

LAKE BONANZA WATER SUPPLY CORPORATION  
May 4, 2023 6 p.m.  
KOA 19785 Highway 105 West Montgomery, Texas 77356 6 P.M  
PUBLIC MEETING

President Mary Wesolick called the meeting to order. Secretary Karen Gonzalez, Directors Bo Roach, Alec White, Karen Laube and Dwight Courtney were present. Director Krista Inlay was not present.

Member Rodney Snell commented he felt the LBWSC did not follow procedures for the recent election according to the Water Code.

Mary read an Investigation Report and Recommendations for Lake Bonanza WSC Board Election 2023 written by Elise Eaton, Independent Election Auditor. Attached to these minutes is her Irregularity Report and Attorney Oscar Sommers Opinion on Recent Voting Irregularity.

ELECTION INVESTIGATION REPORT & RECOMMENDATIONS  
LAKE BONANZA WSC BOARD ELECTION 2023

Complaints were received following the WSC Annual Meeting and Board Election regarding perceived election irregularities. A careful investigation was undertaken as a result. This investigation included a review of the adopted WSC election procedures, relevant state statutes and a legal opinion from the board attorney.

In summary, an individual appeared approximately 20 minutes after the quorum for the meeting had been determined and called. The act of determining the quorum and beginning the meeting officially closes the voting poll per the election rules set out in *Election Procedures for the Annual Meeting*. This individual was also not listed as a member. His wife was listed, but she was not present. There is no provision in the *Election Procedures* for voting by proxy. Although that vote was initially allowed, it was an error to do so. Based upon the facts and the election rules, the aforementioned ballot must be set aside as being invalid on two counts as described, above. I recommend that you do so, and declare Alec White as the winner.

Respectfully submitted,

Elise Eaton

Independent Election Auditor

Dwight motioned to accept the Election Auditors Investigation Report and Recommendations supported by our Attorney's Legal Opinion, in declaring Alec White as the winner for the Director Position #5. Bo seconded. Alec abstained from the vote, Mary, Bo, Karen Laube, Karen Gonzalez and Dwight yea and the motion passed.

Bo motioned to adjourn the meeting and Karen Laube seconded. The motion passed unanimously and the meeting adjourned at 6:06 P.M.

Sincerely,

Karen Gonzalez  
Secretary LBWSC

# Election Irregularity Report

4-29-2023

Dear Lake Bonanza WSC Board,

I was asked to serve as the Independent Election Auditor for the WSC board election on April 29, 2023. I reviewed the election procedures prior to the election and endeavored to adhere to the procedures as best I could. Unfortunately, I believe that an error was made in following the election procedures, and that the vote was not counted correctly according to the WSC rules and state law.

According to the election procedures adopted by the WSC, the ballot delivery deadline for Meeting/Election Day is:

*Meeting is convened, and ballots are accepted until the presiding director makes a last call for ballots.*

|                                       |  |
|---------------------------------------|--|
| <b><u>3 Days (72 Hours) Prior</u></b> | <b>Corporation posts notice of Membership Meeting/ Director Election and of first Board of Director meeting, if applicable, in accordance with Open Meetings Act.</b>  |
| <b><u>12 Noon, 1 Day Prior</u></b>    | <b>Deadline for submittal of ballots by mail, drop box (if applicable) or delivered to business office.</b>  |
| <b><u>Meeting/ Election Day</u></b>   | <b>Meeting is convened, and ballots are accepted until presiding director makes a last call for ballots. If applicable, presiding director reads into the record resolution declaring unopposed candidates elected. Upon adjournment of director election, new Board of Directors meets.</b> |

This deadline is further supported by the quorum requirement which states:

*At the commencement of the annual meeting, the President will make a last call for the submission of ballots. The President will report the total number of members who are present, which includes those members who mailed or delivered ballots prior to the meeting, for the purpose of establishing a quorum. The President will announce that a quorum of the membership is present and that the meeting [and election] may proceed.*

11. **Quorum Requirement.** At the commencement of the annual meeting, the President will make a last call for the submission of ballots. The President will report the total number of members who are present, which includes those members who mailed or delivered ballots prior to the meeting, for the

<sup>8</sup> See T.W.C. Sec. 67.0054(a). In the alternative, the Corporation may designate that the ballots be delivered to the office of the Independent Election Auditor.  
Lake Bonanza WSC

Election Procedures 2023

purpose of establishing a quorum. The President will announce that a quorum of the membership is present and that the meeting [and election] may proceed.<sup>9</sup>

12. **Counting the Ballots.** The **Independent Election Auditor** will open the ballot envelopes received prior to the meeting and place the ballots with the ballots received at the meeting. The envelopes will be kept separately in a secured location. The **Independent Election Auditor** will count all the ballots at the meeting prior to adjournment and will provide the board with a written report of the election results.<sup>10</sup>

Members or other individuals to

On election day, there were many mailed ballots on hand. A handful of members also showed up in person to cast their ballots. Most members arrived prior to the last call for ballots. When the last call for ballots occurred, one member was still filling out a ballot. That member was instructed to complete their ballot quickly and turn it in, which they did. The President then requested the final ballot total in order to determine the quorum. This total was given to the President, and the tallying of ballots commenced.

At the point when ballots were being counted to establish a quorum, my assistant and I had not inspected the front of the ballots. We only counted the ballots with them turned facedown to get a total. The total given to the President was 78 ballots. It was later discovered during the counting of votes that one member had over voted by marking all of the boxes on their ballot instead of voting for just one candidate. This ballot was marked as "spoiled" and removed from the tally. This would have left a total of 77 ballots. The President was made aware of the spoiled ballot as soon as it was discovered. I do not know if the adjusted quorum was recorded by the secretary in the minutes at that time.

My assistant and I spent several minutes sorting the ballots into stacks according to their votes. We had both counted both stacks twice and were preparing to return a final tally when another individual arrived. This person was very insistent about voting, even though it was over 20 minutes into the meeting and the votes were already in the process of being tallied.

I tried to explain that the meeting had already started and ballots had already been collected, and I did not believe he could vote. It was also unclear whether this person even had the right to vote since the membership roster did not list his name or anything like it. This became a major issue, and he just kept getting louder about his name not being there. The man eventually called his wife and put her on speaker phone, which was set very loud and disrupted the entire meeting. The woman was also being quite belligerent and rude on the phone because she apparently has a different last name than her husband and I was supposed to know that. There is no procedure for validating the vote of a married couple when the account is in one person's name, but the other person shows up to vote.

I was quite flustered with the whole situation and was unsure what to do at that moment. I interrupted the board meeting to request guidance from the board. In order to quell the noisy disruption, I was told to just allow this person to vote. After a review of the procedures manual, it is quite clear that this action was against the rules. His ballot should not have been accepted.

Prior to this individual's vote, the tally was as follows:

Alec White - 39

Rodney Snell - 38

(This is a total of 77 ballots because of the spoiled ballot mentioned earlier.)

After this person turned in their ballot the vote was as follows:

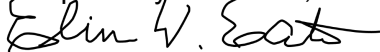
Alec White - 39

Rodney Snell - 39

(This is a total of 78 ballots because of the erroneous ballot inclusion.)

It is my firm opinion that the illegal vote should be removed from the tally and that Alec White should be declared the winner of the election. If this is not done, I believe Alec would have cause to bring a complaint against the WSC for election irregularity.

Respectfully submitted,



Elise Eaton, Independent Election Auditor

**Oscar Sommers Attorney at Law, PLLC**  
**414 West Phillips, Suite 101**  
**Conroe, Texas 77301**  
[Oscar.Sommers@gmail.com](mailto:Oscar.Sommers@gmail.com)

Phone: 936-756-6304  
Cell: 281-798-0396

Fax: 936-756-7780

May 3, 2023

Mary Wesolick, President  
Lake Bonanza Water Supply Company

Re: Opinion on Recent Voting Irregularity

Dear Ms. Wesolick,

In response to the information, you have provided I give you the following opinion and advice.

According to the company practices and definitions within the election code only members have a right to vote. Residents who are not established as customers through the billing process are not members. Only one member is allowed per household. So, for example if a water account is in the name of a wife, the husband would not be able to vote and vice versa. Merely showing identification which might indicate residence is not adequate to attain the right to vote. This is unlike political elections for county or state government positions.

There is no provision in the *Election Procedures* for voting by proxy. Therefore, a person may not simply show up and vote based upon the membership status of his or her spouse.

My understanding is that an individual appeared approximately 20 minutes after the quorum for the meeting had been determined and called. That act officially closes the voting poll per the election rules set out in *Election Procedures for the Annual Meeting*. Although that vote was initially allowed, it was an error to do so.

Based upon the facts presented to me and my application of the election rules, the aforementioned ballot must be set aside as being invalid on two counts as described, above.

I would further like to point out that it is a criminal offense to disrupt a public meeting by making an utterance. This is set out in Penal Code Section 42.05. If you anticipate disruptions of this nature in the future, I recommend that a law

enforcement officer be made present to restore order, eject and offender or arrest an offender.

Please feel free to call me if you have any questions.

Sincerely,

Oscar "Jack" Sommers  
Attorney at Law