

UPPER TRINITY GROUNDWATER CONSERVATION DISTRICT
THURSDAY, NOVEMBER 17, 2022
MINUTES OF MEETINGS
OF THE
BOARD OF DIRECTORS

REGULAR BOARD MEETING

The Board may discuss, consider, and take appropriate action, including expenditure of funds as necessary or appropriate, on any item listed on this agenda:

1. Welcome guests and members of the public. The meeting convened at 5:00 p.m.
2. Roll call, establish a quorum, call Board Meeting to order; declare the board meeting open to the public.
Directors Present: Jarrod Reynolds, Tracy Mesler, Shannon Nave, Mike Berkley (left at 5:15 p.m.), Tim Watts, Don Majka and Brent Wilson
Directors Absent: None
3. Pledges of allegiance to the flags.
4. Public comment was made where noted below.
5. Hood County Commissioner Dave Eagle, Bob Lusk, and Nannette Samuelson participated in the discussion regarding a possible appointment of a person to fill the vacancy on the Board of Directors for an unexpired term representing Hood county created by the resignation of Mr. Richard English, including but not limited to the adoption of Resolution 22-004. Director Watts moved to resume the discussion in the Regular Board meeting on January 19, 2023. Director Reynolds seconded the motion. Aye-3 Nay-4. Motion failed.
Director Berkley moved to appoint Mike Massey to fill the vacancy on the Board of Directors for an unexpired term representing Hood county. Director Wilson seconded the motion. Aye-4 Nay-3. Motion failed.
President Mesler announced discussion and possible appointment of a person to fill the vacancy on the Board of Directors will remain on the agenda until filled.
6. Director Watts moved to approve the Consent Agenda, including:
 - A. Approval of minutes from Regular Board Meeting on October 17, 2022.
 - B. Approval of bank statement ending October 31, 2022, and current financial reports of the District.
 - C. Approval of Investment Report.
 - D. Payment of bills/invoices received through November 17, 2022.
 - E. Reimbursements for expenses incurred on behalf of the District through November 17, 2022.
 - F. Approval of Request for an Extension Applications submitted through November 17, 2022.Director Majka seconded the motion. Motion passed unanimously.
7. No items were pulled from consent agenda for further discussion.
8. Director Watts moved to nominate Shannon Nave to serve the remainder of a two-year term ending in July 2023 as the Vice President-filling the vacancy created by the resignation of Mr. Richard English. Director Reynolds seconded the motion. Motion passed unanimously.

9. Director Watts moved to adopt Resolution 22-005 Designating Persons Authorized to Disburse Funds by Check, Draft Order, or Other Instrument on Behalf of the District. The Resolution removed Director English from list of approved signors and designated Director Nave as Vice President. Director Nave seconded the motion. Motion passed unanimously.
10. Abigail Gardner and Simone Kiel from Freese & Nichols presented preliminary findings in the Regional Water Supply and Facilities Planning Study. No action was taken.

President Mesler called for a brief recess at 6:27 p.m. The Board returned at 6:45 p.m.

11. Deionne Miles, Steve Cone, LeAnn Malone, David Dennett, Clay Pitts, and James Dake participated in the discussion regarding the following potential violations of District Rules.

A. Exempt Wells

- A. Regarding multiple wells drilled by James Dake, Director Nave motioned to offer, in lieu of litigation, a settlement which includes: (1) a 1st Major Violation for failure to drill a well at a location that is within thirty (30) feet of the location specified in the registration or permit for Well IDs- 13205, 13264, 14578, 14722, 15758, 15855, 15948, 16104, and 16273 – 10 total, (2) a \$100 penalty fee for each well associated with the 1st Major Violation – (\$1,000), (3) a 2nd Major Violation for failure to drill a well at a location that is within thirty (30) feet of the location specified in the registration or permit for Well IDs 16806, 16812, 16920, 17216, 17414, 18028, and 18067 – 7 total, (4) a \$150 penalty fee for each of the Well IDs associated with the 2nd major violation – (\$1,050). Director Wilson seconded the motion. Aye-5 Nay-0. Director Watts abstained. Motion passed.
- B. Regarding multiple wells drilled by Clay Pitts, Director Majka motioned to offer, in lieu of litigation, a settlement which includes: (1) a 1st Major Violation of District Rules (Rule 4.2(c)) and (2) a \$100 penalty fee for each well associated with the 1st Major Violation - \$400 total. This violation was specifically related to the fact that the wells are located over 30 feet from the approved locations. President Mesler seconded the motion. Aye-5 Nay-0. Director Watts abstained. Motion passed.
- C. Regarding Well ID 1771 drilled by Leland Malone, Director Nave motioned to offer, in lieu of litigation, a settlement which includes: (1) a 3rd Major Violation of District Rules and (2) a \$100 penalty fee associated with the 3rd Major Violation. This violation was specifically related to the fact that the well is located over 30 feet from the approved location. Director Reynolds seconded the motion. Aye-5 Nay-0. Director Watts abstained. Motion passed.
- D. Regarding Well ID 16918 drilled by Roger Lewis, Director Majka motioned to offer, in lieu of litigation, a settlement which includes: (1) a 2nd Major Violation of District Rules and (2) a \$100 penalty fee associated with the 2nd Major Violation. This violation was specifically related to the fact that the well is located over 30 feet from the approved location. Director Nave seconded the motion. Aye-5 Nay-0. Director Watts abstained. Motion passed.
- E. Regarding Well ID 13928 drilled by Toby Watts, Director Majka motioned to offer, in lieu of litigation, a settlement which includes: (1) a 1st Major Violation of District Rules and (2) a \$100 penalty fee associated with the 1st Major Violation. This violation was specifically related to the fact that the well is located over 30 feet from the approved location. Director Wilson seconded the motion. Aye-5 Nay-0. Director Watts abstained. Motion passed.
- F. Discussion regarding multiple wells drilled by David Maynor will resume in the next Regular Board meeting.
- G. Regarding Well ID 15733 drilled by Deionne Miles, Director Wilson motioned to offer, in lieu of litigation, a settlement which includes: (1) a 4th Major Violation of District Rules (Rule 4.3(a)) and (2) a \$2,500 penalty fee associated with the 4th Major Violation, (3) the requirement to plug the existing well, and (4) requirement that once Ms. Miles submits a new well application to replace the well that is being plugged, the well report deposit associated with the new well application be forfeited. This

violation was specifically related to the fact that the well is located too close to a property line. Director Nave seconded the motion. Aye-5 Nay-0. Director Watts abstained. Motion passed.

- H. Regarding Well ID 14016 drilled by James Lindley, Director Wilson motioned to offer, in lieu of litigation, a settlement which includes: (1) a 5th Major Violation of District Rules, (2) a \$5,000 penalty fee associated with the 5th Major Violation 3) the requirement to plug the existing well, and (4) requirement that once Mr. Lindley submits a new well application to replace the well that is being plugged, the well report deposit associated with the new well application be forfeited. This violation was specifically related to the fact that the well is located too close to a property line. Director Reynolds seconded the motion. Aye-5 Nay-0. Director Watts abstained. Motion passed.

B. Non-Exempt Wells

- A. Regarding Well ID 13784 in Hood Co. owned by El Tesoro Foundation, Director Wilson motioned to offer, in lieu of litigation, a settlement which includes: (1) a 1st minor violation for multiple failures to conduct a meter reading within the required period; (2) a 1st Major Violation for multiple failures to both submit groundwater production reports within the required periods, and failure to submit the associated groundwater production fees within sixty (60) days of the date the fees are due; (3) requirement to submit an estimate, to the satisfaction of the GM, of the groundwater produced from July 2020 – June 2022, by December 31, 2022; (4) pay groundwater use fees associated with the estimated production with a 25% late penalty (late penalty can be waived at GM's discretion); (5) a 2nd Major Violation for failure to obtain a permit; (6) a \$1,000 penalty fee associated with the 2nd major violation; (7) a requirement to submit an estimate of groundwater produced from July 1, 2022 – December 31, 2022 by January 31, 2023, and pay the associated fees; (8) enter into an agreement, with the District, for the ongoing measurement of water levels in Well ID 13784; and (9) immediately begin work to temporarily reduce the production capacity of the well to below 17.36 gpm, and ultimately replace the existing pump in the well to bring it into compliance with District Rules as soon as feasible. Director Watts seconded the motion. Aye-5 Nay-0. Director Nave abstained. Motion passed.
- B. Regarding Well ID 16161 in Parker Co. owned by Guy Hamilton, Director Watts motioned to offer, in lieu of litigation, a settlement which includes: (1) a 1st minor violation for multiple failures to conduct a meter reading within the required period; (2) a 1st Major Violation for multiple failures to both submit groundwater production reports within the required periods, and failure to submit the associated groundwater production fees within sixty (60) days of the date the fees are due; (3) requirement to submit an estimate, to the satisfaction of the GM, of the groundwater produced from July 2021 – June 2022, by December 16, 2022; (4) pay groundwater use fees associated with the estimated production with a 25% late penalty; (5) a 2nd Major Violation for failure to obtain a permit; (6) a \$1,000 penalty fee associated with the 2nd major violation; (7) a requirement to submit an estimate of groundwater produced from July 2022 – December 2022, or whenever the production capacity is brought below 17.36 gpm, by January 31, 2023, and pay the associated fees; (8) enter into an agreement, with the District, for the ongoing measurement of water levels in Well ID 16161; and (9) immediately begin work to temporarily reduce the production capacity of the well to below 17.36 gpm, and ultimately replace the existing pump in the well to bring it into compliance with District Rules as soon as feasible. Director Wilson seconded the motion. The motion passed unanimously.
- C. Director Majka moved to continue the discussion regarding Well ID 8148 in Parker Co. owned by Trickle Creek Ranch LLC in the next Regular Board meeting. Director Reynolds seconded the motion. The motion passed unanimously.

12. Director Watts moved to approve the proposed 2023 Budget and allocation of District funds, including but not limited to the adoption of Resolution 22-006 Adopting a Budget for 2023 and Resolution 22-007 Allocation of Funds for the District. Director Nave seconded the motion. The motion passed unanimously.

13. Director Wilson moved to adopt the 2023 Regular Board meeting dates as January 19, February 16, March 16, April 20, May 18, June 15, July 20, August 17, September 21, October 19, November 16, and December 14. The motion also included affirmation that the District will adopt the 2023 Parker County Holiday Calendar.

Director Majka seconded the motion. The motion passed unanimously.

14. **Management Report on Administrative and Operational Issues:** The General Manager and staff will brief the Board on the following and any other items included in the General Manager's written report, which may be discussed, considered, and acted upon by the Board, including authorizing the initiation of, managing, or resolving enforcement action or litigation where applicable.
- A. General Manager's report was submitted to the Board of Directors in advance of the Regular Board meeting.
 - B. Discussion regarding delinquent customers of the District; no action was taken.
 - C. Report on Education and Outreach activities; no action was taken.
 - D. Report on injection well applications filed with the Railroad Commission; no action was taken.
 - E. Well Registration and Groundwater Production reports; no action was taken.
15. Director Nave moved to adopt 2022 budget amendments, as presented by staff:
- Move \$2,000 from Auto Maintenance to Auto Fuel
 - Move \$4,000 from Monitoring Well Program to Equipment Repair and Maintenance
 - Move \$250 from Website Services to Outside Contract Services
- Director Majka seconded the motion. The motion passed unanimously.
16. Attorney Brian Sledge of SledgeLaw Group will give updates regarding activities related to the District in the next Regular Board meeting.
17. The next Regular Board meeting is scheduled for Thursday, December 15, 2022, at 5:00 p.m. at the District's office.
18. The next Regular Board meeting agenda may include an update on regional planning of Desired Future Conditions.
19. President Mesler adjourned the meeting at 8:56 p.m.

PASSED, APPROVED, AND ADOPTED BY THE BOARD OF DIRECTORS this 15 day of December 2022.

Attest:



Tracy Mesler, President



Secretary