

UPPER TRINITY GROUNDWATER CONSERVATION DISTRICT
THURSDAY, NOVEMBER 16, 2023
MINUTES OF MEETINGS
OF THE
BOARD OF DIRECTORS

INTRODUCTORY MATTERS

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 Public Hearing and Regular Board Meeting to order; declare the Hearing and Meeting open to the public.

Directors Present: Tim Watts, Bob Lusk, Tracy Mesler, Shannon Nave, Jarrod Reynolds, Don Majka, and Mike Berkley

Director Absent: Brent Wilson
3. Pledges of allegiance to the flags.
4. Public comments were made where noted below.

PUBLIC HEARING

1. Receive any public comments, requests to contest, and the General Manager's report and recommendations regarding the applications for Operating Permits, Operating Permit Amendments, and Exception to Spacing Requirements submitted for the systems described in the Notice of Hearing for today's hearing ("the Hearing Notice"), which was posted separately prior to September 11, 2023, in accordance with the District Rules and which is incorporated herein by reference:
 - A. **Continuation of Hearing for the applications related to Permit IDs 007-W-OP, 011-H-OP, and 014-P-OP Submitted by Aqua TX and described in the Notice of Hearing for the September 21 hearing ("the Hearing Notice"), which was posted prior to September 11, 2023.**
2. General Manager Shaw presented background information and his recommendations for the related to the permit applications:
 - A. Director Nave moved to continue the Hearing for Operating Permits 007-W-OP, 011-H-OP, and 014-P-OP submitted by Aqua TX and described in the Notice of Hearing for the September 21 hearing, until December 11 at 2:00 p.m. Director Majka seconded the motion. Motion passed unanimously.
3. President Mesler adjourned the Public Hearing at 5:17 p.m.

REGULAR BOARD MEETING

1. Director Majka moved to approve the Consent Agenda, including:
 - A. Approval of minutes from the Regular Board Meeting and Public Hearing on October 19, 2023.
 - B. Approval of bank statement ending October 31, 2023, and current financial reports of the District.
 - C. Approval of Investment Report.
 - D. Payment of bills/invoices received through November 16, 2023.
 - E. Reimbursements for expenses incurred on behalf of the District through November 16, 2023.
 - F. Approval of Request for an Extension Applications submitted through November 16, 2023.

Director Watts seconded the motion. Motion passed unanimously.

2. No items were pulled from the consent agenda for further discussion.
3. Discussion regarding the following potential violations of District Rules:
 - A. James Lee participated in the discussion regarding Well ID 19732 drilled by Doug Kinsey in Wise County. Director Berkley made a motion to offer a settlement, in lieu of litigation, to Mr. James Lee, to include:
 - 1) first major violation for intentionally or knowingly submitting inaccurate and untruthful information on District forms (Rule 3.1(d));
 - 2) second major violation for failure to timely meter a well when required (Rule 8.1);
 - 3) third major violation for failure to permit a well that does not qualify for an exemption under Rule 3.1 (Rule 2.9);
 - 4) \$250 penalty associated with the third major violation;
 - 5) requirement to enter into an agreement with the District for the ongoing measurement of water levels in the well;
 - 6) requirement to immediately cease production from the well, for any non-exempt use, as it is currently equipped;
 - 7) requirement to either alter the well to produce less than 17.36 gpm or submit administratively complete applications, and pay the associated fees, for a major alteration of the well and Operating Permit, within 30 days.

Director Majka seconded the motion. Motion passed unanimously.

Director Nave made a motion to offer a settlement, in lieu of litigation, to Mr. Doug Kinsey, of Alpha Omega Water Well, to include: 1) a second major violation for drilling a well in violation of the minimum well spacing requirements, and 2) a \$1,000 penalty associated with the second major violation. Director Lusk seconded the motion. Motion passed unanimously.

- B. Director Reynolds made a motion to offer a settlement, in lieu of litigation, to Antler Creek Capital Two for unregistered wells located at 951 FM 2264 in Wise County to include:
 - 1) first major violation of District Rules for failure to register wells that are required to be registered under Rule 2.2;
 - 2) second major violation of District Rules for failure to submit accurate groundwater production reports within the required period and pay the associated fees;
 - 3) third major violation of District Rules for failure to permit a well system that does not qualify for an exemption under Rule 3.1;
 - 4) \$500 penalty associated with the third major violation;
 - 5) requirement to submit an existing well application for each unregistered water wells;
 - 6) requirement to submit an estimate, to the satisfaction of the general manager, for water used from the wells since January 1, 2020;
 - 7) requirement to pay all water use fees, associated with the production from the wells, along with a 25% late penalty;
 - 8) requirement to enter into an agreement with the District for the ongoing measurement of water levels in the wells;
 - 9) requirement to cease all production from the wells, for non-exempt purposes, until either:
 - a) the combined capacity of the wells is permanently brought below 17.36 gpm; or
 - b) an administratively complete Application for an Operating Permit is approved by the District's Board of Directors.

Director Nave seconded the motion. Motion passed unanimously.


4. Director Reynolds moved to approve 2024 Budget and allocation of District funds; adopt Resolution 23-008 Adopting a Budget for 2024; and adopt Resolution 23-009 Allocation of Funds for the District. Director Majka seconded the motion. Motion passed unanimously.

5. Director Watts moved to approve the dates for Board of Directors meetings and the District Holiday schedule for 2024, as presented, with the addition of December 22, 2023 as a District holiday. Director Nave seconded the motion. Motion passed unanimously.
6. Director Berkley moved to approve the interlocal agreement templates for the District to enter into with county and municipal platting authorities located in the District to promote intergovernmental coordination and cooperation in the review of Groundwater Availability Certification statements required in connection with plat applications for the subdivision of land for which a source of supply will be groundwater, and providing an assessment of the proposed project under the District Rules and authorize the General Manager to execute such an interlocal agreement, on behalf of the District, with any platting authority in the District. Director Nave seconded the motion. Motion passed unanimously.
7. Director Reynolds moved to adopt Resolution 23-010 adopting temporary requirements to implement new laws approved by the 88th Texas Legislature, Regular Session, 2023, including House Bill 1971, House Bill 2443, and Senate Bill 1746 regarding permitting and rulemaking procedures and regarding an additional exemption from permitting for certain water wells, and delegating certain authority to the General Manager regarding enforcement matters, until formal amendments to the District Rules are adopted by the Board. Director Watts seconded the motion. Motion passed unanimously.
8. **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.
9. The Board will review line item expenditures and adopt necessary budget amendment(s) in the next Regular Board meeting.
10. District General Counsel from SledgeLaw Group gave no updates regarding legal activities related to the District.
11. The next Hearing and Regular Board meeting are scheduled for Monday, December 11, 2023, at 2:00 p.m. at the District's office.
12. No new business placed was placed on the next meeting agenda.
13. President Mesler adjourned the meeting at 6:18 p.m.

PASSED, APPROVED, AND ADOPTED BY THE BOARD OF DIRECTORS this 11 day of December 2023.

Attest:


Tracy Mesler, President


Tim Watts, Secretary
Assistant Secretary