

SULPHUR RIVER BASIN AUTHORITY
BOARD OF DIRECTORS MEETING
TUESDAY, JULY 19, 2016
1:00 P.M.

PRESENT: Michael Sandefur, President
Brad Drake
Wally Kraft, Vice President
Bret McCoy, Vice President
Michael Russell
Katie Stedman, Vice President

STAFF: Nancy Rose, Secretary/Treasurer
John Jarvis, Consultant

ABSENT: Patricia Wommack

VISITORS: Attachment

ITEM# 1: Meeting Called to Order at 1:00 P.M.:

The Meeting was called to order at 1:07 P.M. by Michael Sandefur, President.

He welcomed and thanked everyone in attendance.

He thanked Robbin Bass of Congressman John Ratcliffe's Office and Bart Brock of State Representative Gary VanDeaver's Office for taking their time to attend this SRBA Board Meeting.

ITEM# 2: Invocation:

The Invocation was given by Michael Russell.

ITEM# 3: Recognition of Michael Russell:

Wally Kraft presented Michael Russell with a Plaque for his seven years of service as the President for the SRBA Board of Directors.

He stated that he had enjoyed working with Michael Russell as the President and all Board of Directors told Michael Russell how much they appreciated him.

ITEM# 4: Discuss and take action on the approval of the minutes for June 21, 2016:

Michael Sandefur stated that each one had a copy of the minutes included in their board packet for review.

A motion was made by Wally Kraft and seconded by Michael Russell to approve the Minutes as presented.

The motion carried with all members present voting AYE.

ITEM# 5: Public Comments (Part 1):

Michael Sandefur stated that he wanted to try something new to facilitate board responsiveness to stakeholders and the public. He stated that there will be agenda items for Public Comments both at the beginning and the end of the meeting to see how it works.

He stated that those who fill out the public comment card before the meeting starts may speak in Part 1. There will also be a chance to speak in Part 2 at the end of the meeting, allowing comments regarding activity that took place during the board meeting. Speakers will still need to fill out a public comment card before leaving the meeting.

George Frost, Maud, Texas He spoke on sedimentation concerns as far back as 1904.

ITEM# 6: Updates and Recap of the Sunset Testimony on June 23, 2016:

Michael Sandefur stated his takeaway from the Sunset hearing was that Sunset Commissioners are familiar with and are paying close attention to SRBA.

He recognized Josh Davis, Linda Price and Fred Milton who were in attendance today, and reported that they each had taken their time to go to Austin to give verbal testimony at the Sunset Public Hearing. He showed a binder he had assembled containing all of the Sunset testimony that should continue to be reviewed and addressed by this board.

He reported the Commissioners may consider a new approach to develop their official recommendations – they might start with a blank slate and then add the recommended actions for the Legislature to eventually consider. If so, he stated that he hopes that SRBA's report will be short.

He stated that five (5) SRBA Directors and Nancy attended the Sunset Hearing on June 23, 2016 so that SRBA was well represented. He stated that the hearing started at 9:00 a.m. and adjourned at 9:06 p.m. for the complete agenda. He stated that he believed that the Commissioners were very tired by the time it was over.

He stated that SRBA was the first agency on the Agenda and thus had their full attention. He stated that he testified to The Sunset Commission of the actions SRBA had already taken to implement recommendations from the Sunset Report, and encouraged them to revisit us in a few months to check our actual progress. He testified that SRBA was set up in 1985 and does not receive any funding from the State. He requested that the Commission include a recommendation to get SRBA state funding, and submitted the written testimony discussed at the prior meeting.

He stated that after his presentation that SRBA was asked 6 or 8 questions, and he tried to provide acceptable answers.

He stated that there was new Testimony from these Stakeholders:

Linda Price, Chairman of Region D

Fred Milton, Riverbend Water District Resources

Josh Davis, City of Texarkana, Texas (Councilman)

Marshall Wood, Riverbend Water District

George Frost, Region D

Steve Mayo, Water Liaison for City of Texarkana, Texas...Sent in a written Testimony, but did not speak at the Public Hearing.

He stated that SRBA and all those above testifying were representatives of other Government entities, and that it was important for us all to work together.

Michael Russell stated that Michael Sandefur did a great job giving the Testimony at the Sunset Public Hearing. He stated that Michael Sandefur made a point of what has been done and what is planned to be done.

Michael Sandefur provided each SRBA board member a copy of a recent book that he had read, *The 10 Laws of Trust*. The book details steps to build a trustworthy organization, and he encouraged each member to read it with SRBA in mind. He quoted a passage “. . . you can't talk your way out of a problem you behaved your way into. But you can often behave your way out of a problem you behaved your way into,” and indicated this was his approach to the Sunset trust matters.

BOARD EDUCATION ITEMS:

ITEM# 7: Discuss plans for future board meetings:

In discussing his philosophy following the leadership change, new President Michael Sandefur reminded all that the President was still just one Board Member and that board members have no individual power to make any decision or policy, except when they operate as a group with a quorum in an open meeting. He stated that the President can preside over and call a meeting, and can sign documents that have been approved, but cannot make policies.

He stated that the bylaws specified the regular board meeting day as the third Tuesday of each month, but asked if any board members wanted to discuss options to having the regular meetings in Mt. Pleasant, Texas at 1:00.

He broached the future possibility of periodically scheduling a meeting in basin cities such as Texarkana, Paris, and Sulphur Springs. Brad Drake stated that maybe later on down the road some of the Stakeholders may want to host a meeting.

Michael Sandefur stated his intention to ensure that Board members received advance copies of board materials, and that such materials and handouts would be more accessible to the public. He indicated part of this job as President was to ensure that the Board members and the public did not have surprises. He intends to try to arrange agendas to ensure that action items are discussed in one or more meetings prior to the meeting where a vote would be needed.

He stated that Katie Stedman is evaluating the use of a master calendar to document past, present and future meetings of SRBA, the consultant, and related water groups. In addition to being a good history, it may prevent future meeting conflicts – he noted that the Clean River steering committee meeting and the Riverbend study kickoff session were unfortunately both scheduled for Thursday, July 21.

ITEM# 8: Discussion of rules and regulation of items for Closed Session:

(Government Code): 551: 071-074

- (1). 551.071...Consultation with Attorney.
- (2). 551.072...Deliberation regarding real property.
- (3). 551.073...Deliberation regarding prospective gift.
- (4). 551.074...Personnel matters.

Michael Sandefur indicated he had put this Closed Session wording on the board training agenda as Board Member Katie Stedman was likely new to a public board. He indicated that closed sessions discussions were potentially problematic given the recent trust and transparency issues highlighted by the Sunset report, but wanted to discuss the procedures ahead-of-time given the likely need for closed sessions in the near future.

A memorandum was included in the board packet to help educate board members regarding closed meetings. He highlighted that there must first be a properly noticed open meeting called to order before the board could go into closed session, and that no actions could be taken during closed session. After returning to open session, the board could take action only as specified on the agenda, or could adjourn.

He also stated that SRBA does not have any "Committees" at this time, which can meet with less than a quorum without public notice. He noted that committees can hinder transparency, and can also prevent board members getting timely reports and information at about the same time.

He stated that as president he is cautious of possible open meeting violations, and thus he intends only limited informational e-mails to Board Members. When those occur, he only uses the bcc: addressing to help prevent a reply-all from triggering an accidental discussion.

(1). Consultation with Attorney:

There will be times when SRBA will have to meet in closed session to discuss items with the Attorney.

(2). Deliberation regarding real property:

There may be times SRBA may need to have a closed session to discuss some real property, although this has historically not been needed.

(3). Deliberation regarding prospective gift:

Michael Sandefur indicated that SRBA may begin soliciting gift and grant funds to help sedimentation and other programs, which technically have a minor potential to require discussion in closed session.

He stated that he welcomed anyone that wanted to make a donation to SRBA.

(4). Personnel matters:

Michael Sandefur stated that SRBA will likely have upcoming closed sessions to discuss personnel matters, particularly given the directive to engage an executive director. He noted

that SRBA cannot meet in closed session to discuss contractors or consultants since they are not employees.

ITEM# 9: Presentation on Mitigation—Part 1:

Michael Sandefur introduced Ms. Melinda Fisher and Elston Eckhardt with the U.S. Army Corps of Engineers in Ft. Worth, Texas.

He stated that mitigation was an important and controversial topic, and that he expected multiple education sessions on mitigation over the next year or two. The presentation by Ms. Fisher has been shown on the agenda as part 1, with future parts to follow. He indicated that he would open up questions to Ms. Fisher first from the board, and then would allow questions from the public.

Ms. Fisher made a powerpoint presentation centered on the differences on mitigation between a project needing a 404 permit and a USACE federal project and answered questions.

ITEM# 10: Discussion of Strategic Planning Work Shop:

Michael Sandefur stated that SRBA needs to have a workshop to discuss and work on a “Strategic Plan” for the next five years, and that at the last meeting the board had set aside \$5,000 to spend on the “Strategic Plan” preparation.

He stated that he and James Henry Russell, President of Texarkana College had worked together to produce the written “Strategic Plan” for Texarkana College which had worked very well for an organization that was in crisis. The Texarkana College plan was focused on adopting measureable goals, which would allow progress to be documented.

He asked the Board Members what were their thoughts on dates and times to work on the “Strategic Plan”, and whether to do it internally, with facilitation, or by a consulting group.

Some members thought we should hire a facilitator outside of the Board to do the Plan. Some thought it would be all right for Mr. Russell to work with the Board of Directors at a workshop.

After discussion it appeared preferable for the SRBA to hopefully schedule the strategic planning session with Mr. Russell on the regular September 20, 2016 board meeting day, following a minimal board meeting to take care of any action items.

Michael Sandefur stated that he would gather additional information, get a commitment from Mr. Russell and have an action item on the August 16, 2016 board meeting agenda for the Strategic Planning workshop.

ITEM# 11: Review of Enabling Act authority:

Michael Sandefur stated that at his first SRBA Board Meeting that David Nabors requested the Board Members to please read and follow the “Enabling Act.” He also noted that the vice-chairman of the Sunset Commission also questioned the authorities granted to SRBA by the Enabling Act during the hearing.

As a result of this scrutiny, he stated that the board packet included an excerpt from the Enabling Act regarding SRBA's stated authority. It appears very important to Sunset Commission and others for all SRBA Board of Directors to read, study and understand what the provisions are.

ITEM# 12: Discussion of FY2017 budget (Approval in August 2016):

Michael Sandefur, President stated that SRBA's fiscal year is from September 1 through August 31 of each year.

He noted a discrepancy in the By-Laws that indicate approval of the budget was needed at the regularly scheduled meeting in September each year. He stated that this is confusing, and his intention was to follow his understanding of state law to ensure that the SRBA budget was properly approved before the beginning of the next fiscal year that would start September 1.

He stated that at this time SRBA appears to be over budget only in Legal fees.

Michael Sandefur made a short budget presentation dividing SRBA operations into four budget categories.

(1). Clean Rivers Program – Includes TCEQ funding that is approved every 2 years at about \$100,000 per year.... Texarkana College @ \$70,000 & \$13,000 for Lab Fees and \$17,000 for administration. He noted that the next year would be the second year of the current contract, so it effectively was already approved in the prior year.

He reported that SRBA will be blessed with an extra \$11,000 in CRP grant funds for water monitoring for next year, which will be included in the current budget process for approval.

(2). Operating Budget – Includes JCPD funding of up to \$225,000 annually for general operations under the JCPD Advanced Funding Agreement to cover general purpose and administration, salaries, office costs, legal fees and other monthly bills.

Michael Sandefur stated his research of past years indicated that SRBA had never spent all of the \$225,000 operating budget, resulting in unused funds being credited back to JCPD in accordance with the terms of the Funding Agreement.

He stated he has had informal discussions with Wayne Owen of JCPD regarding his intention to request that SRBA be able to retain any unused funds out of the \$225,000 operating budget from the current fiscal year. Such funds would be budgeted to spend in the upcoming year on Sunset-related directives and reforms, including the addition of sedimentation initiatives. An alternative would be to hurry up and spend the funds before August 31 like other government agencies sometimes do so that they would not have to be returned.

He also indicated his belief that certain legal and other expenses during the current year may be more properly classified within the Supplemental Budget, which could potentially free up additional funds for the operating budget.

Since the Advanced Funding Agreement does not provide for SRBA to retain unspent funds, he stated his goal was to get written permission from JCPD before the August board meeting

allowing SRBA to retain all unused operating funds. This permission would provide the SRBA board confidence in its budgeting of such funds. If such permission is not received, available options will be discussed in August.

(3). Supplemental Budget – JCPD provides 100% of the additional funding for water planning studies, engineering contract fees, consultant fees and travel costs, Sunset costs and certain legal costs. These are often developed in conjunction with the JCPD technical committee, with the appropriate funding amounts provided to SRBA.

Michael Sandefur stated that per the JCPD agreement we should have the JCPD supplemental budget request approved and submitted by June 1st of each year. This has not been done.

Mr. Wayne Owens, JCPD Member, stated that in a perfect world it would be ready by June 1st, 2016, but stated that with the TSP and other studies, we are running behind. He stated that within the next 30 days we should have this figured out.

(4) Fundraising – A new budget category to include for additional fundraising, such as potential state funding, in-basin funding, and any gift and grant funds. SRBA needs to start obtaining additional and independent funding to reduce its reliance on JCPD. Such additional independent funding was suggested by the Sunset Report and newspaper editorials.

Michael Sandefur stated that before the next meeting each member will receive additional information on the next fiscal year budget. He stated that the basic budget will be voted on at the August 16, 2016 Board Meeting, but indicated his belief that budget amendments and reallocations will likely be necessary next year after the strategic planning.

ITEM# 13: Review of Statistic from State of Texas Water Plan:

Michael Sandefur reported that the Texas Water Development Board recently adopted the new 2017 Texas State Water Plan on May 19, 2016. He suggested that each board member take some time to read the new state water plan.

He indicated he saw a statistic that he found alarming regarding the Sulphur River Basin. He presented a display board reproducing the chart located in Appendix B.1 on page A-142. This chart listed the projected future annual surface water availability for all of the Texas river basins, indicating a total average state-wide loss of 3% due to sedimentation. However, the Sulphur basin reflected the largest loss by far of 39%, while the next largest loss was only 5%.

He indicated the -39% projection sure looked like evidence of a problem, and that this issue looked like a good initiative for the SRBA. He suggested the next two agenda items would document a small start on this initiative.

ITEM# 14: Discuss and possible action on funding requests from Mike Buttram for Sedimentation Project:

Dr. Mike Buttram, Texarkana College gave a Presentation regarding 3 small potential Sedimentation projects and requested the board fund one or more.

He suggested a budget of \$5,000 for proposal # 1: Sedimentation-Immediate Impact Project, for Bowie County.

He suggested a budget of \$5,000 for Proposal # 2: Education and Public Outreach Project for Texarkana, Texas.

He suggested a budget of \$10,000 for Proposal # 3: Education and Public Outreach Project in Paris, Texas.

A motion was made by Michael Russell and seconded by Wally Kraft to Authorize the following "Resolution" Allocation of Funds for all three projects:

WHEREAS, Mike Buttram presented information today to the Board of Directors of Sulphur River Basin Authority ("SRBA") concerning a plan for the reduction of sedimentation in streams, rivers and lakes in the water shed of the Sulphur River and its tributaries (the "Plan"); and WHEREAS, Mike Buttram requested that SRBA allocate funds to be used in connection with the implementation of the Plan.

NOW, THEREFORE, IT IS RESOLVED that SRBA allocate \$20,000.00 to be used in the implementation of the plan for the reduction of sedimentation in streams, rivers and lakes in the water shed of the Sulphur River and its tributaries:

IT IS FURTHER RESOLVED that Mike Buttram periodically updates SRBA's Board of Directors concerning the progress being made in the implementation of the Plan and account for this expenditures of said allocated funds.

The motion carried with all members present voting AYE.

Michael Sandefur thanked Dr. Buttram, Wally Kraft, and the board for this initial investment to begin addressing the sedimentation problem in the Basin.

ITEM# 15: Discuss and take action on developing a grant application for Clean Water Act (CWA) Section 319 (h) Nonpoint Source (NPS) Grant Program with the Texas Water Resources Institute (TWRI):

John Jarvis gave a Presentation on a competitive Grant process.

John stated that the Texas Water Resource Institute is a premier entity in Texas to help develop a Watershed Protection Plan (WPP). A Watershed Protection Plan is the most effective way to plan and implement Best Management Practices (BMPs) for controlling impairments like sedimentation.

However, John stated that the developing of a WPP for the size of Sulphur River is a major and expensive undertaking; TWRI instead suggests applying for this grant to fund a "Basin Characterization" as a Phase I project. This approach will help pinpoint specific areas impacting the Sulphur and narrow the scope somewhat as SRBA/TWRI and others move to Phase 2 in the development of a WPP.

John stated that a very rough estimate of the cost for a "Basin Characterization" is \$200,000, and they are working on the budget for the application. The total available funds for all grants in this cycle is approximately \$1 million. The grant is 60/40 and the sponsor would need to provide the 40% match. The Clean Rivers Program (CRP) expenses can qualify as part of the match as

in-kind. He is working with TWRI and Dr. Mike Buttram to prepare a budget and fill out the complex grant application.

John stated that the application deadline is September 1, 2016 at 3:00 pm. For SRBA to meet the deadline, the Board needs to:

- (1). Board meeting: July 19th, approve moving forward with TWRI to complete the application.
- (2). Board meeting: August 16th approve application and submittal.

Michael Sandefur stated that we just hope for a piece of the grant pie, as winning a competitive grant the first time we have applied should not be expected. We might find out in October or November if we have been tentatively selected, although the grant award might take another year to finalize.

A motion was made by Wally Kraft and seconded by Bret McCoy to allow John Jarvis to proceed with the Grant application process and submit it for approval at the next meeting.

The motion carried with all members present voting AYE.

ITEM# 16: Discussion on guidelines for employment of an Executive Director:

Michael Sandefur stated that Sunset report directed that SRBA hire an Executive Director, and the Commissioners at the hearing highlighted the issue during testimony.

He stated that (Yes) we need one, but suggested some delay in that SRBA has a contract with a Consultant until March 2017 and has not yet started on the "Strategic Plan".

He stated that the "Enabling Act" spells out the guidelines for an Executive Director, and an excerpt had been included in the board packet for the board members to review.

Board discussion followed, indicating board members were generally comfortable with some delay but would like to move forward soon.

ITEM# 17: Discussion of Sunset related Open Meeting/transparency issues:

Katie Stedman stated that she had talked to a representative from the Attorney General's Office about some training for the SRBA Board of Directors. However, she was told that the Training would effectively be the same message as the Videos that were on the Internet. If someone were to come from the AG Office, then SRBA will be responsible for the expense of their travel.

She stated as another resource there would be an Open-meeting Training conference in San Marcos in October 2016 if any member wanted to attend. Also, the AG office will be providing educational handouts at the October 2016, TWCA Conference in October 2016

Wally Kraft suggested that perhaps the board members could potentially watch the videos all together during a future board meeting. This idea met with general approval instead of the presentation from Austin.

She also stated that she had discussed the Sunset recommendation on Record Retention with Nancy Rose. She recommended that Nancy should wait until after an Executive Director is

engaged so that he/she can look through for the history of SRBA before anything was discarded.

She stated that she and Michael Sandefur were working on evaluating a Calendar program so everyone would know when and where future water-related meetings will be held, and past meetings would be documented.

ITEM# 18: Discussion and take action on the reports of the Cash Position & Expenditures:

Michael Sandefur stated that everyone had received a copy of the financial reports in their board packet. He stated that we are under budget in every item except legal fees. He stated that some of the legal fees could likely be allocated into Sunset and water planning studies categories.

He stated that as of July 11, 2016 we had \$447,614.15 in the checking account.

A motion was made by Brad Drake and seconded by Katie Stedman to approve the Reports of the Cash Position and Expenditures as presented.

The motion carried with all members present voting AYE.

ITEM# 19: Updates on Clean Rivers Program and the TCEQ Audit update of July 6-7, 2016:

The Steering Committee will be held at the Truman Arnold Building at the Texarkana College at 1:30 P.M. on Thursday, July 21, 2016 and everyone is invited.

Dr. Mike Buttram stated that we had the QAPP's Audit on July 6-7, 2016. He stated that it was good and everything was fine, except for rounding off the figures. He stated that he was rounding off the figures and TCEQ told him to allow the computer to do the rounding.

He stated that all the monitoring is going good and well underway.

Michael Sandefur stated that he was able to meet the TCEQ Staff at the opening conference and then he also made the exit interview the next day. He confirmed the good audit results and indicated they complimented Dr. Buttram, and also wrote a positive remark that Dr. Buttram was training others that would be able to continue the program in the future.

ITEM# 20: Updates on the Feasibility Study:

John Jarvis stated that RPS is still moving forward with the Sulphur River Basin Instream Flow Study: (1). Review of additional SBG material regarding hydrology; (2). Parse the synthesized hydrology using IHA; (3). Perform Flow Separation Analyses; (4). Review third party study finding regarding hydrologic characterization and parameterization; (5). Compare IHA and HEFR parameterization of the current SBG effort to previous SBG effort and third party study.

John stated that SBG has completed the overall project at 50%. They are still waiting on the EFM results before more work can be completed, but are still hoping to have the TSP completed as projected by December 2016.

The EFM is 90% completed, but still a very slow process.

He stated that the Corps of Engineers needs to submit an exemption request internally that must be approved by August 2016 to be able to continue funding. If the decision is to deny, then the reallocation/feasibility study will likely cease.

Michael Russell asked if SRBA needs to call or write to anyone in regards to the Corps of Engineers funding. USACE representative Elston Eckhardt stated not at this time.

John stated that there had been a USACE PDT Meeting on July 6, 2016 on the Sulphur River Basin, Reallocation Study. The discussion items were:

- (a). Planning Study Exemption status
- (b). EFM status update
- (c). Study schedule
- (d). Study Cost (specifically to TSP)

He stated that there will be a workshop starting tomorrow (Wednesday & Thursday) at the Corps of Engineers in Ft. Worth, Texas on the EFM.

John stated that there was a Preview Meeting IP 2 Analysis at 10:30 AM on Friday, July 1, 2016. He stated there is still work in progress with certain assumptions needing to be worked out.

ITEM# 21: Updates on Region D:

Bret McCoy stated there has not been a meeting since the SRBA's last meeting.

The next Region D meeting is set for Wednesday, July 20, 2016.

Bret McCoy stated that he would be unable to attend but that Katie Stedman had agreed to attend. Michael Sandefur indicated he planned to attend the meeting as well.

ITEM# 22: Announcements from the Board of Directors and/or Staff:

Nancy Rose stated that the next meeting is set for Tuesday, August 16, 2016 at 1:00 P.M.

ITEM# 23: Public Comments (Part 2).

David Nabors, Paris, Texas....Thanked Bart Brock with Representative VanDeaver's Office for attending the entire meeting.

Jane Morris, New Boston, Texas... Stated that she would like a copy of the Acronyms that John Jarvis was speaking of.

ITEM# 24: ADJOURNMENT:

Michael Sandefur made the recommendation to adjourn and Michael Russell seconded.

The motion carried with all members present voting AYE.

MICHAEL SANDEFUR, PRESIDENT