

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

July 14, 2009

## MINUTES OF SPECIAL MEETING

The 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 July 14, 2009.

President Tramm called the meeting to order at 9:00 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 Baker, 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 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 9:02 a.m. as authorized by the Open Meetings Act, Section 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 Eichelberger arrives at 9:07 a.m.  
Director Weisinger arrives at 9:10 a.m.  
Director Baker arrives at 9:17 a.m.

Following Executive Session, the Board reconvened in Open Session and declared it open to the public at 9:56 a.m.

No action was taken on matters discussed in Executive Session

**PASSED, APPROVED, AND ADOPTED THIS 11<sup>th</sup> DAY OF AUGUST, 2009.**

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Sam W. Baker, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

July 14, 2009

## MINUTES OF SHOW CAUSE HEARING

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 July 14, 2009.

**The audio recording will serve as the official record for the Show Cause Hearing. The summary below is provided for convenience**

President Tramm called to order the Show Cause Hearing at 10:10 a.m.

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, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian Sledge, General Counsel; Jason Hill, Attorney; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

President Tramm stated this was a Show Cause Hearing on LSGCD Order No. SCO 09-0001, directing Canyon Crossing, LLC (“Respondent”), pursuant to District Rule 2.5, to appear before the Lone Star Groundwater Conservation District Board of Directors and show cause why the District should not issue a cease and desist order, indefinitely suspending all production authorization.

President Tramm asked Kathy Turner Jones, General Manager, if the District had received any response from the Respondent. Ms. Jones stated that no documents have been received. President Tramm asked if there was anyone in attendance from Canyon Crossing;

there being none, President Tramm asked the General Manager to present the information to the Board. For the record, Ms. Jones would like to note that notice was sent under Rule 2.5 and there were no documents received under 2.5(d). Ms. Jones then turned the meeting over to Jason Hill, the District's attorney.

Mr. Hill stated that there was a copy in the Board Packet of the Show Cause Order sent to Canyon Crossing, LLP, that identified all of the noncompliance issues that the District has with Canyon Crossing, LLP for the basis of the Show Cause Hearing. Mr. Hill further stated that this was an opportunity for Canyon Crossing to come forward and show why the Board should not suspend their Operating Permit indefinitely in the form of the Cease and Desist Order.

Without further discussion, upon a motion made by Director Wesley, seconded by Director Stinson and unanimously carried, the Board of Directors voted to issue a written order to Canyon Crossing, LLP, suspending indefinitely their right to utilize groundwater and suspending their existing permit. *Copy of the Cease & Desist Order is attached hereto as Exhibit "B".*

The Show Cause Hearing was adjourned at 10:13 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 11<sup>th</sup> DAY OF AUGUST, 2009.**

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Sam W. Baker, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

July 14, 2009

## 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 July 14, 2009.

President Tramm called to order the Public Hearing on Permit Applications at 10:09 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, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian Sledge, General Counsel; Jason Hill, Attorney; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

Following the permit hearing report from General Manager, Kathy Turner Jones, a motion was made by Director Love and seconded by Director Stinson, to approve permits #1 through #8, in accordance with the recommendations of the General Manager.

1. Melvin Gessner (Gessner Insurance Agency), for a proposed operating permit not to exceed 0.1 mg annually, 12729 FM 830, Willis, Commercial use;
2. C & S Investments, for a proposed amendment to OP, increase of 0.25 mg annually, 18500 Trails End, Conroe, Public Supply (Commercial) use;

3. David C Sellers, for a proposed operating permit not to exceed 0.4 mg annually, 12745 FM 830, Willis, Commercial use;
4. Specialty Supply & Installation, LLC, for a proposed operating permit not to exceed 0.142 mg annually, 12511 FM 830, Willis, Commercial use;
5. Tom Carlson (All Star Supply), for a proposed operating permit not to exceed 0.142 mg annually, 12016 FM 830, Willis, Commercial use;
6. Quadvest, LP. 1 (Mostyn Manor), for a proposed amendment to OP, well to be drilled at 12407 Marshall Dr, Magnolia, increase of 20 mg annually, Public Supply (PWS) use;
7. David Miller, for a proposed operating permit not to exceed 1 mg annually, 16278 FM 2090, Conroe, Public Supply (PWS) use; and
8. Chemtec Energy Services, LLC, for a proposed operating permit not to exceed 0.142 mg annually, 11745 Cude Cemetery Rd., Willis, Commercial use;

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

**PASSED, APPROVED, AND ADOPTED THIS 11<sup>th</sup> DAY OF AUGUST, 2009.**

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Sam W. Baker, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

July 14, 2009

## 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 July 14, 2009.

President Tramm called to order the regular Board of Directors meeting at 10:14 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 thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian Sledge, General Counsel; Jason Hill, Attorney; 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 three (3) meeting Minutes listed as one item. Upon review of the following, a motion was made by Director Weisinger, seconded by Director Wood and unanimously carried, to approve the meeting minutes as presented:

- a) June 9, 2009, Special Board Meeting
- b) June 9, 2009, Public Hearing on Permit Applications
- c) June 9, 2009, Regular Board of Directors Meeting

## COMMITTEE REPORTS:

**Rules and Bylaws Committee – Kathy Turner Jones, Coordinator.** Ms. Jones reported that the Rules and Bylaws Committee has met twice since the last Board meeting to discuss Phase II B (GRP) regulations and possible Rule revisions to surface impoundments of groundwater. The next meeting is scheduled for August 10, 2009.

Brian Sledge, General Counsel, stated the committee's recommendation was to develop language regarding amenity ponds. (1) Set standards for drilling new amenity ponds which would require any new amenity pond, supplied by groundwater, to be drilled only into the shallowest formation of where the ponds would actually be located, so that any leaking from the bottom of the pond would go back into the aquifer and, (2) Water in existing or future amenity ponds would be metered, not only the well going to the pond, but subsequently diverting for irrigation. There were strong feelings on both sides whether the District should have a prohibition on amenity ponds. It is the committee's recommendation to go forward and develop language with a temporary moratorium on issuing new approval until the District receives information from USGS.

Upon a motion by Director Wood, seconded by Director Love, with Director Tramm and Director Weisinger opposing, the motion passed for staff and legal counsel to prepare draft language and provide all legal notice necessary for the Board to consider, at their next Board Meeting, August 11, 2009, whether to adopt as rules of the District the recommendations of the Rules and Bylaws Committee related to the permitting of groundwater production associated with filling or maintaining water levels in amenity ponds or other surface impoundments.

**Policy and Personnel Development Committee – Sam W. Baker, Chair.** Director Baker stated 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 Marjie Risk, Education/Public Awareness Coordinator, to give a brief background report, as well as a summary of her activities since joining the District.

After giving a brief background report, Ms. Risk stated she had been busy since joining the District. On July 1, 2009, she attended the Water Savings Summit sponsored, in part, by LSGCD. The keynote speaker was Amy Vickers (Amy Vickers and Associates), who provided a broad overview of water conservation planning. Carole Baker (TWF, Harris-Galveston Subsidence District and Chair of the Alliance for Water Efficiency), spoke about the Alliance for Water Efficiency and the rest of the speakers provided information on programs in their own specific areas of the state of Texas. Several MUDs were represented at the meeting, as well as members of the Irrigation Association. Ms. Risk also attended the **Red, Hot and Blue Event** held July 4<sup>th</sup> at The Woodlands Town Green Park. The event booth was manned by four EnviroMedia staff, along with Ms. Risk. There were a total of 82 visitors who signed up to make a water conservation pledge, who were then eligible for a home water conservation prize package. The visitors also played a Water IQ game and winners won a water IQ reuseable sports bottle. Ms. Risk and Cori Stallings, Permitting Director, attended a meeting with the City of Conroe staff to discuss a water conservation bill inset and future water education opportunities that the City could pursue. As a result of this initial meeting Paul Virgadamo, Assistant City

Administrator, has scheduled Ms. Risk to attend and present information for a water conservation workshop at the August 12, 2009, City Council Meeting.

Director Stinson would like to explore creating a water design plan for outdoor water demands, i.e. define an outdoor watering schedule. Ms. Risk discussed the merits of both voluntary and mandatory restrictions in response to drought conditions and use in normal water conservation planning. Director Stinson indicated that his preference was to establish a mandatory or defined watering schedule.

**Budget and Finance Development Committee – Jim Stinson, Chair.** Director Stinson reported the committee had met on July 8, 2009 to review the 2010 water use fees for the District. After reviewing the fees, it is the committee's recommendation to reduce water use fees from \$0.07 to \$0.06 per 1,000 gallons permitted. The reduction does not apply to wells permitted for agricultural use, which rate will remain one dollar per acre foot permitted.

Review of Monthly Financial Reports. Director Stinson stated a review of the monthly financial reports showed that the District was \$750,000 over budget in income and \$300,000 under budget in expenses.

Review 2<sup>nd</sup> Quarterly Investment Report for 2009. Director Stinson stated he had reviewed the quarterly investment report and would be available if any Board members had questions.

Consideration and possible action approving Resolution #09-006 authorizing water use fee rate schedule for 2010. Upon a motion by Director Stinson, seconded by Director Wesley, and unanimously carried, the Board adopted Resolution #09-006 "Adopting 2010 Water Use Fees". *Copy of Resolution #09-006 is attached hereto as Exhibit "B".*

Discuss, consider, and take action to approve Budget and Finance Committee's recommendation to renew the District's bank depository agreement with First Bank of Conroe as stipulated under Request for Proposal Bank Services RFP #2006-02. Director Stinson stated the Agreement has a clause that allows the District to extend the Agreement for an additional two years. Upon a motion by Director Stinson, seconded by Director Wesley, with Director Baker and Director Wood abstaining, the Board approved the renewal of the District's bank depository agreement with First Bank of Conroe. *Copy of the Bank Depository Agreement is attached hereto as Exhibit "C".*

**Findings and Review Committee – Orval R. Love, Chair.** Director Love stated the committee had met on July 8, 2009, for an organizational and planning meeting. The purpose of the committee is to monitor the on-going status of the USGS hydrological study currently being conducted within the LSGCD area and to keep the Board apprised of the status of such activity. The committee will meet again on July 20, 2009.

## **ENGINEERING REPORT:**

Mark Lowry, District Consultant, reported that a copy of his report was included in each Director's Board Packet. The primary items worked on this past month included the follow-up on two (2) country club WRAPS. Work completed consisted of running limited Surface Water

Availability Model runs on water rights for Conroe Country Club. Runs performed indicated that Conroe Country Club rights were junior to other rights in the basin, and have zero monthly yield during many months of the year, and particularly the heavy usage months during the summer. The findings were reported to Kathy Turner Jones, General Manager, as well as a prepared draft correspondence to Conroe Country Club concerning the lack of reliability of their alternate source. Mr. Lowry prepared similar correspondence to Wedgewood Country Club recommending they determine the reliability of the right they were seeking from TCEQ before going to the expense of applying for such a right. Mr. Lowry coordinated with Bill Thaman, AECOM, to obtain the current status from Lann Bookout of TCEQ concerning their process when a groundwater district objects to the granting of a permit for an impoundment which must be filled with groundwater to allow state water to pass through. Lastly, Mr. Lowry reviewed initial draft of proposed rules prepared by Jason Hill, Attorney.

### **GENERAL COUNSEL'S REPORT:**

Brian Sledge, General Counsel, reported he has been working with the Rules and Bylaws Committee regarding amenity lakes and other water impoundments. Mr. Sledge reported to the Board that the Supreme Court had issued an opinion on Edwards Aquifer Authority vs Chemical Lime, with it being the decision that Chemical Lime loses all of its water rights, as they failed to meet their deadline for renewing their permit.

### **GENERAL MANAGER'S REPORT:**

Kathy Turner Jones stated the majority of her report had already been covered.

TexCom Gulf Disposal Update: We are in a "holding" pattern and waiting to obtain approval from TCEQ before the testing on the pressure falloff, which will help determine how far any injected wastewater will spread beneath the ground, can begin.

Ms. Jones asked Mel Lonon, Field Operations Coordinator, to give a brief report of the three Major River workshops the District had the opportunity to co-sponsor with the San Jacinto River Authority. The workshop is designed for teachers of 4<sup>th</sup> and 5<sup>th</sup> grade students to help educate their classes on water issues in the state of Texas. The teachers incorporate this into a curriculum for their students. In addition, Mr. Lonon stated he had spent two days this past month with Mr. Andrew Finnell, Natural Resources Specialist II, from TWDB. Seven months out of the year Mr. Finnell travels around the state to collect groundwater samples from wells of all types of entities, small and large. The other five months of the year is spent checking water wells around Texas for water levels. Mr. Finnell checked 22 wells in Montgomery County, spending thirty minutes at each location. The water samples were being taken to Austin for evaluation.

Discuss, consider, and take action as necessary regarding office "Lease Agreement" with Montgomery County for the District Office. Kathy Turner Jones, General Manager, recommended that President Tramm appoint a committee to assist in locating new office space. President Tramm appointed a committee consisting of Director Baker, Director Eichelberger, Director Weisinger, and Director Wesley to assist the General Manager in locating new office space and report back to the Board on August 11, 2009.

**PUBLIC COMMENT:**

Jackie Chance, Montgomery County WC & ID No. 1, voiced concerns with regards to using the term “amenity lakes” when drafting rule language for adoption. Mr. Chance feels like the general public will continue to apply for operating permits using different language, but in reality, it still being “amenity lakes”. General Counsel assured Mr. Chance that the committee will look into all possibilities.

**NEW BUSINESS:**

None

There being no further business, upon a motion by Director Love, seconded by Director Weisinger, the meeting was adjourned at 11:00 a.m. The next regular meeting of the Board of Directors is scheduled for August 11, 2009, at 10:00 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 11<sup>th</sup> DAY OF AUGUST, 2009.**

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Sam W. Baker, Board Secretary