G. Financial Impact and Benefit (Section Tabbed)
Demonstrate a positive financial impact and benefit to the River Authority.

Y N N/A

H. Impact on River Authority Interests (Section Tabbed)
Demonstrate a benefit to the River Authority's mission.

SARA SERVICE AREAS <i>(90 Possible Points)</i>			
Criteria Scored		Max. 100%	Total Points
a. Water Quality/Environment			(30 Max. Points)
<i>Water Quality/Environment</i>	Impervious Cover	100%	3.0
	Storm Water Management	100%	3.0
	Buffer Zones/Conservation Easements	100%	3.0
	Tree Preservation	100%	3.0
	Environmental Site Assessment	100%	3.0
<i>Habitat</i>	Upland Habitat	100%	3.0
	Riparian Habitat	100%	3.0
	Wetland Habitat	100%	3.0
	Aquatic Habitat	100%	3.0
	Critical Habitat	100%	3.0
b. Flood Control			(30 Max. Points)
<i>Storm Water</i>	Post and Pre Peak Q's	100%	15.0
	Channel Erosion	100%	9.0
	Bexar Regional Watershed Management (BRWM)	100%	3.0
	Regional Watershed Modeling System (RWMS)	100%	3.0
c. Parks			(10 Max. Points)
<i>Master Plan</i>	San Antonio River Basin Plan for Nature-Based Park Resources	100%	3.0
	County/City Park and Open Space Plan	100%	3.0
<i>Accessibility</i>	Connectivity	100%	2.0
	Public Access to Lakes, Rivers, Streams	100%	2.0
d. Water/Wastewater Utilities & Water Resources			(20 Max. Points)
<i>System</i>	Water	100%	5.0
	Wastewater	100%	5.0
<i>Conservation</i>	Structures	100%	5.0
	Landscape	100%	5.0
Subtotal:			90

PROJECT SUPPORT & BENEFITS <i>(10 Possible Points)</i>			
Criteria Scored		Max. 100%	Total Points
e. Taxing Entity Support			
<i>Support</i>	City:	Y or N	
	County:	Y or N	
	School District:	Y or N	
	Other:	Y or N	
f. Economic Benefit to Local Economy			(10 Max. Points)
<i>Benefit</i>	Local Economy	100%	10.0
g. Financial Impact to SARA Tax Revenue			
<i>Benefit</i>			
h. Benefit to SARA Project/Interest			
<i>Benefit</i>			
			Subtotal: 10

Total Score (SARA Service Areas + Project Support & Benefits): 100

Recommended Participation: 80%

Date: 01/21/2009

Open Meetings Act Review

Submitted By: Karen Bishop, Executive
Offices

Division: Executive Offices

Department:

Information

CAPTION

**PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION
REGARDING APPLICATION OF THE OPEN MEETINGS ACT TO
SARA'S BOARD COMMITTEE STRUCTURE**

Presenter

Karen Bishop and David Ross

Estimated Presentation Time: 15 minutes

Executive Office and Intergovernmental and Community Relations Department staff have noted an increase in Board member participation in meetings and functions in recent weeks.

Under the Open Meetings Act, SARA is required to post public notice of Board and/or Board committee meetings when a quorum of either the Board or a Board committee is present and SARA business is discussed.

Since SARA's Board utilizes four Board committees to assist "in the proper management and control of the affairs of the District," a quorum may be created by the presence of a quorum of a particular committee (four members) as well as by the presence of seven members of the full Board at SARA-called and other public meetings and functions. Attached for the Board's reference is a list of SARA Board Committee memberships as of May 2008.

During the Board meeting, staff will present a brief review of

- triggers to the Open Meetings Act,
- quorum calculation of SARA's Board committees,
- specific examples of when the Open Meetings Act may be triggered, and
- process options.

Legal Counsel will be available to answer any questions the Board may have related to historical interpretation and application of the Open Meetings Act.

Recommendation

Motion to be crafted, if necessary, after review and discussion.

Discussion

Vote

Attachments

Link: [Board Committee Memberships](#)

Board Committee Memberships as of May 2008
San Antonio River Authority Board of Directors

Officers	Executive	Operations	Fiscal	Communications
Chair	Tom Weaver	Trip Ruckman	Gaylon Oehlke	Roberto Rodríguez
Vice-chair	Adair Sutherland	Hector Morales	Al Kollodziej	Terry Baiamonte
Secretary	Sally Buchanan	Adair Sutherland	Terry Baiamonte	Názirite Rubén Pérez
Treasurer (Executive only)	Gaylon Oehlke			
	Al Kollodziej	Tom Weaver	Hector Morales	Sally Buchanan
	Roberto Rodríguez	Názirite Rubén Pérez	Trip Ruckman	John Flieller
		John Flieller	Jeff Neathery	Jeff Neathery

Date: 01/21/2009

Briefing on Construction Activity at N. San Jacinto St. & Alazan Creek

Submitted By: Claude Harding, Technical Services

Division: Technical Services

Department: Real Estate

Information

CAPTION

BRIEFING ON CONSTRUCTION ACTIVITY AT N. SAN JACINTO STREET AND ALAZAN CREEK

Presenter

Claude Harding

Estimated Presentation Time: 10 minutes

During the December 17, 2008, Board meeting, Mr. Rodriguez stated that he had recently been informed that a bridge on the corner of W. Martin and N. San Jacinto in San Antonio had been removed. He instructed staff to research and report on this matter at the January Board meeting.

During the briefing, staff will provide an update on information obtained since the December Board meeting.

Discussion

Date: 01/21/2009

State Legislative Update

Submitted By: Brian Mast,
Intergovernmental and
Comm Relations

Division: Intergovernmental and
Comm Relations

Department: Intergovernmental Relations

Information

CAPTION

**PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING THE
81st SESSION OF THE TEXAS LEGISLATURE**

Presenter

Brian Mast

Estimated Presentation Time: 15 minutes

Staff will provide an overview of pre-filed and filed bills of the 81st Texas Legislative Session, any developments associated with SARA's legislative agenda and other bills of interest.

Staff will propose two timeframes for the Board to choose from for visiting with SARA's legislative delegation in Austin:

- February 10-12
- March 3-5.

Recommendation

Motion to be crafted, if required, after Board discussion.

Discussion

Date: 01/21/2009**Bexar Met Update****Submitted By:** Lupe Moreno, Executive
Offices**Division:** Executive Offices**Submitted For:** Suzanne B. Scott**Department:**

Information**CAPTION****STATUS REPORT REGARDING THE ACTIVITIES OF THE JOINT COMMITTEE
ON OVERSIGHT OF BEXAR METROPOLITAN WATER DISTRICT****Presenter**

Suzanne B. Scott and Brian Mast

Estimated Presentation Time: 20 minutes

During this item, staff will provide an update on the Joint Committee on Oversight of Bexar Metropolitan Water District's final report to the 81st Texas Legislature that was submitted on Friday, January 9, 2009 and publicly released January 13, 2009. The update will include, but not be limited to, a review and discussion of the final recommendations by the Oversight Committee to the 81st Texas Legislature.

The final report from the Oversight Committee was signed by a majority of the Committee; however it is noted that neither Bexar County Commissioner Chico Rodriguez nor Executive Director of Infrastructure Services Department for Bexar County Joe Aceves signed the report as they resigned from the committee in advance of the submittal of the final report.

The final report recommends, amongst other things:

1. A conservator or conservator board be appointed by the governor

- Conservator is required to:

- develop a comprehensive rehabilitation plan

- report on the status of the conservatorship every 30 days

- account for the actions the conservator has taken to ensure district compliance with the plan

- provide an estimate of the progress the conservator has made toward completing the plan

- The Conservator is to oversee, ratify, supplement, amend, and if necessary, overrule the actions of the elected board of Bexar Met (Note: The report does not

recommend disbanding the Bexar Met Board or recommend the conservator have sole or full authority for the Bexar Metropolitan Water District.)

- Benchmark Dates:

- Not later than May 2010 complete an inventory and evaluation of the distinct water systems of Bexar Metropolitan Water District

- Not later than October 2010 sell those systems that will improve the Bexar Met's financial position, and can feasibly be served by another water utility

- Not later than November 2010 make a recommendation regarding the continuation of Bexar Met

2. The conservator be funded by Bexar Met Water District

3. Recommendations to the Bexar Met Water District

- The Bexar Met Board swiftly identify and submit to the Governor (after review and comment by the Oversight Committee, State Auditors Office, and TCEQ) a capable candidate with significant water utility experience to serve as a "self-appointed managing conservator."

- The Bexar Metropolitan Water District is to prepare and deliver to the oversight Committee, by January 9, 2009, a current financial assessment and 18-month financial forecast. The State Auditors Office will review and comment on Bexar Met's report.

The report, excluding Appendix IV referenced in the signature block of the Committee's cover letter, is attached for the Board's review. Staff will distribute Appendix IV during the Board meeting, as it was not available to staff at the time of the posting of this agenda.

Discussion

Attachments

Link: [Oversight Committee Report](#)

**JOINT COMMITTEE ON OVERSIGHT OF
BEXAR METROPOLITAN WATER DISTRICT**

**Report to the 81st Texas Legislature
January 9, 2009**

**Co-Chairmen:
State Senator Carlos I. Uresti
State Representative Frank J. Corte, Jr.**

SENATOR CARLOS I. URESTI, CO-CHAIR
SENATE DISTRICT 19

REPRESENTATIVE FRANK CORTE, JR., CO-CHAIR
HOUSE DISTRICT 122



COMMISSIONER SERGIO "CHICO" RODRIGUEZ
BEXAR COUNTY, PRECINCT 1

JOE A. ACEVES
DON DURDEN

BEXAR METROPOLITAN WATER DISTRICT OVERSIGHT COMMITTEE

January 9, 2009

The Honorable Kip Averitt
Chairman of the Senate Committee on Natural Resources
P.O. Box 12068
Capitol Station
Austin, Texas 78711

The Honorable Mike Hamilton
Chairman of the House Committee on Natural Resources
Room E2.310, Capitol Extension
Austin, TX 78701

Dear Gentlemen:

The Joint Committee on Oversight of Bexar Metropolitan Water District ("District") respectfully submits the following interim report. We hope that this document will assist the Texas legislature as it considers urgently needed reforms of the District during the 81st Regular Session.

Respectfully yours,

Handwritten signature of Carlos I. Uresti in black ink.

CARLOS I. URESTI

Handwritten signature of Frank J. Corte Jr. in black ink.

FRANK J. CORTE JR.

Handwritten signature of Don Durden in black ink.

DON DURDEN

* JOE ACEVES

* SERGIO "CHICO" RODRIGUEZ

* See Appendix IV

SENATOR CARLOS I. URESTI
P.O. Box 12068
AUSTIN, TEXAS 78711
512.463.0119
FAX: 512.463.1017

REPRESENTATIVE FRANK CORTE, JR.
P.O. Box 2910
AUSTIN, TEXAS 78768
512.463.0646
FAX: 512.463.0893

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APPENDIX 17

EXECUTIVE SUMMARY AND COMMITTEE RECOMMENDATION

In recent years, a number of Bexar Metropolitan Water District (District) customers have complained of inadequate service, unsafe water conditions, and excessive rates. Additionally, some employees of the District have been accused of unethical conduct, irresponsible and illegal business practices, and financial mismanagement. The District has suffered from a notoriously poor relationship between management and its elected board of directors. In the recent past, ongoing distrust and rancor between some members of the board and key management personnel hampered efforts to improve service for existing customers, as well as to provide service to new residents and businesses in the rapidly growing portions of the District's service area.

These concerns prompted legislative intervention during the 80th Regular Session of the Texas legislature (House Bill 1565 (Puente/Uresti)). HB 1565 created the Bexar Metropolitan Water District Oversight Committee to provide ongoing oversight of the District, and to recommend further reform measures for the consideration of the 81st legislature.

In its oversight role, the committee has received hours of invited and public testimony regarding the past and current status of the District. The committee has also received detailed reports from the State Auditor's Office (SAO) and the Texas Commission on Environmental Quality (TCEQ) regarding the District's management, operations, and finances. From this information, the oversight committee has concluded that serious mismanagement of the District's finances and operations imperils its ability to provide adequate, safe, and appropriately priced services to its ratepayers and the service areas within its boundaries. The District's poor performance, negative reputation, and managerial weaknesses contribute to a climate of uncertainty and distrust for current and prospective customers, as well as for those seeking to further economic growth and development in the areas it serves.

Despite changes in general management, a new board composition following elections, and some improvements in rate structures and technical performance, the District is still hampered by a board and management that lack sufficient training and experience to oversee badly needed and fundamental reforms. While the committee holds out hope that the District eventually will be capable of managing its affairs independently, the committee believes that the District currently lacks the necessary expertise to do so.

The Bexar Metropolitan Water District Oversight Committee has reviewed a variety of reform options submitted by its members, SAO, and TCEQ (*see pages 9-16 for a full listing of these options.*) A majority of the committee has reached agreement on the following:

- **Recommendation to the legislature:** The 81st Legislature should consider amending the Bexar Metropolitan Water District's enabling statute to provide for the appointment of a conservator, or a conservator board. The committee further recommends that such amending legislation be drafted in consultation with SAO, TCEQ, and the Office of the Governor. Bexar Metropolitan Water District reform legislation should incorporate certain elements and principles including, but not limited to, the following:

- No amendments to general law;
- Conservator or conservator board appointment by the governor;
- SAO authority to initiate conservatorship if its audit finds inadequate fiscal management in the District;
- TCEQ authority to initiate the conservatorship process if it finds that the District lacks adequate technical or managerial capacity;
- A conservator or conservator board required to (1) develop a comprehensive rehabilitation plan for the District, (2) regularly report the status of the conservatorship every thirty (30) days to the agency of jurisdiction, the oversight committee, the legislature and the governor, (3) account for the actions the conservator has taken to ensure district compliance with the plan, and (4) provide an estimate of the progress the conservator has made toward completion of its plan.
- The conservator or conservator board shall take the following actions:

Not later than May 2010, complete a process to inventory and evaluate the distinct water systems that make up Bexar Metropolitan Water District, and determine the following information for each system:

- a. The District's basis in or the intrinsic value of the infrastructure associated with that water system.
- b. The District's bonded debt and commercial paper reasonably associated with or allocable to the infrastructure in that water system.
- c. The adequacy of the source of the water supply (e.g., wells, etc) located in each water system's service area to supply the current and projected demands generated in that service area.
- d. The adequacy of the water storage facilities located in each water system's service area to supply the current and projected demands generated in that service area.
- e. The adequacy of the distribution system located in each water system's service area to supply the current and projected demands generated in that service area.

Not later than October 2010, sell those systems that:

- a. If sold at a fair price, will improve the District's financial position, and
- b. Can be feasibly served by another water utility.

Oversee, ratify, supplement, amend, and if necessary, over-rule the actions of the elected board of the Bexar Metropolitan Water District.

Not later than November 2010, make a recommendation to the Bexar Met Oversight Committee regarding the continuation of the Bexar Metropolitan Water District.

- Continuation of the conservator or conservator board until the agency of jurisdiction certifies the District's adequacy, or the governor issues a proclamation to that effect; and
- Funding of the conservatorship by the District itself.

Recommendations to the District: The committee recommends that the Bexar Metropolitan Water District:

- Take swift action to identify and submit to the Governor (after review and comment by the committee, SAO, and TCEQ) a capable candidate with significant water utility experience to serve as a "self-appointed managing conservator." This individual will begin his or her work as soon as possible and for as long as needed, while legislation is being developed during the Session; and
- Prepare and deliver to the committee members, by Jan. 9, 2009, a current financial assessment and 18-month financial forecast. After the district submits this forecast report, the State Auditor's Office will provide a review and comment on the district's report

INTRODUCTION

Texas water districts play a crucial role in protecting water resources and the public health, enabling economic growth, and providing a high quality of life for the residents who live within their boundaries. As legislatively created bodies, water districts remain accountable to the State for the proper performance of their powers and duties. The performance, integrity, and viability of a local water district affect much more than the local communities in question; indeed, poorly performing districts can call into question the entire public policy framework that has been designed to protect and provide access to a precious and essential natural resource for all Texans.

In recent years, the customers of the Bexar Metropolitan Water District have complained of inadequate service, unsafe water conditions, and excessive rates. Additionally, certain employees of the District have been accused of unethical conduct, irresponsible and illegal business practices, and financial mismanagement. The District has suffered from a poor relationship between management and the elected board of directors. In the recent past, the ongoing distrust and rancor between some members of the board and key management personnel (and between customers and the public) significantly complicated efforts to improve service for existing customers, as well as provide service to new residents and businesses in the rapidly growing portions of the District's service area.

These ongoing concerns prompted legislative intervention in the 80th Regular Session of the Texas legislature (House Bill 1565 (Puente/Uresti)). HB 1565 created the Bexar Metropolitan Water District Oversight Committee to provide oversight of the District, and to recommend further strict reform measures to the legislature for its consideration. The bill also required the District to prepare various reports detailing its operations to the Texas Commission on Environmental Quality (TCEQ) and to this oversight committee. HB 1565 further required the District, no later than 18 months after the applicable section of the bill became effective, to adopt a uniform rate structure with rates that are equal to or lower than the rates of other large retail water providers in the region, but allowing the district to adopt higher rates if necessary to meet debt service obligations or debt coverage requirements.

House Bill 1565 included other provisions intended to scrutinize past and current financial and management practices and policies undertaken by the District, including a financial and managerial audit of the district to be completed by the State Auditor's Office (SAO). The bill required the TCEQ, not later than the 30th day after the effective date of the bill, to begin an on-site evaluation of the district. TCEQ was also authorized to issue orders compelling any appropriate and necessary action by the district upon completion of the evaluation. HB 1565 further provided that if TCEQ finds that the district is incapable of operating as required, the agency was permitted to recommend the option of initiating the process of receivership appointment to operate the utility under Section 13.142, Water Code.

The following report provides a brief background on the District, the audit performed by the State Auditor's Office (SAO), the reports completed by the Texas Commission on Environmental Quality (TCEQ), and the committee's policy recommendations for the consideration of the 81st legislature.

BEXAR METROPOLITAN WATER DISTRICT BACKGROUND

The District was formed by an Act of the Texas Legislature in 1945 to provide water services to historically underserved areas of the San Antonio metropolitan area. The District has grown from an initial subscriber base of 4,765 residential connections in 1945 to more than 87,000 residential and commercial connections. More than 260,000 people in Bexar, Atascosa, Comal, and Medina counties depend on the District for their water needs.

The District is governed by a board comprised of seven members, all of whom are elected locally. No county or municipal officials are represented in the District's governance structure. As of this writing, the board's members are:

Guadalupe Lopez - President - District 1
Andy Carr - Director - District 2
Blanche Atkinson - Secretary - District 3
John Shackelford - Treasurer - District 4
Vanessa Ybarra - Director - District 5
Lesley Wenger - Director - District 6
Debra Eaton - Vice President - District 7

The District's day-to-day management is the responsibility of a general manager hired by the Board.

OVERSIGHT COMMITTEE COMPOSITION AND PROCEEDINGS

As required by HB 1565, this five-member oversight committee was formed to include State Senator Carlos Uresti and then Representative Robert Puente (as sponsor and author of HB 1565, respectively) as co-chairmen. Additionally, Bexar County Commissioner Sergio “Chico” Rodriguez (resigned from committee, effective 1/05/09), and two public members, Joe Aceves (resigned from committee, effective 1/7/09, and Don Durden, were appointed by the Governor. Following the resignation of Representative Puente in February, 2008, House Speaker Tom Craddick appointed Representative Frank J. Corte, Jr. to replace him as co-chairman of the committee, in accordance with the provisions of HB 1565.

The committee conducted the following public hearings to receive public testimony regarding the management of the district and the services and rates its subscribers encountered. The dates of these hearings and meetings are listed below:

October 2, 2007, 1:30 p.m.
San Antonio City Hall, City Council Chambers

November 11, 2007, 9 a.m.
San Antonio City Hall, City Council Chambers

February 27, 2008, 9 a.m.
San Antonio City Hall, City Council Chambers

April 21, 2008, 5 p.m.
Concordia Lutheran Church Gym, San Antonio

October 24, 2008, 9 a.m.
San Antonio City Hall, City Council Chambers

November 11, 2008, 12 p.m.
Commissioner’s Court Executive Conference Room, Bexar County Courthouse, San Antonio

December 17, 2008, 10 a.m.
Bexar County Courthouse, Commissioners Court Executive Conference Room, San Antonio

Note: For access to these hearing postings and the associated minutes and witness lists, please see: <http://www.senate.state.tx.us/75r/senate/commit/c875/c875.htm> and click on “Schedule and Bills Referred to Committee”.

REPORTS AND TESTIMONY PRESENTED TO THE COMMITTEE

The committee received public and invited testimony, as well as reports and audits from the TCEQ and SAO. Based on the information received, the committee concludes that customers and the District as a whole have suffered from serious mismanagement of the District's finances, assets, operations, and personnel, and that extensive, external oversight and reform of the District is required. The committee cites excerpts from SAO and TCEQ contractor reports in support of this conclusion. The full text of these reports is available electronically through hyperlinks in the appendix section of this report.

The SAO audit report stated:

The Bexar Metropolitan Water District's (District) Board and its management did not establish adequate management and financial controls to safeguard the District's assets and ensure that the District's expenditures were reasonable and necessary. The District does not keep an official, Board-approved budget and overspent its fiscal year 2007 operating budget by \$8.8 million without amending the budget.

Although the District's procurement policies comply with state law, the District did not consistently implement these policies in fiscal years 2007 and 2008. The District also did not adequately track and monitor its contracts, and it was unable to provide auditors with the total number and value of all current contracts. The District lacked adequate controls over its expenditures, and it made a number of unnecessary or questionable expenditures in fiscal years 2007 and 2008, including \$2.4 million in legal service payments and settlement claims.

Although the District's external auditor identified significant control weaknesses in the District's procurement, inventory, and payroll functions since at least fiscal year 2006, the District did not develop a formal plan to address these weaknesses. The District's Board should establish an audit committee and an internal audit function. This should include hiring an internal auditor who would report directly to the audit committee and monitor the correction of weaknesses identified to ensure the financial integrity of the District. (State Auditor's Office, Bexar Metropolitan Water District Audit Report, 2008)

The TCEQ report stated the following:

BexarMet has a poorly defined management structure. Departmental reporting lines are frequently changing and poorly communicated to and not well understood by employees. With few organizational performance measures there is little accountability for managers and staff. BexarMet has neither a long-range strategic plan nor an asset management plan and lacks stated goals, objectives and performance measures. Hence, BexarMet operates almost entirely in a reactive mode; day-to-day issues are elevated to crisis status instead of being addressed in a systematic, prioritized manner...

The failure of the board of directors of BexarMet to have a common understanding of their individual and collective roles and responsibilities has created a climate of friction and distrust which has led to an internal atmosphere of low morale and an external impression that BexarMet is, at best, poorly managed and, at worst, corrupt. Staff presentations to the board often do not adequately and completely articulate the complete range of viable alternatives and the consequences of “no action.” This combination of lack of understanding of responsibilities, climate of distrust, and poorly presented information leads to ineffective or inappropriate decisions and decreases the public confidence in and public accountability of the board of directors...

BexarMet’s financial policies and practices lack sufficient internal controls in the areas of budgeting, purchasing and contract management. The budget is not used as an internal control mechanism and individual line items are frequently exceeded. Departments are not held accountable for budget overruns. BexarMet’s debt coverage ratio (a measure of capacity to cover debt service from current operations) is much lower than comparable entities examined by the project team. This may affect the District’s ability to meet future debt payments. The District’s debt to equity ratio (a measure of liquidity) is much higher than all four of the entities compared. This may affect the District’s ability to issue additional bonds and maintain its financial integrity and bond ratings...

BexarMet implemented a new rate structure in 2007 based on the recommendation of its consultant, but failed to institute practices that could minimize the risk to revenue stability and BexarMet’s bond rating. BexarMet has begun the process of increasing its reserve funds including a rate stabilization fund that would benefit its cash flow during periods of low usage or other variables in revenue. BexarMet’s impact fees have been and continue to be insufficient and not representative of cost recovery. (TCEQ, Final Report on Bexar Metropolitan Water District, 2008)

Fundamental breakdowns in the management and operation of the District have led not only to excessive rates and inadequate, potentially unsafe service quality for customers in the service area, they have also created suspicion and a lack of public trust that impairs the District’s ability to initiate and sustain urgently needed reforms from within. Furthermore, recent high profile criminal indictments of the District’s former general manager and their public relations officer have tainted the District’s reputation and further eroded public confidence to such an extent that the committee believes that the District is no longer capable of undertaking and completing urgently needed reform measures without outside expertise and oversight.

RECOMMENDATIONS

The SAO, TCEQ, and oversight committee members provided the following reform recommendations for the consideration of the committee and the 81st legislature in 2009.

State Auditor's Office Recommendations

The State Auditor's Office (SAO) conducted an audit of the District and released its report in October, 2008. The SAO recommendations follow.

The Board should:

- Amend the budget as required by the District's policy so that it reflects the District's approved spending plan.
- Evaluate the general manager's performance against pre-established objectives to ensure that the general manager is meeting performance expectations.
- Ensure that future general manager contracts base compensation on the general manager's performance.
- Establish internal controls to ensure that purchases are reasonable and necessary for the operation and maintenance of the District.
- Establish an audit committee and an internal audit function, which includes hiring an internal auditor that reports directly to the audit committee.

The District should:

- Implement its contracting policies to ensure it properly solicits goods and services, conducts evaluations to select vendors, and communicates with vendors that were not awarded contracts.
- Clarify its contracting policy regarding professional services and ensure it adheres to state requirements.
- Ensure that a price is established before executing contracts.
- Develop a central database to track and monitor its contracts.
- Monitor its contracts to ensure that it approves and makes payments according to contract terms.
- Ensure that all expenditures are reasonable and necessary for the operation and maintenance of the District.

TCEQ Recommendations

The TCEQ contracted the evaluation of the District. The evaluations were divided into two contracts, one for management items and one for the technical items. The following are a summary of the recommendations of TCEQ for the District.

Issue 1 - Management Structure

- The District should develop a clear and comprehensive organizational structure and communicate it to the employees, board and management.
- The District should develop a comprehensive strategic plan and an asset management plan.
- The District should develop goals, objectives and performance measures.
- The District should conduct thorough searches for qualified candidates for all management positions.
- The District should continue making improvements in customer service to address water service and quality issues.
- The District should develop a process to examine alternatives for capital improvement projects.
- The District should implement appropriate programs to minimize overall risk including safety, emergency response, asset management and source water protection programs.

Issue 2 - Decision Making

- The District should follow standard administrative policies regarding meetings and decision making.
- The District should develop and implement, with the Board's agreement, documents and training that clearly defines the role of the board, management and staff of the District. Training should also include water system operations, ethics, and financial management.
- The District should revise procedures for presenting information and project alternatives to the board.
- The District should revise the methods of recording and providing access to the board meeting minutes.

Issue 3 - Regulatory Compliance

- The District should be proactive in quickly addressing potential health based violations and assure adequate disinfection of water lines after construction and maintenance.
- The District should address all outstanding compliance issues.
- The District should develop and implement a work order system to track operations and maintenance.
- The District should develop and implement a preventative maintenance program as part of its asset management plan.

Issue 4 - Financial Policies and Debt Comparison

- The District should use the annual operating budget as a tool for monitoring and controlling expenses.
- To implement a firm control on expenses, the District should centralize purchasing and procurement, implement risk management, consider staff and consultant recommendations and allow a higher limit on expenditures requiring board approval.
- The District should reduce the debt to equity ratio by allowing continued use of commercial paper and establish a deadline to replenish its cash reserve account.
- The District should address the organizational structure of its accounting department, update standard operating procedures and accounting software.

Issue 5 - Rate Setting

- The District should develop and implement strategies to minimize risks to revenue stability and bond rating in future rate adjustments.
- The process to evaluate and revise impact fees should be completed.
- The District should shift rate setting goals to a cost based rate so they are equitable and cost based also.

Issue 6 - Capital Improvement Budget

- The District should reduce the debt ratio/debt burden on the system.
- The District should develop and implement an asset management plan that considers risks and alternatives.
- The District should develop and implement a work order system that allows for proper tracking of operations and maintenance.

Issue 7 - Water Service Interruptions

- The District should develop, implement and maintain an asset management plan that considers risks and alternatives.
- The District should complete and maintain an infrastructure inventory and comprehensive system maps.
- The District should develop and implement a work order system that allows the District to properly track operations and maintenance.
- The District should make improvements including distribution, storage, pump stations and interconnections.
- The District should develop and implement a systematic and accountable distribution system flushing program.
- The District should educate customers and staff on water conservation regulations and enforce those regulations when necessary.

Issue 8 - Water Quality

- The District should be proactive in quickly addressing potential health based violations and assure adequate disinfection of water lines after construction and maintenance.
- The District should address all outstanding compliance issues.

- Develop and implement a systematic distribution system flushing program.
- The District should complete and maintain an infrastructure inventory and a comprehensive map system.
- The District should develop, implement and maintain an asset management plan that considers risks and alternatives.
- The District should develop and implement a preventative maintenance program as part of its asset management plan.
- The District should develop and implement a work order system that allows the District to properly track operations and maintenance.
- The District should make improvements including distribution, storage, pump stations and interconnections.

Issue 9 - Unaccounted for Water

- The District should develop and implement a method of tracking water use and loss.
- The District should develop and implement a comprehensive leak detection and repair program.
- The District should develop and implement a work order system to track operations and maintenance.
- The District should make systems improvements and interconnections.
- The District should educate staff and the public about existing water conservation regulations and enforce those regulations.
- The District should develop and implement a systematic distribution system flushing program.

Committee Member Options

Individual oversight committee members provided the following reform options for consideration by the legislature:

OPTION 1. CONSERVATORSHIP AS A STATE AGENCY UNDER CH. 2104, GOVERNMENT CODE

- Amend Bexar Met's enabling legislation to apply conservatorship language found in Chapter 2104, Government Code. Ch. 2104 applies when a state agency is fiscally mismanaged. By amending the enabling statute, other similar entities are not affected. 1 requires providing that Bexar Met is considered a state agency for these purposes only.
- Ch. 2104 provides for the appointment of a conservator for a limited time by the governor, with the advice and consent of the senate.
- Ch. 2104 also provides that the State Auditor's Office (SAO) can initiate this process if an SAO audit finds gross fiscal mismanagement in the audited entity.
- An appointed conservator must (1) report regularly to the governor on the status of the conservatorship, (2) account for the steps taken to ensure that the agency complies with state fiscal management policies, and (3) provide an estimate of the progress the conservator has made toward that goal.

OPTION 2. RECEIVERSHIP UNDER CH. 13, WATER CODE AND CH. 291, TEXAS ADMINISTRATIVE CODE

- Amend Bexar Met's enabling legislation to make receivership provisions found in Chapter 13, Water Code, and Chapter 291, Texas Administrative Code (TAC), applicable to Bexar Met.
- Option 2 requires providing that Bexar Met is a "water or sewer utility" for these purposes.
- Under a receivership arising from Sec. 13.412, Water Code, a temporary manager is appointed by the executive director of the commission (TCEQ) for a period of one year.

OPTION 3. RECEIVERSHIP, ENFORCEMENT AND SUPERVISION UNDER CH. 36, WATER CODE (MORE STRINGENT THAN OPTION 2)

- Amend Bexar Met's enabling legislation to apply Ch. 36, Water Code receivership provisions. By amending Bexar Met's enabling statute, other similar entities are not affected.
- Option 3 requires providing that Bexar Met would be considered a "district" as defined under Ch. 36, Water Code.
- CH. 36 generally pertains to groundwater conservation districts and grants TCEQ broad enforcement authority, up to and including authority to: Dissolve a district's board and call for an election of a new board; initiate receivership process; and recommend to the legislature any actions TCEQ deems necessary to accomplish comprehensive management in the district.
- NOTE: Sec. 36.001 defines a district in this chapter as any district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution that has the authority to regulate the spacing of water wells, the production from water wells, or both. Bex Met is created under the latter and does have authority to regulate its wellfields.

OPTION 4. CH. 49, WATER CODE AUDITING AND SUPERVISION

- Amend Bexar Met's enabling legislation to apply TCEQ's permissive audit and enforcement language in Ch. 49, Water Code mandatory only where Bexar Met is concerned.
- Also amend Bexar Met's enabling legislation to make other permissive auditing, supervision, and enforcement provisions in Ch. 49 mandatory for Bexar Met only.
- Option 2 would require that Bexar Met be considered a district as defined in Sec. 49.001, Chapter 49, Water Code.
- NOTE: Ch. 49 generally refers to river authorities.
- Ch. 49 provides permissive auditing power to the ED of the TCEQ in Subchapter G. for "districts." Districts are defined in Sec. 49.001, Chapter 49, Water Code as: "...any district or authority created by authority of either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of how created. The term "district" shall not include any navigation district or port authority created under general or special law, any conservation and reclamation district created pursuant to Chapter 62, Acts of the 52nd Legislature, 1951 (Article 8280-141, Vernon's Texas Civil Statutes), or any conservation and reclamation district governed by Chapter 36 unless a special law

creating the district or amending the law creating the district states that this chapter applies to that district.

OPTION 5. CONSERVATOR BOARD. Recommend to the 81st Legislature that it create a conservator board and request that the court authorize or approve a process for the appointment of members to that conservator board. The Legislature would charge the conservator board with the following:

1. Not later than May 2010, complete a process to inventory and evaluate the 21 distinct water systems that make up Bexar Metropolitan Water District, and determine the following information for each system:
 - a. The District's basis in or the intrinsic value of the infrastructure associated with that water system.
 - b. The District's bonded debt and commercial paper reasonably associated with or allocable to the infrastructure in that water system.
 - c. The adequacy of the source of the water supply (e.g., wells, etc) located in each water system's service area to supply the current and projected demands generated in that service area.
 - d. The adequacy of the water storage facilities located in each water system's service area to supply the current and projected demands generated in that service area.
 - e. The adequacy of the distribution system located in each water system's service area to supply the current and projected demands generated in that service area.
 - f. Any other information that will facilitate a prudent and business-like assessment of the feasibility of selling that water system to a qualified purchaser.
2. Not later than October 2010, sell those systems that
 - a. If sold at a fair price, will improve the District's financial position, and
 - b. Can be feasibly served by another water utility
3. Approve the employment of a new General Manager. (Bexar Met should immediately suspend or modify its current efforts to employ a general manager to the extent that prospective applicants will be advised that the Conservator Board will interview and eventually employ the new General Manager.) The conservator board may employ an interim financial conservator if a General Manager is not or cannot be employed soon enough to complete Items 1 and 2 above on the stipulated schedule.
4. Oversee, ratify, supplement, amend, and if necessary, over-rule the actions of the elected board of the Bexar Metropolitan Water District
5. Not later than May 2009, and upon failure of the elected board of Bexar Met to do so, adopt a Water System Improvement Plan, generally as recommended by the New Mexico Environmental Finance Center in their report, "BexarMet Management and Performance Review – Final Report, August 2008," as amended to provide an implementation schedule.

6. Not later than November 2010, make a final recommendation to the Bexar Met Oversight Committee regarding the continuation of Bexar Met.

7. The conservator board shall be seated not later than May 31, 2009 and shall be comprised of the following:

- The Chairman shall be from or appointed by the Bexar County Commissioners Court
- One member from or appointed by the Atascosa County Commissioners Court
- One member from or appointed by the City of Hill Country Village City Council
- One member from or appointed by the City of Castle Hills City Council
- One member from or appointed by the City of San Antonio City Council

Should any entity refuse or otherwise fail to designate or appoint a member to the Conservator Board, the Court shall appoint an individual to fill that role.

The Conservator Board may not include any person then serving on the Board of Directors of the San Antonio Water System, Bexar Metropolitan Water District, or any entity having a financial interest in the possible sale or purchase of any Bexar Met water system.

OPTION 6. CONSERVATOR BOARD/SARA SUPPORT. Establish a Conservator Board to provide overall elected representation of the majority of BexarMet customers. Use SARA staff support, as well as Bexar County and BexarMet staff. The conservator board would consist of the following members:

- Five San Antonio River Authority (SARA) Board Members from Bexar County
- Two members from Bexar County Commissioner's Court representing Precincts 1 and 3 - BexarMet representatives

SARA Staff Support:

- SARA has expressed a willingness to support BexarMet
- SARA would not acquire any BexarMet assets
- SARA enabling legislation is similar to BexarMet's
- SARA administrative processes and procedures are similar to those BexaMet should follow
- SARA has well established and proven administrative processes and procedures
- SARA has the fundamental organization procedures in place
- SARA has planning strength
- SARA has been involved in water resources planning
- SARA maintains and operates a small utility
- SARA has financial and engineering support staff

Bexar County Support

- Bexar County Infrastructure Services Executive Director would provide technical and oversight support
- Infrastructure Services Executive Director would lead negotiations of the sale of any assets determined needed for disposition to improve financial condition of district

BexarMet Staff Role:

- BexarMet chief engineer would run day-to-day operations
- BexarMet chief engineer would report to the Conservator Board not BexarMet Board
- BexarMet chief engineer would work with SARA and Bexar County
- BexarMet chief engineer would guide implementation of needed improvements
- BexarMet chief engineer would continue improvements already started

Outside Consultants

- Should be kept to a minimum
- May be needed for financial analysis
- Currently working on project design and impact fee structures.

Challenges to Option 6 include:

- Achieving equal level of water service, both quality and quantity, equal to the rates of San Antonio Water System (SAWS)
- BexarMet debt to equity ratio of 70% of its assets, compared to SAWS of 50%
- Improving debt to equity ratio will be difficult
- Water rates must be higher to service that level of debt
- BexarMet rates are higher than those of SAWS and substantially higher for higher use customers, both residential and commercial
- It may take longer than customer expectations to achieve improved level of service
- Costs on operational improvements are unknown
- In repeat of drought conditions, SAWS assistance will be crucial

APPENDIX

The following materials are available via the Internet by clicking on the hyperlinks below:

- I. SAO Audit Report (<http://www.sao.state.tx.us/reports/main/09-010.html>)
- II. TCEQ Reports (<http://www.senate.state.tx.us/75r/senate/commit/c875/c875.html>)
- III. House Bill 1565, creating the Bexar Metropolitan Oversight Committee (<http://www.capitol.state.tx.us>)
- IV. Resignation Letters (<http://www.senate.state.tx.us/75r/senate/commit/c875/c875.html>)

Date: 01/21/2009

Briefing on Water Resources & Development Activities

Submitted By: Lupe Moreno, Executive
Offices

Division: Technical Services

Submitted For: Steve Raabe

Department:

Information

CAPTION

BRIEFING ON WATER RESOURCES AND DEVELOPMENT ACTIVITIES

Presenter

Steve Raabe

Estimated Presentation Time: 5 minutes

Discussion

Date: 01/21/2009

SARIP Update

Submitted By: Lupe Moreno, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

STATUS REPORT ON THE SAN ANTONIO RIVER IMPROVEMENTS PROJECT

Presenter

Suzanne B. Scott

Estimated Presentation Time: 10 minutes

Discussion

Date: 01/21/2009

General Manager's Report

Submitted By: Lupe Moreno, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:

- UPCOMING EVENTS CALENDAR,
- FUTURE BOARD AND/OR COMMITTEE MEETINGS:
 - DISCUSSION OF SPECIAL BOARD MEETING AGENDA FOR JANUARY 26, 2009,
- MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS.

Presenter

Suzanne B. Scott

Estimated Presentation Time: 10 minutes

Discussion

Date: 01/21/2009

Items for Future Consideration

Submitted By: Lupe Moreno, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

ITEMS FOR FUTURE CONSIDERATION

Presenter

Suzanne Scott

Estimated Presentation Time: 10 minutes

Discussion

Regular Board of Directors

Items for Future Consideration 20.

Date: 01/21/2009

Next Meeting Date

Submitted By: Lupe Moreno, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

NEXT MEETING DATE

Presenter

Suzanne B. Scott

Estimated Presentation Time: 5 minutes

Unless otherwise decided by the Board, the next Regular Board meeting will be held on February 18, 2009 at 2 p.m.

Discussion
