

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

March 13, 2012

## 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 March 13, 2012.

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  
John D. Bleyl, PE  
Reed Eichelberger, PE  
Roy McCoy, Jr.  
Rick J. Moffatt  
Jim Stinson, PE  
Richard J. Tramm  
M. Scott Weisinger, PG  
W. B. Wood

All members of the Board were present with the exception of Director Eichelberger, Director Moffatt, Director Stinson, 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; Paul R. Nelson, Assistant 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”.*

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. pursuant to Texas Government Code, Sections 551.071, 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.

Director Stinson arrived at 9:18 a.m.

Following Executive Session, the Board reconvened in Open Session and declared it open to the public at 9:58 a.m.

No action was taken on matters discussed in Executive Session and the meeting was adjourned at 9:59 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 10<sup>th</sup> DAY OF APRIL, 2012.**

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M. Scott Weisinger, PG, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

March 13, 2012

## 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 March 13, 2012.

President Tramm called to order the Public Hearing on Permit Applications at 10:12 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  
John D. Bleyl, PE  
Reed Eichelberger, PE  
Roy McCoy, Jr.  
Rick J. Moffatt  
Jim Stinson, PE  
Richard J. Tramm  
M. Scott Weisinger, PG  
W. B. Wood

All members of the Board were present with the exception of Director Moffatt 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; Paul R. Nelson, Assistant 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, **Lake Lorraine**, and Item #2, **McCants Forest Land Limited Partnership** – Applicants are requesting amendments to their existing permits to add a new well only. Based on technical review of the information supplied by application, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Wood, and seconded by Director Bleyl to approve the above amendments in accordance with the recommendations of the General Manager. Motion passed.

Item #3, **Wingo Service Company, Inc.** – Applicant is requesting an Operating Permit for an existing well that staff found in non-compliance. Applicant is requesting 75,000 gallons for 2012 and annually thereafter. Based on technical review of the 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, and seconded by Director Wood to approve the above permit amendment in accordance with the recommendations of the General Manager. Motion passed.

Item #4, **Newton Amalgamated LLC** – Applicant is requesting an Operating Permit for an existing well that staff found in non-compliance. Applicant is requesting 500,000 gallons for 2012 and annually thereafter. Based on technical review of the information supplied by application, it is the General Manager’s recommendation to authorize a reduced amount of 200,000 gallons for 2012 and annually thereafter. A motion was made by Director Wood, and seconded by Director Baker to approve the above permit amendment in accordance with the recommendations of the General Manager. Motion passed.

President Tramm adjourned the Public Hearing on Permit Applications at 10:15 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 10<sup>th</sup> DAY OF APRIL, 2012.**

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M. Scott Weisinger, PG, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

March 13, 2012

## 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 301, Conroe, Texas, within the boundaries of the District on March 13, 2012.

President Tramm called to order the regular Board of Directors meeting at 10:15 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  
John D. Bleyl, PE  
Reed Eichelberger, PE  
Roy McCoy, Jr.  
Rick J. Moffatt  
Jim Stinson, PE  
Richard J. Tramm  
M. Scott Weisinger, PG  
W. B. Wood

All members of the Board were present with the exception of Director Moffatt 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; Paul R. Nelson, Assistant 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 meeting minutes listed as one item. Upon review of the following, a motion was made by Director Wood, seconded by Director Bleyl and unanimously carried, to approve the meeting minutes as presented:

- a) February 14, 2012, Special Board Meeting
- b) February 14, 2012, Public Hearing on Permit Applications
- c) February 14, 2012, Show Cause Hearing
- d) February 14, 2012, Regular Board of Directors Meeting

## COMMITTEE REPORTS:

**Water Awareness and Conservation Committee – Billy Wood, Chair.** Director Wood stated that the committee had not met since the last Board meeting.

**Briefing on conservation efforts.** Mr. Nelson reported that at the Gulf Coast Water Symposium held in League City last week, the names of persons interested in forming a Gulf Coast Water Efficiency Network were collected. The response was very good and over 40 persons have expressed interest in such a group. Mr. Nelson stated that he will be pursuing this as soon as possible.

Mr. Nelson also informed the Board that he had attended a TCEQ-sponsored drought planning seminar in Liberty, Texas on February 16<sup>th</sup>. Several state agencies, including emergency management teams, TCEQ, and TWDB made presentations focusing on drought contingencies and what to do and who to contact if water supplies were curtailed or diminished.

The City of Conroe Conservation Committee met on February 21<sup>st</sup> and Mr. Nelson attended.

Mr. Nelson also discussed his visitations to cities and water districts throughout Montgomery County and efforts to introduce himself and encourage continuation of conservation efforts. He informed the Board that he had visited the city council meeting of the City of Magnolia, the City of Montgomery, and Oak Ridge North. Director Weisinger attended the meetings at Montgomery and Oak Ridge North with Mr. Nelson. Meetings at the City of Willis and Panorama Village are scheduled for later this month.

He then gave a brief presentation on the meeting of the TML (Texas Municipal League) which took place in Austin on March 1<sup>st</sup> and 2<sup>nd</sup>. The emphasis at this conference was water; including water law, surface water rights and groundwater districts. One major focus of the meeting was the funding of the Texas Water Plan.

Finally, Mr. Nelson announced that Lone Star GCD would be participating in the Texas Wildlife and Woodland Expo in the Woodlands on March 24<sup>th</sup>. The expo is sponsored by the Texas Parks and Wildlife and the Texas Forest Service and is free to the public. The promotions for the expo will be posted on the District's web page.

Director Stinson stated that The Woodlands Joint Powers Agency has put together four (4) focus groups with a total of 12 Woodlands residents to provide WJPA with conservation ideas which residents may respond better to. A report is currently being put together with the findings.

**Rules and Bylaws Committee – Kathy Turner Jones, Coordinator.** Ms. Jones reported that the committee met on February 20<sup>th</sup> to discuss rule amendments. A follow-up meeting has been scheduled for March 14<sup>th</sup>.

**Policy and Personnel Development Committee – Sam W. Baker, Chair.** Director Baker stated that there had been no meeting and there was no report.

**Findings and Review Committee – Paul R. Nelson, Coordinator.** Mr. Nelson stated that the committee has not met since the last meeting, but reminded the Board that the public meeting to present findings on the Hydrostratigraphic and Modeling Study of the Catahoula

Formation would be held at the Lone Star Convention Center on March 21<sup>st</sup>, at 1:30pm. The meeting notice has been emailed and is posted on the District's website.

Update and status project report related to Regional Groundwater Update Project w/ HGSD and the FBSD – Mark V. Lowry. Mr. Lowry stated that a report was included in the packet. Currently being worked on is the allocation of the regional/county-wide population to specific areas in the model, both existing and projected population. The other item of interest is that they are looking at the per capita consumption and ways to project it. It is more than likely going to go down and going down at a rate faster than the rate that is solely applicable to replacement of high-flow plumbing units with low-flow plumbing units. The team is trying to come up with a method to predict how much consumption.

Update and status project report related to the District's modeling study of the Catahoula Formation/Aquifer – Mark V. Lowry. Mr. Lowry stated that the model is complete and they are continuing to refine and review the various data going into the model, in addition to preparing for the public meeting on March 21<sup>st</sup>.

**Building and Facilities Committee – Kathy Turner Jones.** Ms. Jones stated that the building is nearing completion for the first part of April as scheduled. Staff is working with IT to narrow down dates to schedule the move following the April board meeting. It is hoped the move can be coordinated to transpire over a Friday/weekend time period to minimize lost time. For those interested, the pouring of the porous concrete sidewalks is scheduled for Wednesday this week should anyone wish to observe. The majority of the interior work has been completed. Appliance had to be reordered and should be delivered around the 28<sup>th</sup>. We are scheduled to approve paint samples this week to complete the exterior painting. We have had some delays on completing the exterior landscaping and irrigation. As of yesterday, everything is back on track and moving along. Ms. Jones added that she will be sending out an email today to coordinate a committee meeting regarding the District's legal position in regards to the sanitary sewer line trespassing the District's property.

**Budget and Finance Development Committee – Jim Stinson, Chair.** Director Stinson reported that the committee had not met since the last meeting.

Review of Monthly Financial Reports. Director Stinson stated he had reviewed the monthly financial reports and if anyone had any questions he would be glad to address those. The District shows the operating budget has an income of \$19,000 over budget and expenses of \$38,000 over budget. The capital improvement program has a budgeted expense of \$684,000 with expenses totaling \$464,000 of that to date.

## **ENGINEERING REPORT:**

Mark Lowry, District Consultant, stated that his report was included in the packet and if there were any questions he would be happy to answer them. This month Mr. Lowry's work consisted of reviewing operating permit applications as well as AWS permit applications, and updating the watering recommendation spreadsheets with the evaporation and rainfall data.

**CONSIDERATION AND POSSIBLE ACTION REGARDING APPLICATION FOR EARLY CONVERSION CREDITS PURSUANT TO THE EARLY CONVERSION INCENTIVE AS DESCRIBED IN ADDENDUM D OF THE LSGCD RULES – PRODUCTION OF ALTERNATIVE WATER SOURCE (AWS) FROM THE CATAHOULA RESTRICTED AQUIFER PROJECT, MONTGOMERY COUNTY UD #3.**

Montgomery County UD #3 submitted an application for Early Conversion Credits for a project whereby they use waters produced from the Catahoula to reduce groundwater production from the Gulf Coast Aquifer system in advance of the 2016 groundwater conversion deadline. Within the application, the applicant states the project was completed September 13, 2011.

The project has been reviewed by staff and is eligible for an early conversion incentive credit as stipulated in the rules. It is the General Manager's recommendation to recognize Montgomery County UD #3's commitment to preserving aquifer levels by implementing an alternative source of water (AWS) and support a two-to-one ratio early conversion credit for AWS water metered beginning September 13, 2011. A motion was made by Director Stinson, seconded by Director McCoy, and unanimously carried to approve the recommendation by the General Manager. Director Bleyl abstains.

**DISCUSSION AND POSSIBLE ACTION TO ACCEPT 2011 ANNUAL REPORT FOR THE LONE STAR GROUNDWATER CONSERVATION DISTRICT – Samantha Reiter.**

Ms. Reiter stated that a few comments were received from Directors and those changes have been incorporated into the report, which is included in the packet. Upon review of the report, a motion was made by Director Wood, seconded by Director Stinson and unanimously carried, to approve the 2011 Annual Report for the Lone Star Groundwater Conservation District.

**GENERAL COUNSEL REPORT:**

Brian L. Sledge updated the Board on pertinent legal issues and developments impacting the District since the last regular Board Meeting. Mr. Sledge stated that most of his work over the past month has been on rule revision as well as rule making efforts at the state level. Mr. Sledge also stated that the Texas Water Development Board (TWDB) is working on its revisions to the Chapter 356 Rules on the Desired Future Conditions development process rules and expect an initial draft of those revisions to be available in 4-6 weeks. Texas Commission on Environmental Quality (TCEQ) has released their initial draft rules on Senate Bill 616 and Senate Bill 313, which Mr. Sledge does not believe will have any effect on the District. Mr. Sledge also gave an update on the TCEQ's surface-water rights rules and how they curtail surface-water rights during times of drought or public water shortage. Mr. Sledge added that surface-water rights are granted on a priority appropriation system, where senior water right holders are supposedly entitled to every drop of their water before someone who came at a later time. As part of the TCEQ Sunset Bill that passed last session, the legislature granted the TCEQ executive director the authority to temporarily suspend water rights, partly due to the drought of 2011. There is concern that the way this rule package is written doesn't protect the priority appropriation system and there is a lot of communication going on regarding this. At the TWCA



spring conference, the Board of Directors approved asking the TCEQ commissioners to slow the process so that it may be reviewed in more detail. Lastly, Mr. Sledge stated that the Edwards Aquifer Authority v. Burrell Day court opinion was released without any surprises, as the legislature addressed the issue in Senate Bill 332. Senate Bill 332 stated that a landowner has a real property interest in the water under their property and the production of that interest is regulated by the state through groundwater conservation districts. The bill also states that if a district goes too far and severely impacts the property values such that it rises to the level of a “constitutional taking” then the landowner may pursue a takings claim against the groundwater conservation district. Mr. Sledge reiterated that this was what we assumed the law was and did not come as a surprise to the District.

**GENERAL MANAGER’S REPORT:**

Ms. Jones stated that her report was included in the packets and if anyone had any questions he would be glad to address them. Ms. Jones recognized District General Counsel, Brian Sledge, for receiving the President’s Award for his contribution on groundwater policy and issues at the Texas Water Conservation Association (TWCA) spring conference held March 7<sup>th</sup>-9<sup>th</sup>. Ms. Jones also noted that District staff have sent out past due pumpage report letters and is working on gathering the remaining delinquencies.

**PUBLIC COMMENT:** None.

**NEW BUSINESS:** None.

There being no further business, upon a motion by Director Baker, seconded by Director Eichelberger, President Tramm adjourned the meeting at 10:47 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 10<sup>th</sup> DAY OF APRIL, 2012.**

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M. Scott Weisinger, PG, Board Secretary