



# Windermere Oaks Water Supply Corporation

424 Coventry Rd  
Spicewood, Texas 78669

**2019 - 2020 Board of Directors:**  
Joe Gimenez, President  
Bill Earnest, Vice President  
Mike Nelson, Secretary/Treasurer  
David Bertino, Director  
Dorothy Taylor, Director

**Windermere Oaks Water Supply Corporation (WOWSC) meeting held: Wednesday, October 9, 2019**

**2019 - 2020 Board Members Present:** Bill Earnest, Joe Gimenez, Mike Nelson, Dorothy Taylor

## Minutes

The meeting was called to order at 6:00PM by Joe Gimenez. A quorum was established with four Board Members present.

1. Mark McDonald: Submitted two signed hard copies of petition for removal of Joe Gimenez from the WOWSC Board
2. Patti Flunker: Joe Gimenez discussed harassment with her boss at TRWA. Patti Flunker quit her position at TRWA.
3. Dorothy Taylor is newest member of our WOWSC Board and took her seat following appointment by Board at September meeting.
4. David Bertino sent letter announcing his resignation:

October 9, 2019

To the WOWSC Board and Members,

I David A Bertino Jr effective October 9, 2019 tender my resignation on the WOWSC board. Due to my new duties at work and the direction of this board, I will not be able to fulfill the duties that are required as a WOWSC board member. Please except this letter of resignation, read it at the meeting, and document it in the Meeting minutes.

Sincerely,

David A Bertino Jr.

- 1.
5. **RULES FOR PUBLIC COMMENT** – Board will consider adopting a sign-up sheet for member comments on specific agenda items, with comments limited to three minutes. (Comments on non-agenda items will be accommodated in item 12).
  1. Limit of three minutes per item per person
  2. Member Comment
    1. Danny Flunker: Move member public comment to start of meeting
  3. Motion made and carried to adopt a sign-up sheet for member comments on specific agenda items, with comments limited to three minutes per person per item.

6. Christine Mulligan: Thanked Joe Gimenez for his service and reminded meeting attendees that our members voted him into office at our last election.
7. Review, consider and take action to approve minutes of prior meetings/
  1. September 18 Special Meeting Minutes
    1. Motion made and carried to approve the September 18<sup>th</sup> Special Board Meeting Minutes
  2. September 18 Regular Meeting Minutes
    1. Motion made and carried to approve the September 18<sup>th</sup> Regular Board Meeting Minutes
8. EFFLUENT WATER AGREEMENT WITH SPICEWOOD AIRPORT PILOTS ASSOCIATION – Consideration of contract amendments, if any, requested by SAPA. Motion to adopt contract was passed Sept. 18 meeting, pending future review and consideration of any requested amendments from SAPA.
  1. At our September 18, 2019 Board meeting, the Board approved the contract providing WOWSC’s effluent water to SAPA.
  2. The Board president of SAPA signed the contract and noted one minor typo → added ‘r’ to the word “treasure” to make it “treasurer”.
  3. Member Comment
    1. Janey Richardson:
      1. Will SAPA pay for the effluent water?
        1. Board’s response: SAPA will pay for all expenses with regards to the project.
      2. Who is Andrew Heller?
        1. Board’s response: Andrew Heller is President of the SAPA.
    2. Marsha Westerman: Will SAPA pay for the engineering study?
      1. Board’s response: SAPA will pay for all expenses with regards to the project.
    3. Mark McDonald: Will existing pipe be used for the effluent?
      1. George’s response: No. The project requires new piping.
    4. Robb Van Eman:
      1. Will SAPA contract be posted?
        1. Board’s response: Board to ask attorneys if the contract should be posted.
      2. Who represented SAPA?
        1. Board’s response: Gary Young and Dana Martin
      3. Requested copy of the contract
        1. Board’s response: Please send reminder request
  4. Motion made and carried to approve updated contract providing WOWSC’s effluent water to SAPA.
9. ETHICS AND CONFLICT OF INTEREST POLICY – Review and pass resolution memorializing Board action in adopting new Policy Governing Ethics and Conflicts of Interests, thereby binding all current and future Board members to the standards set forth in the Policy.
  1. Joe read the resolution for our new WOWSC Conflict of Interest Policy
  2. Board had approved our new WOWSC Conflict of Interest Policy at the September 18, 2019 Board meeting but resolution summarizing it was read.
  3. Member Comments:
    1. Mark McDonald:
      1. Where will the policy be kept?
        1. Board’s response: Our new Conflict of Interest Policy will be kept on our website.
      2. Who determines what is a conflict of interest?
        1. Board’s Response: The WOWSC Board decides what is a conflict of interest.
    2. Patti Flunker: Questioned why she needed to send a letter regarding WOWSC’s Conflict of Interest Policy.
    3. Rob Van Eman: Any sanctions in policy?
      1. Board’s response: Read policy for details
    4. Jade Winters: Who wrote our new policy?
      1. Board’s response: Our attorneys provided a standard policy used by other water supply corporations they represent.



5. Mikki Bertino: Not all members come to our Board meetings

4. Motion made and carried to approve resolution

5. Dorothy to add signed resolution to website

10. SIX MONTH REVIEW OF PROGRESS IN 'KEEPING THE MAIN THING THE MAIN THING' -- Discussion about Board and water company accomplishments since March 9, 2019, including:

1. finishing repair of pumping barge
2. securing \$59,000 in insurance recovery for pump platform
3. getting approval for new, lower interest rate loan to pay off higher interest rate balloon note
4. applying to LCRA for investment matching for conservation project that reduces WOWSC water use
5. approving purchase and installment of generator for compliance with TCEQ
6. offering contract proposal to SAPA for increasing size of available dispersant fields for effluent water
7. establishing process for handling unprecedented number of Public Information Act requests (37)
8. establishing ETHICS AND CONFLICT OF INTEREST POLICY by Board vote and for adherence by future Boards
9. re-establishing annual meeting date to comply with bylaws
10. developing managerial report for Board oversight
11. status of annual budget
12. company goals for next six months
  1. Member's Comments
    1. Robb Van Eman: Missed a few items. WOWSC filed lawsuit against Texas Attorney General.
    2. Janey Richardson: Can there be more communication sent out to all members from the Board?
    3. Brad Davis: Can meetings be moved to Saturday?
    4. Mikki Bertino: David Bertino went out on the river to find our missing barge, helped George to get the water turned back on quickly to the community, and saved thousands of dollars of cost to WOWSC.

11. MANAGER'S REPORT (George Burriss) –

1. LCRA CONSERVATION GRANT – Manager to provide update on change in WOWSC contribution to LCRA Cost Sharing project for water conservation.
  1. Previous WOWSC share estimate for both projects was ~\$32K.
  2. George learned from the LCRA that the projected savings needs to be averaged over two years which increases WOWSC's cost to ~\$34K.
  3. Members Comments
    1. Mikki Bertino: How many years to recoup \$34K?
      1. Board's response: Estimate 3% return on money spent for both projects. Might be a little lower now as the estimated cost increased \$2000. Keeps WOWSC under existing contract avoiding renegotiation of LCRA contract.
  4. Motion made and carried for Joe to write a letter to LCRA stating WOWSC has the funds for these projects.
2. GENERATOR PURCHASE UPDATE–Manager will provide update on contract, deposit, schedule for installation.
  1. WOWSC paid \$35K to our supplier who placed an order for the generator.
3. COST ESTIMATES FOR FIVE YEAR PLANPROJECT--Progress on development of cost estimates for pre-treatment facility and other projects.
  1. WOWSC applied for \$500K loan from COBANK who approved it.
  2. Ten-year old cost estimate for pre-treatment clarifier was \$150K but the price has gone up considerably due to the increased cost of steel. Possibly \$400k.
  3. George is working on proposals with an engineer and is approaching other vendors for quotes
  4. WOWSC does not have a clarifier. WOWSC has a settling tank.
  5. Members Comments:
    1. Patti Flunker: Are we in good financial status? Rates were raised? Recommended COBANK as a lender to our Board in the past.



1. Board's response: Don't think today's members should pay up front for a large capital project that has a forty-year life span versus members paying for it over its lifetime. The COBANK loan will be used to pay-off our existing loan plus new projects over 20 years at a lower interest rate than our existing loan.
  2. Mark McDonald: Standby fees
  3. Danny Flunker: Why are airport lots not under standby fees?
  4. REGULATORY COMPLIANCE—Manager will provide detailed overview of regulatory compliance services of Utilities Inc. and progress in maintaining compliance.
    1. Compliance is a function of many many details. Certificate of Convenience and Necessity with State of Texas enables WOWSC. WOWSC follows Chapter 290 of Texas State Code requirements including facility construction, operators capability, quality levels. George is of the opinion the State of Texas owns our utilities and allows WOWSC to operate them.
      1. George approaches the relationship with TCEQ as though they are the owner of our utilities, and we are the operator. George handed out a sample of our monthly operating report that is submitted to TCEQ monthly
      2. Copies of the report and test data are kept at our facilities for their yearly audit
      3. George showed our facilities' monitoring plan which the operators follow
        1. George shared monitoring plan with the Board
      4. How is WOWSC WTP doing?
        1. Consumer confidence report is on our website and is also posted at the WO pavilion. TCEQ compiles the consumer confidence report without review by WOWSC. No violations were reported.
        2. Each year TCEQ sends out a compliance enforcement officer who writes reports. Our last report stated WOWSC needed to paint the pipes in the pump room. The pipes were painted to the specified colors and pictures were then sent to TCEQ.
  5. SEWER SYSTEM PERMIT RENEWAL –Report status of renewal process.
    1. WTP permit expires every five years. Every five years the permit renewal process takes ~ one year. Received TCEQ response stating the permit request is administratively complete. George believes we are on track to receive our permit by end of year.
  6. EASEMENT RELEASE REQUEST – Update, easement release requesting Center Cove.
  7. Jeff Hagar and George learned WOWSC does not have easement rights inside the Center Cove lots. This is in the Center Cove Covenants amendments. No easement release is needed from WOWSC for work performed inside the lot lines. Members Comments:
    1. Earl Miller: Is effluent water monitored?
      1. George's response: Yes. All changes to WTP and WWTP require TCEQ approval. TCEQ takes core samples of effluent water spray fields.
12. Executive Session under Texas Government Code § 551.071(1) and (2) regarding: a. Ffrench, et al., Intervenor-plaintiffs and Double F Hangar Operations, LLC, et al. v. Friendship Homes & Hangars, LLC, Windermere Oaks WSC, et al., Cause No. 48292, 33<sup>rd</sup> Jud. Dist., Burnet County Dist. Ct.; and b. TOMA Integrity, Inc., et al. v. Windermere Oaks WSC, Cause No. 47531, 33<sup>rd</sup> Jud. Dist., Burnet County Dist. Ct., on appeal at 6th Ct. of Appeals, No. 06-19-00005-CV.c. Appeal of Attorney General ruling filed in Travis County Court in the case of WOWSC v The Honorable Ken Paxton, Attorney General of Texas, for protection of corporate rights and privileges during ongoing litigation.
1. Entered session at 7:37PM
  2. Exited session at 8:14PM
  3. Members Comments
    1. Robb Van Eman:
      1. WOWSC attorneys have filed lawsuit against Texas Attorney General. Why did our attorneys sue the Texas Attorney General?
      2. What is the cost to sue the Texas Attorney General? What's in the budget?
    2. John Young: Loan needed to pay-off balloon payment.
  4. Motion made and carried to move this agenda topic up due to length of previous agenda topics and need to meet with lawyers when they are available

13. Consider and/or act on matters reviewed in the immediately preceding Executive Session agenda item.
  1. Joe motioned to move agenda item "Member comments" before Board convened in executive session. Motion carried.
  2. Item B: TOMA filed with the Texas Supreme Court and our WOWSC attorneys responded to the Supreme Court that they will respond as needed (to save cost).
  3. Joe read the following statement:

**STATEMENT REGARDING FILING IN TRAVIS COUNTY COURT**

This past May, WOWSC received a Public Information Act request that requested our legal invoices from the time period covering the entirety of the WSC's lawsuit with TOMA Integrity.

At the advice of our attorneys, and for the sole purpose of asserting privileges lawfully available to us to protect our position during this litigation, WOWSC requested a ruling from the Attorney General that we could withhold these invoices under those privileges while the lawsuit is ongoing.

This past August, the Attorney General ruled that while we may redact certain information within those invoices, the remainder must be released.

Upon review of this ruling by our legal team, they determined that the Attorney General's office did *not* apply the privileges to the full extent authorized by law, and that compliance with the AG's August ruling would put the WSC at a disadvantage during the remainder of the lawsuit with TOMA Integrity.

Pursuant my authority as Board President and Public Information Officer and at the advice of our legal counsel, I directed our legal team to file an administrative appeal of the August Attorney General ruling to protect the rights of the WSC while the lawsuit remains ongoing.

This is not a new legal proceeding with the Attorney General, but rather an appeal of a staff attorney ruling in a matter now ongoing since May of this year.

The WOWSC board remains in compliance with the Open Meetings Act, and has followed the advice of its attorneys in doing so.

I will not comment any further on the specifics of pending litigation with TOMA Integrity and the interrelated appeal of the Attorney General's ruling, as that is detrimental to our legal rights as a corporation, the parties involved, and the membership.

Again and to be clear, this appeal involving the Attorney General is simply and solely to protect our position during the pendency of the underlying litigation with TOMA Integrity.



Were the request for privileged information to be withdrawn, the appeal of the Attorney General's decision would of course become moot.

Any request for information that *does not* request privileged information (as has been the case with almost all of the 37 PIA requests submitted to the WSC this year) has been processed and will be processed without the involvement of the Attorney General.

However, we cannot afford to jeopardize our legal position while the suit with TOMA Integrity remains ongoing.

The Board certainly finds it unfortunate and regrettable that the public dialogue is not productive, but of course every member should feel free to speak his or her mind as they see fit, and as always, may speak at public comment at any open meeting of the Board.

4. PIA response resolution was read:
  1. Resolution approving and authorizing the continuing defense of the WSC's position of protecting attorney-client privileged information in response to PIA requests, including maintaining all pending appeals in court, at the direction of the Board President/Public Information Officer.
  2. Limited and finite PIA appeals process for attorney client privilege
5. Member comment
  1. Robb Van Eman: Statement from attorney is misleading.
  2. Janey Richardson: Attorney invoices were requested.
  3. Mike Burdette: Throwing away money
  4. Danny Flunker: Filed PIA and sent response to Texas Attorney General
  5. Jade Winters: Should our attorneys file in Burnett County instead of Travis County?
6. Motion made and carried to approve resolution authorizing the continuing defense of the WSC's position of protecting attorney client privileged information in response to PIA requests including maintaining all pending appeals in court at the direction of the Board President/Public Information Officer.

14. FINANCIAL REPORT –Treasurer Mike Nelson to discuss monthly financial reports.

1. Dorothy found a \$1000 error on page 1 of the September report for MM+ (Money Market)
2. September Income: \$36.7K
  1. September Water + Sewer revenue: \$36.3K
  2. Year to date (YTD) Water + Sewer revenue at \$273.3K of YTD budget \$266.3K
  3. YTD Equity Buy-in Fees revenue at \$36.8K versus annual budget \$27.6K
  4. YTD Water & Sewer Taps revenue at \$15.5K versus annual budget \$10.4K
3. September Expenses: \$48.1K
  1. \$23.7K legal fees paid in September
4. September Net Income: (\$11.4K)
5. YTD Net Income: \$73.8K
6. YTD Legal/Appraisal at \$88.4K of annual budget \$38.0K
7. YTD Water + Sewer Repairs at \$20.6K of annual budget \$45.0K
8. September 2019 Metrics:
  1. Debt to Service Coverage Ratio (DSCR): (0.31)
    1. Three month rolling average: 0.93

2. Debt to Capital Ratio: 0.16
  1. Three month rolling average: 0.16
3. Days of Cash on Hand: 219 days
  1. Three month rolling average: 220 days
9. September 2018 Metrics:
  1. DSCR: 0.20
  2. Debt to Capital Ratio: 0.19
  3. Days of Cash on Hand: 187 days
10. Member Comment
  1. Earl Miller: Do we keep income from taps and buy-in fees in separate accounts from WTP & WWTP?
    1. Board response: No
  2. Joe Gimenez: Cash on hand is very positive.
  3. Robb Van Eman: Any financial risk to WOWSC?
  4. Danny Flunker: Insurance did not cover TOMA legal expenses
11. Motion made and carried to accept the September Financial Report noting the \$1000 error on page 1 for MM+
15. ADOPTION OF ELECTION PROCEDURES FOR THE ANNUAL MEMBERS MEETING –Board will consider possible action needed to begin adoption of election procedures for 2020 annual meeting.
  1. Select credentials committee volunteer: Janey Richardson
  2. Motion made and carried for Janey Richardson, Mike Nelson, and Bill Earnest to comprise the credentials committee.
    1. Note: Two of the three Credentials committee members (Bill and Mike) were selected at the March 9 Board meeting. A third member was needed, so the Board accepted Janey Richardson.
16. Comments from citizens and members who have signed sign-up sheet to speak (3-minute limit per person).
  1. Joe Gimenez:
    1. Our WOWSC Bylaws provide in article 8 section 9 for removal of Board Member. Joe read part of the section to meeting attendees, advising that a hearing for removal would occur at a members' meeting and that the next members' meeting was the annual meeting.
    2. Annual Member Meeting is targeted for Saturday, February 1<sup>st</sup>.
    3. Review with our legal team the removal of a Board Member.
  2. Robb Van Eman:
    1. Bylaws allow members to call a special Member Meeting for removal of a Board Member.
    2. Requested Joe resign.
  3. Danny Flunker:
    1. Requested public comments be placed at beginning of Board meeting agenda.
    2. Provided attorney invoices had redactions.
  4. Sandy Nigh:
    1. Moved here one year ago. Legal fees are a concern.
    2. Requested meetings be moved to the weekends.
  5. Mikki Bertino:
    1. What is the process for members to call a special Members Meetings?
      1. Board's response: In our WOWSC Bylaws, a Majority of Memberships (50% plus one) is needed to call a special Members Meeting.
    2. Requested Board members' vote be entered into the meeting notes when it's not unanimous.
17. New business and discussion and possible action on agenda for next meeting.
  1. Y2020 WOWSC Annual Members Meeting and election procedures next steps
18. Set date, time, and place for next meeting

1. Saturday, October 26<sup>th</sup>, at 9:00AM

19. Motion made and carried to adjourn at 8:45PM



Submitted by: Mike Nelson

APPROVED BY WOWSC Board on December 19, 2019

Billing Questions: (830) 598-7511 Ext 1  
Water or Sewer Emergency: Phone (830) 598-7511 Ext 2