

LONE STAR GROUNDWATER CONSERVATION DISTRICT

February 20, 2009

MINUTES OF RULES AND BYLAWS COMMITTEE MEETING

The Rules and Bylaws Committee of the Lone Star Groundwater Conservation District (“District”) held a “Consensus Committee Workshop” open to the public, in the District’s office at 207 W. Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District, at 9:00 a.m., on February 20, 2009.

The roll was called of the members of the “Rules and Bylaws Committee”, to wit:

Kathy Turner Jones, Coordinator
Roy McCoy, Jr
W. B. Wood
Scott Weisinger

All members of the Committee were present with the exception of Director McCoy. Also, in attendance at said meeting were Directors Eichelberger, Wesley, and Love; Alan Potok, District Engineer; Mark Lowry, District Consultant; Jason Hill, District Counsel; Consensus Committee Task Force Invitees; District Staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

The meeting was called to order and declared to be open to the public by Committee Coordinator and General Manager, Kathy Turner Jones, at 9:05 am.

Ms. Jones welcomed LSGCD Board Members and members of the public and thanked them for attending the “Consensus Committee Meeting” to evaluate the effects and potential impact of draft rule amendments proposed in Section 13 – “Waste and Conservation Standards for Impoundments”. Ms. Jones then turned over the discussion to the District’s Engineer, Alan Potok.

Mr. Potok stated that the Rules and Bylaws Committee had tentatively proposed a rule to limit the size of amenity ponds to one-third acre or less. The District has imposed rules which could increase water rates for using groundwater to fill amenity lakes.

Mr. Potok stated he had done some research and had developed a draft proposal for the “Impoundment Rule – Based on Pan Evaporation”. The net evaporation would be calculated on a monthly basis as the evaporation less the precipitation. The cumulative monthly net evaporation (in inches) for all twelve months would then be increased by a factor of 10 percent to determine the amount of water (in inches) that would be considered a reasonable volume of

losses. This amount of losses multiplied by the surface area of the impoundment and converted to gallons will be the amount the District would permit for the coming year. At the end of every calendar year, the permittee would provide the District with its monthly groundwater pumpage. At the end of every calendar year, the District would determine actual net evaporation using the pan evaporation at Lake Conroe, less the actual precipitation at the closest rainfall gauge. If the actual pumpage is within 10 percent of the calculated actual losses, the permittee would be considered in compliance and would pay the District for actual water pumped according to District rules. If the permittee has pumped more than the amount calculated by the District, the permittee would be subject to penalties in accordance with District Rules. Finally, the District will, from time to time, evaluate the accuracy of the formula used for estimating net evaporation and calculating actual losses and adjust its rule as appropriate.

PUBLIC COMMENTS:

Virgil Yoakum, Woodforest Development Company – Mr. Yoakum asked, is the District was putting a limitation on the size of impoundments?

Alan Potok replied “no”, but we are recommending the District be more discreet on how to reasonably quantify the amount of gallons permitted based on the use and connections.

Kevin Tokarski, Pate Engineers, Inc. – Commented on the proposed pan evaporation formula, stating that the formula would only work for a lake that is not required to maintain a constant water surface elevation. Lakes that do not require this would have the ability to accept and utilize rainfall.

Alan Potok replied, if the District determines the proposed formula doesn’t work, it has the ability to make revisions. The District is taking the first step to identify and limit the unnecessary use of groundwater for these amenity lakes.

Mackey McIntyre, Lake Pro – Have there been any studies done to determine if this formula would work based on previous years usage?

Kathy Turner Jones stated that the District is in the middle of gathering data from the surveys that were sent out.

Danny Signorelli, The Signorelli Company – Suggested that the District identify how big the problem is first prior to determining the formula. He also suggested conducting a study of lakes to see how much water is needed, and then implement a solution.

Director Weisinger replied that the Board had requested staff to identify the amount of groundwater being used to fill and maintain amenity lake, and that the District is in the middle of that process.

Mr. Signorelli stated his interest is solely about Montgomery County. He believes that it is difficult to comment on a formula when it has not been studied nor tested.

Mr. Potok replied by saying that the formula presented is a scientific approach. The only risks are the penalties involved for overpumping the amount determined by the formula.

Bill Kotlan, Bleyl & Associates – When utilizing the formula, if the District presents the initial permitted amount and the Operator gets close to that amount they no longer have the ability to increase their allocation to avoid penalties.

Mr. Potok stated the District could impose a rule that would enable the impoundment, for the first two years, to be exempt from penalties until the District could determine if the formula needs revisions. This would resolve uncertainty of the accuracy of the formula.

Mark Lowry, District Consultant, replied that the data is already online. The operator should already be aware of how many gallons he should pump.

Mr. Potok commented that after listening to the various comments, the main concern is centering on the penalties. He is not in favor of delaying the passage of the rule for two years while a study is conducted. Pass a rule and be able to re-evaluate it at a later date. TCEQ is intentionally telling the local districts that you fill a lake one time and then rely on other sources of water to keep the lake level.

Jason Hill, District Counsel, noted that TCEQ states you cannot impound state water. It does not specifically state where the alternative water source comes from. He gave a brief definition of on-channel impoundment, which is an impoundment wholly or partially within a definite channel of a stream in which water flows within a defined bed and banks, originating from a definite source or sources, and further stated that an off-channel impoundment is not located along a stream course.

Ed Shackelford, Jones & Carter, Inc. -- Asks if the District is considering the proposed regulations for on-channel and off-channel.

Mr. Potok replies yes.

Virgil Yoakum, Woodforest Development Company – Asks for clarification on the proposed District Rules, Section 13 provided and if they are still up for Board consideration.

Mr. Potok replies that Section 13 is still pending Board Approval until the Consensus Committee provides revisions to supersede them. Ms. Jones added that the current proposed rule amendments have been approved for public comment.

Danny Signorelli, The Signorelli Company – Mr. Signorelli expressed his concerns regarding the detail that the Committee still has to work on regarding the penalty structure. Also are there any thoughts on requiring shallow aquifers to be utilized?

Mr. Potok replied that Montgomery County is in a recharge zone where two-thirds goes to the Chico, which is not helping the District. His biggest concern is that the recharge rate we are using could end up being less once the Districts aquifer study is complete.

Director Wesley present 10:25 a.m.

Scott Stevens, Stoecker Corporation - Commented that it would be beneficial to make the distinction of wells that are permitted for on-channel versus off-channel for purposes of this formula.

Kevin Tokarski, Pate Engineers, Inc. – Asks, where would the dollars collected from penalties be applied?

Mr. Potok suggests that possibly a program could be set up to fund conservation awareness and reuse programs. Ultimately the Board would determine that.

Director Wood leaves at 10:35 a.m.

Greg Frank, Costello, Inc. – Suggests giving the permittee the option of collecting rainfall data at the location of their lake in order to get more accurate information.

Wayne Barrett – Stated that lakes allowing fluctuation will benefit, but on-channel may not because they do not have the ability to capture rainwater. He applauds the Board for allowing changes to the proposed rule, Section 13.

Ms. Jones concluded that modifications need to be made so the District can adopt the rules in April. The District needs feedback from the consultants and the Rules Committee needs to meet to organize thoughts and ideas and then get back with the Consensus Committee. Ms. Jones further stated that the District is receiving comments from outside the development community as well.

The next Consensus Committee meeting will be scheduled after the Rules and Bylaws Committee has met to discuss further changes.

Without further discussion, the meeting was adjourned at 11:07 a.m.

PASSED, APPROVED, AND ADOPTED THIS 10th day of March, 2009.

Sam W. Baker, Secretary