



**TO: SAM DAWSON, CHAIRMAN  
BOARD OF DIRECTORS**

**FROM: EXECUTIVE COMMITTEE**

**SUBJECT: BEXARMET DISSOLUTION ELECTION**

**STATUS: ADOPTED**

**DATE: 10/27/2011**

**RECOMMENDATION:**

That the Board of Directors of The Greater San Antonio Chamber of Commerce adopt the following statement as policy:

**STATEMENT:**

The Greater San Antonio Chamber of Commerce supports the dissolution of the Bexar Metropolitan Water District (BexarMet). We urge our members to vote "Yes" on November 8 for the dissolution and transfer of all BexarMet's assets, obligations, and duties to the San Antonio Water System insuring reliable, efficient, and clean water resources for all of our citizens.

**BACKGROUND:**

The Bexar Metropolitan Water District (BexarMet) was established by the Texas Legislature in 1945 and currently serves approximately 93,000 connections serving about 300,000 people in Bexar, Comal, Medina and Atascosa counties. While approximately 60% of BexarMet customers reside within the San Antonio city limits, BexarMet also serves customers in Somerset, Castle Hills, Hill Country Village, Hollywood Park, Bulverde, and portions of Converse.

BexarMet is unique among water utilities in that the District is comprised of 19 separate water systems, each requiring its own water supply and pumping facilities and many without adequate backup. This has caused service interruptions, poor quality water and low water pressure. Widely-reported management issues and in-fighting among board members has resulted in a loss of confidence among its customers. Moreover, the residential and commercial development industry has had to deal with inadequate infrastructure, inconsistent requirements and high prices that hinder development in the areas of high growth in and around Bexar County.

Bexar Met has been plagued with official misconduct and a failure in leadership. In 2008 a grand jury indicted BexarMet's public relations agent who plead guilty to campaign-finance violations. Later that same year, a grand jury indicted their General Manager on charges of wiretapping employees' work phones and giving \$20,000 to an employee with whom he had an affair and then fired. Olivares later pleaded guilty to two counts of wiretapping. On December 15, 2010 then-General Manager was indicted in Detroit on charges of racketeering, extortion and obstruction of justice while he ran that city's utility. That General Manager was fired the next day.

Most recently, a BexarMet Board member formally resigned at their September 26 Board meeting. Additionally, within a day or two of the Board member resignation, BexarMet's general counsel and finance director both resigned.

## **LEGISLATION**

The legislature established the BexarMet Legislative Oversight Committee to monitor operations, management, and governance of the district. The legislature also mandated operational and financial audits of the district by the state. The audits found a number of serious problems with the district, including financial improprieties, weak management, and a pattern of unethical conduct and unprofessional management practices by certain officials of the district. Attempts to put legislative remedies in place in 2009 were unsuccessful and oversight by the committee continued during the interim with findings that the district's board of directors is incapable of functioning as a policymaking body.

During the 82<sup>nd</sup> legislative session, Senator Carlos Uresti and State Representative José Menéndez filed and passed legislation (Senate Bill 341) to have the Texas Commission on Environmental Quality appoint an overseer for BexarMet, who would advise the public utility's board and staff. With clearance from U.S. Department of Justice, an election could take place as soon as November to allow BexarMet customers the opportunity to abolish BexarMet. SAWS would have five years to oversee the transition of all assets and liabilities along with all files and records. If a majority votes to keep BexarMet, the TCEQ appointment would stay in place until the utility is deemed to be sound.

Tuesday, September 6, 2011, U.S. District Judge Orlando Garcia ruled against BexarMet's request for a temporary restraining order to block the election. That same day the U.S. Justice Department gave "preclearance" to the election, confirming that an election would not disenfranchise voters.

## **BEXARMET FINANCES**

On December 15, BexarMet signed up for a line of credit with Wells Fargo that included a clause stating that if legislation passed that would allow for a vote to dissolve the utility, which later became Senate Bill 341, the Bank would be consider the action to be a "technical default" on the loan.

Once the legislation passed, BexarMet lost its \$50 million line of credit from Wells Fargo, impacting its ability for short-term borrowing. Wells Fargo, also asked BexarMet to repay by December the \$10 million that it has borrowed so far, and according to the utility, they only have \$13 million in cash reserves.

BexarMet was forced to halt most construction projects and lay off 34 employees. Even though BexarMet lost its line of credit, it still has access to the bond market through the

TCEQ for capital improvements, however going through the TCEQ could take more than a year. They have yet to secure a new line of credit and have lost access to low-interest money for its daily operations.

In 2010 a forensic auditing firm found that BexarMet's finance department had improperly recorded \$3 million in impact fees on the last day of the fiscal year when the utility was struggling to meet its debt-coverage ratios. The firm recommended the money be removed from the utility's books as BexarMet had no reasonable expectation of collecting it for years.

By SAWS' estimates, ratepayers of BexarMet can realize more than \$70 million in savings by connecting to SAWS' system because it would not have to install its own pipes and develop its own water projects. SAWS customers would also see an estimated \$10 million in savings from projects it could forgo.

**REASONS FOR SUPPORT OF THIS STATEMENT:**

1. For many years, BexarMet has been beset by mismanagement and board instability, inconsistent pricing structures, erratic water pressure, and longstanding problems providing reliable and sustainable water to its customers.
2. By dissolving BexarMet and transferring its assets to SAWS, there is opportunity for improved and reliable service, significant cost savings, uniform development rules and elimination of duplicate services.
3. The Chamber has supported legislative action for a change in BexarMet's governance since 2007. Our primary emphasis is on safe and reliable water supply and water service. BexarMet's performance in both of these areas over the past six years has been fraught with problems.

**REASONS FOR OPPOSING THIS STATEMENT:**

1. Approximately 40% of BexarMet's customers live outside city limits and those customers will not have any representation on the SAWS board, which is appointed by the City Council.

**IMPLEMENTATION:**

The Chamber will communicate this position to the BexarMet Board of Trustees, the media and The Chamber membership through public testimony, letters, media releases and publication in *The Chamber Today*.