

**Hidalgo County Water Improvement District Number Three  
Board of Directors' Meeting  
January 17, 2022**

**Call to Order:**

President Othal Brand, Jr. called a regular meeting to order at Trophy Towers located at 4800 N. 23<sup>rd</sup>, McAllen, Texas 78504. The meeting began by reciting the pledge of allegiance. Secretary Mark Freeland gave the prayer invocation.

**Board Members Present:**

Othal Brand, Jr.	President
Chris Burns	Vice President
Mark Freeland	Secretary
W.D. Moschel	<b>Virtual Meeting with Zoom</b>

**Absent:**

Lance Neuhaus	Director
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**Others Attending:**

Frank Ferris	District Engineer
Macarena Ortiz	Attorney
Jim Hall	<b>Virtual Meeting with Zoom</b>
Randy Whittington	Attorney
Raquel Espinoza	
Tomas De Leon	
Jose R. De Leon	

**Visitors:**

Austin Stevens	City of McAllen
Jose Bernal	Chedes Storage
Fidencio Guerra	

**Consideration and possible action regarding the approval of the Minutes for the Regular Board Meeting held on December 20, 2021.**

A Motion was made by Chris Burns and seconded by Mark Freeland to approve the Minutes of the Regular Board Meeting held on December 20, 2021.

Motion Carried.

**Consideration and possible action regarding the approval of the Minutes for the cancellation of Board Meeting on December 15, 2021.**

No Action Necessary because meeting was cancelled and there were no minutes.

**Consideration and possible action regarding the approval of the Minutes for the Special Board Meeting on January 12, 2022.**

*Monday, January 17, 2022 at 12:00 p.m.*

A Motion was made by Mark Freeland and seconded by Chris Burns to approve the Minutes for the Special Board Meeting on January 12, 2022.

Motion Carried.

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

A Motion was made by Chris Burns and seconded by Mark Freeland to approve the Account Payable Checks and the Financial Reports by Ewing & Lara.

Motion Carried

**Consideration and possible action to review and make changes if needed on the District's Investment Policy.**

A Motion was made by Chris Burns and seconded by Mark Freeland to table for further review and have President Othal Brand, Jr. call the Texas Regional Bank.

Item Tabled.

**General report by President**

No General Report by President was presented.

**Engineering Report**

**Water Report**

Engineer Frank Ferris informed the Board that possible allocation for the December Period, the usable Balance is 4,590 acre feet, 53% of the annual water right, and 38% of the Storage Balance. The US share is down to 36. % as of January 8.

**Consideration and possible action regarding a request by the City of McAllen for the Board to issue a License for improvements in the remainder of the 200-foot Main Canal from US 83 to Jackson Avenue.**

Engineer Frank Ferris recommends as follows regarding the request by the City of McAllen for Board to issue a License for improvements in the remainder of the 200-foot Main Canal from US 83 to Jackson Avenue.

- 1) Change metes and bounds to be out of District's 200 foot wide Main Canal rather than CE Hammond's Subdivision.
- 2) Show District property and License area on the construction plans.
- 3) Provide the fence details.

A Motion was made by Chris Burns and seconded by Mark Freeland to prepare and execute the exchange and to issue the crossing license policy fee at \$5,000.00 and the application fee at \$750.00 for the improvements in the remainder of the 200-foot Main Canal from US 83 to Jackson Avenue.

Motion Carried.

**Consideration and possible action regarding District interest in 3.00 acres out of Lot 11 Section 5, Hidalgo Canal Company Subdivision, Hidalgo County, Texas.**

A Motion was made by Mark Freeland and seconded by Chris Burns to table this item for further review.

Item Tabled.

**Beginning at 12:30 p.m., hearing pursuant to Art. 8280-3.2 Texas Auxiliary Water Laws to determine whether all or any part or parts of urban properties shall be excluded from Hidalgo County Water Improvement District No. 3.**

A hearing was held beginning at 12:30 p.m. pursuant to Art. 8280-3.2, Texas Auxiliary Water Laws to determine whether all or any part or parts of identified urban properties should be excluded from Hidalgo County Water Improvement District No. 3. Notice of the hearing was posted for not less than three weeks at the Hidalgo County Courthouse, both the principal and temporary offices of the District, and at or near each of the identified urban properties. Notice was also published in a newspaper of general circulation in the District and Hidalgo County not less than 10 days before the hearing. Evidence presented for consideration by the Board included (i) an affidavit by Raquel Espinoza, an employee of the District who prepared and posted the notices of the meeting and hearing held by the Board of Directors, (ii) an affidavit by District Employee Joe R. De Leon who helped identify tracts of land in the District to be considered for possible exclusion and who is familiar and knowledgeable regarding the locations and historic and current uses of each of the identified tracts of land, as well as the District's irrigation distribution and infrastructure system and the areas and land served by that system, (iii) an affidavit by District Engineer Frank Ferris who was tasked by the Board of Directors of the District to identify tracts of land in the District that (a) are not currently or are no longer used for agricultural or farming purposes and have not been used for such purpose for at least one year, (b) are not currently or never have requested the purchase or delivery of irrigation water from the District and are not connected to the District's irrigation distribution infrastructure, (iv) a list of properties within the District which are "urban property" as defined in Art 8280-3.2, Texas Auxiliary Water Laws, and which were included in the notice of the hearing for consideration for possible exclusion from the District, and (v) any communications and information from landowners of any such identified properties who requested to remain in the District. The members of the Board of Directors of the District reviewed and discussed the identified tracts and particularly those tracts, the owners of which had requested to remain in the District.

**Following the hearing, consideration and possible action to adopt an order pursuant to Art. 8280-3.2 Texas Auxiliary Water Laws, excluding all or any part or parts of urban properties from Hidalgo County Water Improvement District No. 3.**

The Board considered the evidence and information presented during the hearing and discussed in detail the definition of "urban property" in Art. 8280-3.2 and the criteria for determining whether it was in the best interest of the District and the properties to be excluded from the District including but not limited to whether property is or could be connected to the District's distribution and irrigation system and whether such property had ever been irrigated by the District. The members of the Board discussed and considered each of the properties which were on the list of properties proposed for exclusion and for which the owner had requested to remain in the District. At the conclusion of the discussion, a motion was made by Mark Freeland, seconded by Chris Burns, and carried by unanimous vote to adopt the *Resolution Excluding Urban Property from Hidalgo County Water Improvement District No. 3* (a true, complete, and correct copy of which is attached to these minutes) and to exclude only those properties identified and described in Exhibit "A" to said Resolution which shall be filed for record in the Official Real Estate Records of Hidalgo County, Texas.

**Consideration and possible action regarding the approval of a Resolution ordering the Election of three HCWID#3 Board of Directors in next scheduled election on May 7, 2022.**

The Board was informed that some of the election officials required had not yet been identified. For that reason, a Motion was made by Mark Freeland, seconded by Chris Burns, and adopted to table this item for consideration and action at the next Board Meeting.

Item Tabled

**Consideration and possible action regarding the appointment of election judges for the May 7, 2022 Board Election.**

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

Item Tabled.

**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, (ii) petition for review in Supreme Court of Texas relating to order granting plea to 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" and (iv) McAllen Public Utility petition in Public Utility Commission of Texas appealing Wholesale water rates of Hidalgo County Water Improvement District No. 3.**

CLOSED SESSION: PURSUANT TO ARTICLE 551.071 OF THE *TEXAS GOVERNMENT CODE* on Consultation with Attorney.


The Board went into closed session from 1:50 p.m. to 2:35 p.m.

**Adjourn**

Monday, January 17, 2022 at 12:00 p.m.

Due to no further discussion, a Motion was made by Chris Burns and seconded by Mark Freeland to adjourn the Board Meeting at 3:46 p.m.

Motion Carried.



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Othal Brand, Jr. President



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Mark Freeland, Secretary