

LONE STAR GROUNDWATER CONSERVATION DISTRICT

June 8, 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 June 8, 2010.

President Tramm called the meeting to order at 9:05 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 Eichelberger and Director Weisinger, 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 9:06 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 Weisinger arrives at 9:12 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 13th DAY OF JULY, 2010.

Sam W. Baker, Board Secretary

LONE STAR GROUNDWATER CONSERVATION DISTRICT

June 8, 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 June 8, 2010.

President Tramm called to order the Public Hearing on Permit Applications at 10:20 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 Eichelberger, 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; 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, **Williams Brothers** – No action, application withdrawn.

Item #2, **Glen Walden (Koalstad Rd.)** – Applicant has requested 500,000 gallons for 2010 and annually thereafter. This is an existing well, operating since 1970 for an industrial facility that staff found in non-compliance. Based on Technical Review of information supplied by application, it is the General Manager’s recommendation to authorize a reduced amount to the

amount registered by meter for the remainder of the year and the same amount for 2011. 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.

Item #3, **Paradise Cove Water System** – This is an application for a new Operating Permit requesting allocation only, in the amount of 4,000,000 gallons. This application is associated with an existing Historic Use Permit. 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 Baker, seconded by Director Stinson to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #4, HMW Special Utility District (Coe Country); Item #5, HMW Special Utility District (Rustic Oaks); and Item #6, McGovern Animal Clinic – Applicants are requesting drilling authorization only for 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 Weisinger to approve the permit applications in accordance with the recommendation of the General Manager. Motion passed.

Item #7, **Donald Rawls** – Applicant has requested 5,200,000 gallons for 2010 and annually thereafter. This is an existing well, operating since 1978 and is currently providing water for a retail tree nursery that staff found in non-compliance. Based on Technical Review of information provided by application, it is the General Manager’s recommendation to authorize a reduced amount to the amount registered by meter for the remainder of the year, not to exceed 5.2 mg and the same amount for 2011. A motion was made by Director Wesley, seconded by Director Stinson to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #8, **Lynch Signs** – Applicant has requested 150,000 gallons for 2010 and annually thereafter. This is an existing well, operating since 1983 for a printing facility that staff found in non-compliance. Based on Technical Review of information supplied by application, it is the General Manager’s recommendation to authorize a reduced amount to the amount registered by

meter for the remainder of the year, not to exceed 150,000 gallons and the same amount for 2011. A motion was made by Director Weisinger, seconded by Director Stinson to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #9, **INRI** – Applicant has requested drilling authorization for a new well and 400,000 gallons for 2010 and 200,000 for 2011. Applicant will be providing water for an industrial research facility. 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 Wesley to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #10, **Country Food Mart** – Applicant has requested 250,000 gallons for 2010 and annually thereafter. This is an existing well, operating since April when the facility was purchased for a convenience store that staff found in non-compliance. 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 Baker, seconded by Director Wood to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #11, **The Woodlands Township (Terramont Park)** – Applicant has requested an increase in allocation of 3,500,000 gallons for 200 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 Weisinger, seconded by Director Wesley to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #12, **East Montgomery County Improvement District** – This is an application for a new Operating Permit requesting allocation only. This application is associated with an existing Historic Use Permit. Based on Technical Review, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Weisinger, seconded by Director Baker 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 10:25 a.m.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF JULY, 2010.

Sam W. Baker, Board Secretary

LONE STAR GROUNDWATER CONSERVATION DISTRICT

June 8, 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 June 8, 2010.

President Tramm called to order the regular Board of Directors meeting at 10:25 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 with the exception of Director Eichelberger, 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; 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 four (4) meeting Minutes listed as one item. Upon review of the following, a motion was made by Director Wood, seconded by Director Weisinger and unanimously carried, to approve the meeting minutes as presented:

- a) May 11, 2010, Special Board Meeting
- b) May 11, 2010, Public Hearing on Permit Applications
- c) May 11, 2010, Regular Board of Directors Meeting
- d) May 11, 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.

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. Director Wood asked Kathy Turner Jones, General Manager, to give a report of the activities of Marjie Risk, Education/Public Awareness Coordinator, as Ms. Risk is at a conference and unavailable to give a report of her activities during the past month.

Ms. Jones stated that Mark Darsey, Lone Star Convention Center, and staff installed the spray valve at the Convention Center. Pre and post water use data was taken. The old spray valve was using 3.75 gpm and the new spray valve used 1.25 gpm. Follow up discussions were held with the City of Conroe on May 28, 2010 and they stated the spray valve program would be discussed at the next City Council Water Conservation Workshop meeting on June 9, 2010. The Woodlands Joint Powers Association is considering tying the spray valve program to their commercial rate structure. Director Stinson stated that they are looking at modifying their commercial water rate structure to encourage conservation and this would be a good time to introduce the spray valve.

Ms. Jones further stated that Ms. Risk has had a conversation with Jim Gentry, City of Conroe, and has encouraged the City of Conroe to implement the table tent program. Mr. Gentry has agreed to begin working aggressively on this matter. Kathy Turner Jones, General Manager, challenged the City of Conroe to beat The Woodlands as The Woodlands Resort and Conference Center is currently serving water only upon request.

The General Manager stated that Ms. Risk has been working to schedule a two day Water Audit Training with on-site water audit. The agenda has been finalized and the LSGCD main sponsor, North Harris County Regional Water Authority, will be providing training materials and lunches. The program is scheduled for July 14-15th at the Lone Star Convention Center.

The District submitted one student application for the 2010 Youth Water Camp to be held July 11-15, 2010 in Monahan, Texas.

Ms. Jones stated Ms. Risk has given several presentations to the Lions Club and the Conroe Rotary Club. Ms. Risk continues to work with 4H Groups on Adopt a Spot site redesigns to include water harvesting. She has also met with Woodlands Joint Powers Association and San Jacinto River Authority to brainstorm for outdoor irrigation practices.

Budget and Finance Development Committee – Jim Stinson, Chair. Director Stinson reported his committee had not met since the last Board Meeting, but have scheduled a meeting for July 7, 2010, to review pumpage fees for 2011.

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 \$700,000 over budget in income and \$246,000 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 and hopes to receive a report from USGS by next month.

USGS Recharge Project Update. Mary Lowry, District Consultant, stated he and Ms. Jones met with USGS on June 7, 2010 and reviewed USGS analysis to date. Out of the forty (40) wells drilled and tested by USGS, only five wells were dateable using conventional dating methods relied upon by USGS. These dating methods that are normally used, cover a period back approximately 60 years. Fortunately USGS has a method which is Helium 4, which is released from the earth's core at a certain rate, therefore, by looking at the amount that is in the water USGS can reliably estimate the age of the water. Five of the wells were somewhere in the 40-60 year time frame. The other 35 wells they used this method on are older than 60 years. The older the water, the slower the recharge rate. After reviewing data, this information would need to be incorporated in the model and then model runs would need to be performed. This is a huge change because it is a completely different model operation than what USGS now uses. There is still going to be some time that will have to pass and a lot of work done before we can come up with a more definitive number on the actual amount of water than can be removed annually. Based on what USGS has done so far, it does not appear that there is going to be any major change.

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. A follow-up committee meeting is scheduled for June 23, 2010.

UPDATE AND STATUS REPORT ON TOTAL QUALIFYING DEMAND (TQD) FINAL DETERMINATIONS UNDER DRP PHASE II (B).

Kathy Turner Jones, General Manager, stated staff has identified 43 permittees whose permitted amount exceeded 120% of their actual usage. Letters were sent, as well as phone calls made, to work with those individuals in an attempt to gather more information to make final determinations on staff recommendations, as far as permit amendments--whether to lower those permits or to keep them at their current level. To date, the responses have been very supportive, with several permittees requesting to lower their permits without hesitation. Ms. Jones then asked General Counsel to explain how the District plans to move forward regarding this matter.

Brian Sledge, General Counsel, explained the District has four (4) Technical Reviews to complete. The plan is that as soon as these are complete, to get the Technical Reviews mailed out to all of the permittees identified on the list. The District will be scheduling the permittees for Hearings in conjunction with the July Board Meeting. Mr. Sledge stated he would like to try and get as many as possible to come in and seek voluntary permit amendments in the amount recommended by the General Manager pursuant of the Technical Reviews and that those left over, the District would take up at a Hearing in July and either have uncontested applications to amend those permits, or if permittees want to contest and go down a Contested Case Hearing course, those will be scheduled for separate Hearings.

CONSIDERATION AND POSSIBLE ACTION REGARDING REQUEST FOR SPECIAL EXCEPTION TO PHASE II(B) EARLY CONVERSION INCENTIVE (RIVER PLANTATION COUNTRY CLUB).

President Tramm recognized Bill Kotlan, Bleyl Engineering, as the representative for River Plantation Country Club, River Plantation MUD and East Plantation Utility District.

Mr. Kotlan stated that River Plantation MUD has been involved in a water reclamation program since 1988, where they have used wastewater treatment plant effluents as irrigation water for River Plantation Country Club and as a result, have been able to not pump water from the Country Club well for irrigation. Their request is simple—credit the reclaimed water use provided by RPMUD since the creation of the District Regulatory Plan (11-2008) and until the conversion date of January 1, 2016 as early conversion credits with a one to one ratio and recognize the continuing reclaimed water use as an alternative water source.

General Counsel stated the District would not grant a permit for anyone asking orally. Mr. Sledge further stated that his legal recommendation would be if someone wants to be a legal holder of a credit that is worth thousands of dollars, issued by the Board, then that entity needs to request that in writing and the District will process that request at that time. Since this is the first request the District has received, the District does not have a template to go by, but recommended that is what the District needed to do.

Director Stinson made a motion to defer action on this item until the District receives an application from River Plantation Country Club. For lack of a second, motion failed to pass.

Brian Sledge, General Counsel, stated that if the Board wants to take action today, proceed with that action, subject to receipt of an application from River Plantation Country Club before the July Board Meeting. Mr. Sledge further stated that authority would expire at the July Board Meeting.

Mark Lowry, District Consultant, stated this was an item the District had been working on for several months. The District received a letter quite some time ago and there was a difference of opinion between the District and the representative of the Country Club and the MUD as to how extensive their credit should be. This was a negotiated settlement between staff and all representatives of the various entities. The District has been working on this issue so it could be readily and fairly dealt with by the Board.

Kathy Turner Jones, General Manager, stated she would like to recognize River Plantation Management's long term commitment to preserving aquifer levels by implementing reclaimed water at the Country Club and Golf Course and support a modified one-to-one ratio early conversion since the creation of the DRP (11/11/08) until the 12/31/15 GRP conversion date as a special consideration to the District Rules. Director Stinson agreed with the General Manager further stating that River Plantation started their water conservation efforts were implemented long before the District started requiring and Dr. Stinson feels they deserve recognition.

A motion was made by Director Weisinger, seconded by Director Wesley and unanimously passed to approve the request from River Plantation Country Club subject to receipt of an application from River Plantation Country Club before the July Board Meeting and at that time that authority will expire.

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 ENFORCEMENT ACTION BE TAKEN, INCLUDING INITIATING A LAWSUIT AGAINST IT FOR FAILURE TO PERMIT AND METER.

a) Joe Worthy (11741 FM 830, Willis)

President Tramm asked if there was anyone present representing Joe Worthy and with there being no one present, President Tramm asked the General Manager to proceed.

Kathy Turner Jones, General Manager, stated this was an individual who the District has found in non-compliance for operating a well without a permit or a meter. The District has received paperwork from Mr. Worthy but has not received the required fees. The District has offered to set up a payment plan, but again, Mr. Worthy has not returned the District's phone calls. A Notice of Violation was sent informing Mr. Worthy that he was going to be listed for a Show Cause Hearing today. Based on legal advice received in Executive Session, it would be the General Manager's recommendation to order a Show Cause Hearing to be held in conjunction with the July 13, 2010 Board Meeting for Joe Worthy regarding failure to permit and meter water well. A motion was made by Director Stinson, seconded by Director Wesley and unanimously carried, to proceed with the recommendations of the General Manager.

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.

GENERAL COUNSEL REPORT:

Brian Sledge, General Counsel, reported he had met on June 7, 2010, with MUDS 8 & 9, along with their attorneys and engineers, to discuss what type of process needed to go forward in regards to exploring brackish groundwater; sequencing of the application in financing the GRP; and the production permit application process. General Counsel further stated that John Seifert, LBG-Guyton and Mark Lowry, District Consult, were also in attendance.

General Counsel reminded the Board that the TWCA Mid-Year Conference was being held in South Padre this week and noted the Conference is having an excellent legislative update speaker. The Senate Natural Resource Committee is without a Chairman and it seems the Lieutenant Governor is waiting until the Special Election is concluded to replace this Seat. Hopefully, this will be decided in the next month or two.

Mr. Sledge stated the Texas Water Conservation Groundwater 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 informed the Board that the House Natural Resource Committee is watching what the Supreme Court will be doing regarding *Edwards Aquifer vs Day*. Mr. Sledge passed out an amicus brief submitted by Senator Duncan from Lubbock, in which Senator Duncan urges the court not to do anything to undermine the system of groundwater management through local control established by the legislature pursuant to the 1917 Conservation Amendment to the Constitution.

Kathy Turner Jones, General Manager, asked Mr. Sledge if he would explain the Memo from the Texas Water Development Board regarding Exempt Use. Mr. Sledge explained that the desired future condition process was set up in Chapter 36 as a simple formula. The District would get together and decide what they want the aquifer to look like, run it through a model and produce a number for managed available groundwater (MAG), and that would be the District's annual water budget. For this District, that number was 64,000 acre feet. The District adopts rules to achieve that amount. There is another provision in Chapter 36 that states Districts should issue permits up to the MAG. What about water used under "Exempt Uses"? The Texas Water Development Board is trying to decide if they are going to include exempt use or not when they issue the Districts a MAG. This is one of the main things TWCA Groundwater Committee is undertaking—trying to clarify all of the information. The intent was total amount out is the managed available groundwater number, so you count exempt use and permitted use and the District can figure in some margin of error to allow issuance of permits for more than that amount, knowing that not everyone would fully utilize their permitted amount every year.

GENERAL MANAGER'S REPORT:

Kathy Turner Jones, General Manager, stated she had nothing to add to her report other than what is included in the Board Packet.

PUBLIC COMMENT: None

NEW BUSINESS: None

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF JULY, 2010.

Sam W. Baker, Board Secretary