

**HIDALGO COUNTY WATER IMP. DISTRICT NO. 3**

**1325 Pecan Blvd  
McAllen, Texas 78501  
(956) 686-8303  
Fax (956) 686-1022**

Othal Brand Jr.-President  
Chris Burns-Vice President  
Mark Freeland, Secretary

W.D. Moschel-Member  
Lance Neuhaus-Member

**BOARD OF DIRECTORS' MEETING**

\*\*\*\*\* AGENDA \*\*\*\*\*

**TAKE NOTICE THAT A REGULAR BOARD MEETING OF THE BOARD OF DIRECTORS OF HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. 3 WILL BE HELD AT THE DISTRICT OFFICE AT 1325 PECAN BLVD, MCALLEN, TEXAS 78501, AT 12:00 P.M. on WEDNESDAY, MARCH 15, 2023. The agenda is posted in accordance with the accessibility requirements of Section 551.043 of the Texas Government Code. IF DURING THE COURSE OF THE MEETING, THE BOARD OF DIRECTORS SHOULD DETERMINE THAT A CLOSED SESSION OR MEETING IS AUTHORIZED BY SECTIONS 551.071, AND 551.072 OF THE GOVERNMENT CODE, VERNON'S TEXAS CODE, ANNOTATED, NOTICE OF CLOSED OR EXECUTIVE SESSION WILL BE GIVEN AFTER THE COMMENCEMENT OF THE MEETING COVERED BY THE NOTICE PURSUANT TO SECTION 551.101 OF THE TEXAS GOVERNMENT CODE.**

**Call to Order:**

- Pledge of Allegiance
- Prayer

- 1) Consideration and possible action regarding the approval of the Minutes for the Special Board Meeting on February 15, 2023
- 2) Consideration and possible action regarding the financial reports and the approval of accounts payable checks.
- 3) General Report by President.
- 4) Engineering Report
- 5) Consideration and possible action regarding to amend the Employees Manual Policy in reference to sabbatical on the District Policy.
- 6) Consideration and possible action regarding increase compensation to District Employees.
- 7) Consideration and possible action request from MDC Data Centers to replace an existing fiber optic line for the City of McAllen in an existing conduit in the District's 200 foot Main Canal.
- 8) Consideration and possible action a license application by Vexus Fiber to install a fiber optic cable in the District's 200 foot Main Canal.
- 9) Consideration and possible action regarding approval of the District Phase 1 Subdivision and the Master Plan for the District Sub., re-subdivision of Lot 11 Section 13 Hidalgo Canal Co. Sub., McAllen, Texas.
- 10) Consideration and possible action to sell surplus property describe as 3.68 acre, 3.69 acre, and 4.27 acre tracts out of the District's Main Canal in City of Hidalgo, Hidalgo County, Texas.
- 11) Consideration and possible action to approve the sale of 0.35 acres of Lateral J out of Lot 7, Section 2, Hidalgo Canal Company Subdivision, Hidalgo County, Texas.
- 12) Consideration and possible action to approve the Uvalde Villas Subdivision, a re-subdivision of the W1/2 of Lots 8, 10, 12, 14, 16 Hollenbeck Subdivision and a tract out of Lot 15, SE1/4 of Section 7, Hidalgo Canal Subdivision, City of McAllen, Hidalgo County, Texas.
- 13) Executive Session pursuant to Sections 551.071 and 551.072, Texas Government Code, to consult with Attorney and to deliberate regarding (i) pending eminent domain proceeding in Cause No. CCD-0517-D styled "Hidalgo County Water Improvement District No. 3 vs. Hidalgo County Irrigation District No. 1" or the acquisition of an easement interest in real property from Hidalgo County Irrigation District No. 1, and other matters relating to extension of underground irrigation pipeline, (ii) petition for review in Supreme Court of Texas relating to order granting plea jurisdiction in Cause No. CCD-0517-D, (iii) Cause No. C-0937-20-A styled "Hidalgo County Irrigation District No. 1 vs. City of McAllen vs. Hidalgo County Water Improvement District No. 3", (iv) McAllen Public Utility petition filed with the Public Utility Commission of Texas appealing wholesale water rates of Hidalgo County Water Improvement District No. 3, (v) Cause No.C-1601-22-1 styled "McAllen Public Utility vs. Othal Brand, Jr. in his official capacity, *et al*", (vi) matters relating to compliance with payment obligations pursuant to *Permanent Water Supply and Delivery Contract*, as amended between Hidalgo County Water Improvement District No. 3 and City of McAllen, and (vii) matters relating to Senate Bills 1056 and 1830.
- 14) Consideration and possible authorization of action with respect to matters discussed in Executive Session.
- 15) Adjourn

**Hidalgo County Water Improvement District Number Three  
Board of Directors' Meeting  
March 15, 2023**

**Call to Order:**

President Othal Brand, Jr. called the regular meeting to order at the District's Office located at 1325 Pecan Blvd, McAllen, Texas 78501. The meeting began by reciting the pledge of allegiance. Vice-President Chris Burns gave the prayer invocation.

**Board Members Present:**

Othal Brand, Jr.	President
Chris Burns	Vice-President
W.D. Moschel	Director-Via Conference Call
Mark Freeland	Secretary
Lance Neuhaus	Director

**Absent:**

None

**Others Attending:**

Jim Hall	Ewing & Lara
Frank Ferris	Ferris & Flinn & Medina
Macarena Ortiz	Attorney
Randy Whittington	Attorney
Raquel Espinoza	
Jose R. De Leon	
Jorge Salinas	McAllen Data Center
Lisa Helle	Realtor
Steve Taylor	RGV Guardian

**Consideration and possible action regarding the approval of the Minutes for the Regular Board Meeting on February 15, 2023.**

A Motion was made by Chris Burns and seconded by Lance Neuhaus to approve the Minutes for the regular Board Meeting on February 15, 2023.

Motion Carried.

**Consideration and possible action regarding the approval of the financial reports and Account payable checks.**

A Motion was made by Lance Neuhaus and seconded by Chris Burns to approve the financial reports and the account payable checks.

Motion Carried.

**General Report by President**

No General Report by President was presented.

*Wednesday, March 15, 2023 at 12:00 p.m.*

## **Engineering Report**

Engineer Frank Ferris reported that the District began the month with a usable balance of 4,234 acre feet, before a possible allocation for the February period. The updated usable balance amounts to 50 percent of the annual water right and 35 percent of the storage balance. There was no allocation for January. The U.S. share is down to 29.7 percent as of March 4, 2023. The District has diverted 1,400 acre feet so far this year.

Engineer Frank Ferris completed the Water Conservation Plan Annual report for 2022 as required by the State.

## **Main Canal Piping at the McAllen Airport**

Engineer Frank Ferris reported the completion of the main canal piping at the McAllen Airport except for some additional rip rap required at the headwall. The Second Lift is back in service and functioning properly.

## **Consideration and possible action regarding to amend the Employee Manual Policy in reference to sabbatical on the District Policy.**

CLOSED SESSION: Pursuant to Section 551.071 and Section 551.072 of the Texas Government Code for Consultation with the Attorney.

The Board went into closed session from 1:53 p.m. to 3:45 p.m.

### **OPEN SESSION:**

A Motion was made by Lance Neuhaus and seconded by Chris Burns to amend the Employee Manual Policy in reference to sabbatical with same employee benefits available to the employees with corrections effective March 15, 2023. The changes are as follows:

HCWID #3 provides extended long term leave of absence without pay to any employee who the District can no longer employ due to budgetary restrictions or the unexpected unavailability of the current or similar position held by the employee. The duration of the extended long term leave will vary depending on the time it takes for the restrictions that imposed the leave to be removed or lifted upon the District and Employee. The District cannot guarantee the availability of future work or the restoration of the same job position the employee held before the employee's leave. However, if the restrictions are removed and a job becomes available, the District will extend an offer for the employee to return to work holding the same position, or an equivalent position for which the employee is qualified.

Upon the employee's return, the District will guarantee the same pay rate or better and the same Employee benefits available to the employee before the extended long term leave, provided those benefits continue to be available to all employees at the time of the employee's reinstatement.

Employees will be paid for all accrued annual leave time before taking an extended long term leave.

Subject to the terms, conditions, and limitations of the applicable plans, HCWID No. 3 will not continue to provide health insurance benefits, except for the continuation of health coverage under COBRA pursuant to State law.

Benefits accruals, such as annual leave, sick leave, and holiday benefits, will be suspended during the period of leave and will resume upon return to active employment. So that an employee's return to work can be properly scheduled, an employee on an extended long term leave will be provided 4 weeks advance notice of the date the employee is to return to work.

If an employee fails to return to work on the agreed upon return date, HCWID No. 3 will assume that the employee has rejected the employment offer to return to work.

Motion Carried.

**Consideration and possible action regarding increase compensation to District Employees.**

CLOSED SESSION: Pursuant to Section 551.071 and Section 551.072 of the Texas Government Code for Consultation with the Attorney.

The Board went into closed session from 1:53 p.m. to 3:45 p.m.

OPEN SESSION:

A Motion was made by Mark Freeland and seconded by Lance Neuhaus to table this item.

Item Tabled.

**Consideration and possible action request from MDC Data Centers to replace an existing fiber optic line for the City of McAllen in an existing conduit in the District's 200 foot Main Canal.**

CLOSED SESSION: Pursuant to Section 551.071 and Section 551.072 of the Texas Government Code for Consultation with the Attorney.

The Board went into closed session from 12:13 p.m. to 1:50 p.m.

OPEN SESSSION:

A Motion was made Lance Neuhaus and seconded by Mark Freeland to table this item for the next Board Meeting.

Item Tabled.

**Consideration and possible action for a license application by Vexus Fiber to install a fiber optic cable in the District's 200 foot main canal.**

CLOSED SESSION: Pursuant to Section 551.071 and Section 551.072 of the Texas Government Code for Consultation with the Attorney.

*Wednesday, March 15, 2023 at 12:00 p.m.*

The Board went into closed session from 1:53 p.m. to 3:45 p.m.

OPEN SESSION:

A Motion was made by Mark Freeland and seconded by Lance Neuhaus to table this item.

Item Tabled.

**Consideration and possible action regarding approval of the District Phase 1 Subdivision and the Master Plan for the District Sub., re-subdivision of Lot 11 Section 13, Hidalgo Canal Co. Sub., McAllen, Texas.**

A Motion was made by Chris Burns and seconded by Lance Neuhaus to table this item subject to additional paperwork will be reviewed.

Item Tabled.

**Consideration and possible action to sell surplus property describe as 3.68 acre, 3.69 acre, and 4.27 acre tracts out of the District's Main Canal in the City of Hidalgo,**

CLOSED SESSION: Pursuant to Section 551.072 of the Texas Government Code for Consultation with the Attorney.

The Board went into closed session from 12:13 p.m. to 1:50 p.m.

OPEN SESSION:

A Motion was made by Lance Neuhaus and seconded by Chris Burns to (i) accept the offer from Robert Tudor at R & E Investment to purchase Lots 2 and 3, (ii) authorize Macarena Ortiz to prepare a sales contract, and (iii) authorize President Othal Brand, Jr. to execute the contract and close the sale.

Motion Carried.

A Motion was made by Lance Neuhaus and seconded by Chris Burns to temporary suspend the sale on Lot 1 and temporarily withdraw the property from the market.

Motion Carried.

**Consideration and possible action to approve the sale of 0.35 acres of Lateral J out of Lot 7, Section 2, Hidalgo Canal Company Subdivision, Hidalgo County, Texas.**

No action taken.

**Consideration and possible action to approve the Uvalde Villas Subdivision, re-subdivision of the W1/2 of Lot 8, 10, 12, 14, 16 Hollenbeck Subdivision and a tract out of Lot 15, SE1/4 of Section 7, Hidalgo Canal Subdivision, City of McAllen, Hidalgo County, Texas.**

*Wednesday, March 15, 2023 at 12:00 p.m.*

A Motion was made by Chris Burns and seconded by Mark Freeland to deny the approval of the mylar plat until Lateral J shows on the plat.

Motion Carried.

**Executive Session pursuant to Sections 551.071 and 551.072, Texas Government Code, to consult with Attorney and to deliberate regarding (i) pending eminent domain proceeding in Cause No. CCD-0517-D styled "Hidalgo County Water Improvement District No. 3 vs Hidalgo County Irrigation District No. 1" or the acquisition of an easement interest in real property from Hidalgo County Irrigation District No. 1, and other matters relating to extension of underground irrigation pipeline. (ii) petition for review in Supreme Court of Texas relating to order granting plea Jurisdiction in Cause No. CCD-0517-D, (iii) Cause No. C-093720-A styled "Hidalgo County Irrigation District No.1 vs. City of McAllen vs. Hidalgo County Water Improvement District No. 3, (iv) McAllen Public Utility petition filed with the Public Utility Commission of Texas appealing wholesale water rates of Hidalgo County Water Improvement District No. 3 (v) Cause No. C-1601-22-1 styled "McAllen Public Utility vs. Othal Brand, Jr. in his official capacity, et al", (vi) matters relating to compliance with payment obligations pursuant to *Permanent Water Supply and Delivery Contract*, as amended between Hidalgo County Water Improvement District No. 3 and City of McAllen and (vii) matters relating to Senate Bills 1056 and 1830.**

The Board did not enter into executive session.

**Consideration and possible authorization of action with respect to matters discussed in Executive Session.**

No Action Taken.

**Adjourn**

A Motion was made by Chris Burns and seconded by Mark Freeland to adjourn the Board Meeting at 4:20 p.m.

Motion Carried.

  
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Othal Brand, Jr. President

  
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Mark Freeland, Secretary