

LONE STAR GROUNDWATER CONSERVATION DISTRICT

MAY 11, 2010

MINUTES OF SPECIAL MEETING

Lone Star Groundwater Conservation District (“District”) held a “Special Meeting,” open to the public, at 207 W Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on May 11, 2010.

President Tramm called the meeting to order at 9:00 a.m., announcing that it was now open to the public.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker
Reed Eichelberger, PE
Orval R. Love, PE
Roy McCoy, Jr.
Jim Stinson, PE
Richard J. Tramm
Scott Weisinger, PG
James B. Wesley
W. B. Wood

All members of the Board were present, with the exception of Director Baker, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian L. Sledge, General Counsel; Jason Hill, Attorney; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

After a proper and legally sufficient announcement to the public by President Tramm, the Board of Directors went into a Closed Executive Session at 9:01 a.m. as authorized by the Open Meetings Act, Sections 551.071, Government Code, to consult with the District's attorney regarding pending or contemplated litigation, settlement offers, or on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated.

Director Baker arrives at 9:07 a.m.

Following Executive Session, the Board reconvened in Open Session and declared it open to the public at 10:06 a.m.

No action was taken on matters discussed in Executive Session and the meeting was adjourned at 10:06 a.m.

President Tramm declared a short recess before beginning the Regular Board Meeting.

PASSED, APPROVED, AND ADOPTED THIS 8th DAY OF JUNE, 2010.

Sam W. Baker, Board Secretary

LONE STAR GROUNDWATER CONSERVATION DISTRICT

MAY 11, 2010

MINUTES OF PUBLIC HEARING ON PROPOSED CHANGES TO DISTRICT RULES

The Board of Directors of the Lone Star Groundwater Conservation District (“District”) met in regular session, open to the public, in the Lone Star GCD – Board Room located at 207 W. Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on May 11, 2010.

The audio tape will serve as the official record for the Public Hearing on Proposed Changes to District Rules. The summary below is provided for convenience.

President Tramm called to order the Public Hearing on proposed changes to District Rules at 10:23 a.m.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker
Reed Eichelberger, PE
Orval R. Love, PE
Roy McCoy, Jr.
Jim Stinson, PE
Richard J. Tramm
Scott Weisinger, PG
James B. Wesley
W. B. Wood

All members of the Board were present, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian L. Sledge, General Counsel; Jason Hill, Attorney; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

PRESENTATION AND DISCUSSION OF PROPOSED CHANGES TO THE DISTRICT RULES. THE PROPOSED CHANGES INCLUDE REVISIONS TO THE DISTRICT’S RULES GOVERNING THE USE OF GROUNDWATER PRODUCED WITHIN THE DISTRICT IN SURFACE IMPOUNDMENTS, INCLUDING A PROPOSED RESCISSION OF ORDER NO. 09-009 OF THE DISTRICT BOARD OF DIRECTORS INSTITUTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF CERTAIN PERMITS. THESE CHANGES, ALONG WITH ANY OTHER CHANGES TO THE DISTRICT RULES NOT REFERENCED IN THIS NOTICE, MAY

**BE CONSIDERED AND ADOPTED WITHOUT FURTHER NOTICE OF HEARING
BASED ON COMMENTS RECEIVED AT THIS HEARING.**

President Tramm announced he would now turn over the Hearing to Jason Hill, Attorney for the District, for a presentation of the proposed changes to the District Rules.

In brief, Mr. Hill explained that the Rules and Bylaws Committee had been working to come up with an appropriate balanced solution for the issue of using groundwater to maintain water levels in amenity ponds. The approach taken by the committee was to get feedback from the public. The committee has proposed, that for ponds that are going to hold water for amenity purposes—the permittee be given the opportunity to apply for a permit for an amount not to exceed 18 inches of water per surface acre of the designed capacity of the impoundment. (That would be an acre foot and a half of water per surface acre.) This will require more thought to go into the design for amenity ponds and put more effort into capturing rain water run-off that can be channeled into the ponds, and to also rely on rainfall to become the dominant source of “fill water” for amenity ponds. Feedback received from district managers, as well as developers within the community, thought that was a good balanced approach. If adopted today in its current form, the Rule proposal would replace the moratorium that was voted in place by the District on August 11, 2009, and would allow opportunity for people to come in and apply for permits not to exceed 18 inches per surface acre. It also couples with the existing Rules; that for those using impoundments as a “holding tank”, into where they put water in and pull water out for irrigation or other purposes, it still recognizes the ability to do that—as a pond can serve dual purposes. The committee has made some revisions to the definition of impoundment water for public clarification.

Mr. Hill recommended adoption of the Rules with two recommended non-substantive changes. It is suggested, under Rule 13.3a, to disregard “other than lake maintenance”, which creates more confusion rather than clarifying a statement. The second recommended change would be under Rule 13.3i, strike the entire section, as again it tends to created confusion rather than clarifying a statement.

PUBLIC COMMENTS: None

The Public Hearing on Proposed Changes to District Rules was adjourned at 10:33 a.m.

PASSED, APPROVED, AND ADOPTED THIS 8TH DAY OF JUNE, 2010.

Sam W. Baker, Board Secretary

LONE STAR GROUNDWATER CONSERVATION DISTRICT

MAY 11, 2010

MINUTES OF PUBLIC HEARING ON PERMIT APPLICATIONS

The Board of Directors of the Lone Star Groundwater Conservation District (“District”) met in regular session, open to the public, in the Lone Star GCD – Board Room located at 207 W. Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on May 11, 2010.

President Tramm called to order the Public Hearing on Permit Applications at 10:15 a.m., announcing that it was now open to the public.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker
Reed Eichelberger, PE
Orval R. Love, PE
Roy McCoy, Jr.
Jim Stinson, PE
Richard J. Tramm
Scott Weisinger, PG
James B. Wesley
W. B. Wood

All members of the Board were present, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian L. Sledge, General Counsel; Jason Hill, Attorney; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

Item #1, **San Jacinto River Authority** – Applicant is requesting drilling authorization only, for two (2) new wells. No additional water is being requested at this time. Based on Technical Review, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Stinson, seconded by Director Love to approve the permit application in accordance with the recommendation of the General Manager. Motion passed with Director Weisinger and Director Eichelberger abstaining.

Item #2, **TDC-DS Company/Valero** – Applicant has requested an increase in allocation of 100,000 gallons for 2010 and annually thereafter. Based on Technical Review of information supplied by application, it is the General Manager’s recommendation to authorize a reduced amount of 50,000 gallons for 2010 and thereafter. A motion was made by Director Love, seconded by Director Wesley to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #3, **Glen E. Walden** – Applicant has requested drilling authorization and 140,000 gallons for 2010 and 260,000 annually thereafter. This well will supply water for a manufacturing facility for oil field chemicals. Based on Technical Review of information supplied by application, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Wesley, seconded by Director Love to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #4, **Montgomery County Animal Shelter** – Applicant has requested an increase in allocation of 1,000,000 gallons for 2010 and annually thereafter. Based on Technical Review of information supplied by application, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Stinson, seconded by Director Love to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #5, **3H Farms, LTD** – Applicant is requesting an amendment to the permit to include an existing well that was not permitted with the District. Applicant continues to supply water to their agricultural growing facility. At this time, applicant is not requesting additional water. Based on Technical Review, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Stinson, seconded by Director Wesley to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

President Tramm adjourned the Public Hearing on Permit Applications at 10:20 a.m.

PASSED, APPROVED, AND ADOPTED THIS 8th DAY OF JUNE, 2010.

Sam W. Baker, Board Secretary

LONE STAR GROUNDWATER CONSERVATION DISTRICT

MAY 11, 2010

MINUTES OF REGULAR MEETING

The Board of Directors of the Lone Star Groundwater Conservation District (“District”) met in regular session, open to the public, in the Lone Star GCD – Board Room located at 207 W. Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on May 11, 2010.

President Tramm called to order the regular Board of Directors meeting at 10:20 a.m. announcing that it was open to the public.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker
Reed Eichelberger, PE
Orval R. Love, PE
Roy McCoy, Jr.
Jim Stinson, PE
Richard J. Tramm
Scott Weisinger, PG
James B. Wesley
W. B. Wood

All members of the Board were present, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian L. Sledge, General Counsel; Jason Hill, Attorney; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

APPROVAL OF THE MINUTES:

President Tramm stated the Board would consider all six (6) meeting Minutes listed as one item. Upon review of the following, a motion was made by Director Wood, seconded by Director Love and unanimously carried, to approve the meeting minutes as presented:

- a) March 9, 2010, Show Cause Hearing
- b) April 13, 2010, Special Board Meeting
- c) April 13, 2010, Public Hearing on Permit Applications
- d) April 13, 2010, Regular Board of Directors Meeting
- e) April 13, 2010, Public Hearing on Proposed Changes to District Rules
- f) April 22, 2010, Public Hearing on Proposed Changes to District Rules

COMMITTEE REPORTS:

Rules and Bylaws Committee – Kathy Turner Jones, Coordinator. Ms. Jones reported that the committee had not met since the last Board Meeting. Ms. Jones stated that at the last meeting it was approved to authorize the General Manager to publish amendments to the Rules regarding impoundment of groundwater. The amendments, as required by District Rules, were posted for the public to view twenty (20) days in advance of today's meeting. One public comment was received and has been reviewed.

10:23 a.m. – President Tramm stated that at this time the District would continue the Board Meeting at the conclusion of today's Public Hearing on Proposed Changes to District Rules.

10:33 a.m. President Tramm stated the Regular Board Meeting of Lone Star Groundwater Conservation District would continue.

Discussion, consideration, and possible action approving Resolution #10-003 Amending Adopted Rules for the Lone Star GCD.

Without further discussion a motion was made by Director Wesley, seconded by Director Weisinger and unanimously approved to adopt Resolution #10-003 amending and adopting changes to the Rules, with the approved with non-substantive changes. *Copy of Resolution #10-003 is attached hereto as Exhibit "B".*

10:34 a.m. – Director Wesley leaves

Policy and Personnel Development Committee – Sam W. Baker, Chair. Director Baker reported that the committee had not met since the last Board Meeting.

Water Awareness and Conservation Committee – Billy Wood, Chair. Director Wood stated that the committee had not met since the last Board Meeting and stated that Marjie Risk, Education/Public Awareness Coordinator, was unavailable to give a report of her activities during the past month.

Ms. Jones stated that a lot of Ms. Risk's activities focused on getting the District's conservation awareness message out to the public. The District currently is running 50 radio spots per month; 6 billboards are strategically located within the county; and ad spaces in local newspaper and magazine articles have been purchased. Newspaper ads begin during the month of May and the magazine ads begin in June. The District has 23-full color, ¼ page ads and 19-full color, 2/3 page magazine ads. The District will also purchase magazine ads that will target outdoor irrigation.

The General Manager stated that Ms. Risk is working to schedule a two day Audit Water Training, but has had some hurdles to overcome regarding the location. The program has been switched from June to July to allow finalizing the logistics and have adequate promotion time.

The District was asked to participate in the Center for Houston's Future, which relates to water supply in an eight (8) county region and is very important to the District. The Center for

Houston's Future is developing an Indicator Report that outlines the indicators that are important for the sustainability of the region with an emphasis on water supply.

Budget and Finance Development Committee – Jim Stinson, Chair. Director Stinson reported his committee had not met since the last Board Meeting.

Review of Monthly Financial Reports. Director Stinson stated he had reviewed the monthly financial report and if anyone has any questions he would be glad to address those. The District is currently \$600,000 over budget in income and \$180,000 under budget in expenses.

Findings and Review Committee – Orval R. Love, Chair. Director Love reported the committee had not met since the last Board Meeting.

USGS Recharge Project Update. Kathy Turner Jones, General Manager, stated that a letter from USGS was included in each Board Packet regarding the recharge study update. Over the next few months USGS will continue to analyze and review the data and interpretations. Due to the urgency of the information, USGS is accelerating the report timeline. USGS indicated they will have a draft report in peer review in June, and the District will be given an opportunity to review the draft report at that time. Monthly updates will be provided throughout the project's duration.

Building and Facilities Committee – Kathy Turner Jones. Ms. Jones stated the committee had not met since the last Board Meeting, but they are still looking at various options.

DISCUSSION AND POSSIBLE ACTION TO ISSUE A SHOW CAUSE ORDER DIRECTING THE FOLLOWING PRMITTEES, OR THEIR DESIGNATED REPRESENTATIVE, TO APPEAR AT A SHOW CAUSE HEARING FOR THAT PURPOSE AND SHOW CAUSE WHY APPROPRIATE ENFORCEMENT ACTION BE TAKEN, INCLUDING INITIATING A LAWSUIT AGAINST IT FOR FAILURE TO REMIT 2010 WATER USE FEES:

- a) **Martin Simonton, #OP-08031202**
- b) **Lakeland Section 1 Club, #OP-07020501**
- c) **LaRoca Ready Mix, #OP-07092701**

General Manager, Kathy Turner Jones, stated no action will be taken on LaRoca Ready Mix.

President Tramm asked if there was anyone present representing Martin Simonton or Lakeland Section 1 Club and with there being no one present, President Tramm asked the General Manager to proceed.

Kathy Turner Jones, General Manager, stated that, based on legal advice received in Executive Session, it would be her recommendation to order a Show Cause Hearing to be held in conjunction with the June 8, 2010 Board Meeting for Martin Simonton and Lakeland Section 1 Club regarding non-payment of water use fees for 2010. A motion was made by Director Stinson, seconded by Director Love and unanimously carried, to proceed with the recommendations of the General Manager.

DISCUSSION AND POSSIBLE ACTION TO ISSUE A SHOW CAUSE ORDER DIRECTING THE FOLLOWING PERMITTEES, OR THEIR DESIGNATED REPRESENTATIVE, TO APPEAR AT A SHOW CAUSE HEARING FOR THAT PURPOSE AND SHOW CAUSE WHY APPROPRIATE ACTION BE TAKEN, INCLUDING INITIATING A LAWSUIT AGAINST IT FOR FAILURE TO SUBMIT 2009 PRODUCTION REPORT:

President Tramm stated that no action will be taken on this agenda item.

ENGINEERING REPORT:

Mark Lowry, District Consultant, stated his report was included in the Board packets, but did mention several items he worked on this past month. Mr. Lowry reported he has been working on review of the 2009 total qualifying demand issues as well as assisting with the Rule revisions regarding brackish groundwater.

Status Report regarding LSGCD Brackish Groundwater Review Panel's findings. John Seifert, LBG Guyton, presented the findings of the Panel. After reviewing the data, it was the consensus of the Panel that the Catahoula is part of the Gulf Coast Aquifer, with the Catahoula being isolated from the major producing aquifers (Chicot, Evangeline, and Upper Jasper). The geologic data indicates that it is unrealistic or unlikely that pumping from the Catahoula would have any major impact on the Chicot, Evangeline or Upper Jasper Aquifers. The Panel further concluded that subsidence does not appear to be an issue.

Update on Total Qualifying Demand (TQD) final determinations under DRP Phase II(B). Mr. Lowry stated there is a provision in the Rules that allows the District to look at those individual users that had a permit that was significantly in excess of their highest usage. Mr. Lowry stated the District had sent letters to 42 permittees asking them to respond to as whether or not there was justification for the increased amount. The District has received responses from all but five or six of those entities. There are a number of entities that have voluntarily requested their permit be reduced.

Mr. Lowry further reported that there was an investigation performed at Chateau Woods concerning an allegation of groundwater wastage through a detention pond. Mr. Lowry stated that he and Mel Lonon, Field Operations Coordinator, visited the site, looked at the area in question, and spoke with the manager of the water system. The pond is approximately 10-12 feet deep and the groundwater in the Chicot at that location is 24-25 feet deep—which is the top surface elevation of the Chicot. Mr. Lowry stated there is currently no evidence at this point to indicate that there is groundwater waste occurring.

General Counsel Report:

Brian Sledge, General Counsel, reported that feedback on Phase II(B) implementation has been good. The public has been pleased with the way the District has worked with them to incorporate the feedback into the District Rules.

On April 15, 2010 the House Natural Resources Committee had a Hearing in Austin on groundwater conservation management. Lone Star Groundwater Conservation District was one of a handful of Districts from around the state that was invited to attend and present the District's

Regulatory program to the committee. The General Manager did an excellent job and the report was well received.

Mr. Sledge stated that from time to time the District receives requests from LVGUs for special exemptions now that Phase II(B) deadlines are approaching. General Counsel stated he has been visiting with the Board President and staff regarding this issue and would recommend that the Board President review those requests and send a response stating that at this time, District is not anticipating publishing any revisions to give further exemptions. The Board members will be copied; and if a majority of the Board wishes to grant those requests, then the District will follow protocol and republish those changes. This process will eliminate the need to deal with them at each Board Meeting.

Mr. Sledge stated he had provided the Board with a brief update regarding Texas Water Conservation Groundwater Committee's activities. This is a committee of multiple stakeholders from across the state representing public water supply, groundwater conservation districts, and groundwater marketers. The committee is looking at recommendations to present to the next legislature on how Chapter 36 might be revised on various topics. One of the biggest issues is to have someone, other than groundwater conservation districts, to make a decision on the establishment of desired future conditions to the aquifer. The committee is trying to come up with criteria to make it a little more of a formalized process.

General Counsel further stated that one recommendation was that every contested permit hearing be held before the State Office of Administrative Hearings (SOAH), which is the body that is hearing the TexCom case. Some marketers are questioning whether the permittees are getting a fair hearing and think a neutral party should evaluate the evidence. The consensus is that if someone wants to use a SOAH judge from Austin to come and sit and make a ruling, with the District Board overseeing, that party can request it, get it, and pay for it.

Another big item up for discussion is the ability to order mitigation. This is being driven primarily from the area where there is a lot of shallow groundwater wells in the area and a lot of water in storage in the aquifer.

Mr. Sledge stated the District recently received a letter from the Sunset Advisory Commission, which is a legislative agency that reviews all state agencies once every 12 years to determine whether they have retained their usefulness. All of the Natural Resource Agencies are up for review and will be set to expire unless renewed by the legislature in 2011 Legislative Session. Counsel recommended that the District authorize the General Manager to draft a letter in support of the TWDB for the Board to review and respond to the General Manager with their comments. The deadline for comments to the committee is June 4, 2010.

General Counsel informed the Board that action is still pending regarding *Edwards Aquifer vs Day*. A large number of amicus briefs have been submitted by different parties, but no formal action has been taken to date.

Mr. Sledge informed the Board that the District's local litigator, Fowler Law Firm, is still actively engaged in the lawsuit regarding Mary Lou Kirves and the lawsuit regarding James Cappiello, for failure to meter and permit a well.

GENERAL MANAGER'S REPORT:

Kathy Turner Jones, General Manager, reported the lawsuit regarding Mary Lou Kirves has been filed and the defendant has been served. The District has received a response and Mr. Fowler is in contact with Ms. Kirves attorney and has proposed an out-of-court settlement. Mr. James Cappiello's lawsuit was filed April 8, 2010, and he is in the process of being served.

PUBLIC COMMENT: Mike Repsold – Mr. Repsold wanted to know why there wasn't provisions in the District Rules for small businesses that only used a minimum amount of water to be exempt from groundwater regulation.

President Tramm explained to Mr. Repsold that there is a significant difference in the way the Water Code allows the District to regulate, with there being difference between commercial uses.

Brian Sledge, General Counsel, responded to Mr. Repsold and stated large users are treated different than small users. Mr. Sledge explained that the District has exemptions for meter requirements in its Rules for very small wells, those designed just for small businesses and small churches, that have a single toilet and single lavatory. There are provisions in the Rules, but it is incumbent on the well owner to work with District staff to discover what is needed to get things into compliance and also find out what exemptions the small business might be eligible to receive.

NEW BUSINESS: Director Stinson stated he would like to draw everyone's attention to the handout that was distributed to the Board and wanted to remind the Board, as well as the public, that with the approach of summer, millions of gallons of water will be wasted on excessive lawn irrigation and landscaping. The W.I.S.E. guys program is well underway in The Woodlands. This is a program that is fully web-based where a resident can on online and request an evaluation of their irrigation system. In the short period that it has been available, well over 200 requests have been received and it is anticipated that by the end of the summer, that number will grow to over 1,000. Director Stinson stated he would like to see other water purveyors adopt a similar program.

There being no further business, upon a motion by Director Weisinger, seconded by Director Love, the meeting was adjourned at 11:30 a.m. The next regular meeting of the Board of Directors is scheduled for June 8, 2010, at 10:00 a.m.

PASSED, APPROVED, AND ADOPTED THIS 8th DAY OF JUNE, 2010.

Sam W. Baker, Board Secretary