

LONE STAR GROUNDWATER CONSERVATION DISTRICT

July 9, 2019

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 – James B. “Jim” Wesley Board Room located at 655 Conroe Park North Drive, Conroe, Texas, within the boundaries of the District on July 9, 2019.

CALL TO ORDER:

President Melder called to order the Public Hearing on Permit Applications at 6:00 PM announcing the meeting open to the public.

ROLL CALL:

The roll was called of the members of the Board of Directors, to wit:

Jon Paul Bouché
Harry Hardman
Webb Melder
Jonathan Prykryl
Larry A. Rogers
Jim Spigener
Stuart Traylor

All members of the Board were present, with the exceptions of Director(s) Hardman and Spigener, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Samantha Reiter, Interim General Manager; Stacey V. Reese, District Counsel; District staff; and members of the public. *Copies of the public sign-in sheets and comment cards received are attached hereto as Exhibit “A” to the Regular Board of Directors Meeting minutes.*

PRAYER AND PLEDGES OF ALLEGIANCE:

President Melder called on Director Traylor, for the opening prayer and Director Prykryl to lead the Pledge of Allegiance and the Pledge of Allegiance to the state flag.

PUBLIC COMMENTS:

No comments were received.

Ms. Reiter briefed the Board on permit applications received for the month. Applications for consideration and recommended for possible approval included the below:

1. Forestar (USA) Real Estate Group, Inc. (Harrington Trails)

Applicant is requesting the registration of two new wells and production authorization in the amount of 3,000,000 gallons for 2019 and 9,999,999 gallons for 2020 and annually thereafter. Based on technical review of the information supplied, it is the General Manager's recommendation to approve that which is requested.

2. Capri Isle Water System

Applicant is requesting the registration of a new well and production authorization in the amount of 1,000,000 gallons for 2019 and 9,950,000 gallons for 2020 and annually thereafter. Based on technical review of the information supplied, it is the General Manager's recommendation to approve that which is requested.

**Please note that the permit recommendations in the packet lists this as conditional approval contingent upon receipt of documentation establishing authorization of ownership. The documents were received on July 9, 2019 and therefore the permit recommendation is for full approval.*

3. PV Ready Mix, LP (Lessee)

Applicant is requesting an amendment to an Operating Permit for an increase in production authorization in the amount of 5,000,000 gallons for 2019 and annually thereafter. Based on technical review of the information supplied, it is the General Manager's recommendation to approve that which is requested.

4. MSEC Enterprises (Montgomery Trace WS/Crown Oaks)

Applicant is requesting an amendment to an Operating Permit for drilling authorization only. No additional production authorization is being requested at this time. Based on technical review of the information supplied, it is the General Manager's recommendation to approve that which is requested.

5. Alfredo Albiter

Applicant is requesting the registration of a new well and production authorization in the amount of 225,000 gallons for 2019 and 450,000 gallons for 2020 and annually thereafter. Based on technical review of the information supplied, it is the General Manager's recommendation to approve that which is requested.

6. T & W Water Services (Rio Vista)

Applicant is requesting an amendment to an Operating Permit for drilling authorization only. No additional production authorization is being requested at this time. Based on technical review of the information supplied, it is the General Manager's recommendation to approve that which is requested.

Following Ms. Reiter's report, Director Rogers motioned to approve items #1-6, as recommended by the Interim General Manager. Director Prykryl seconded. Motion approved.

President Melder adjourned the public hearing on permit applications at 6:04 PM.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF AUGUST 2019.



Stuart Traylor, Board Secretary

LONE STAR GROUNDWATER CONSERVATION DISTRICT

July 9, 2019

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 - James B. “Jim” Wesley Board Room located at 655 Conroe Park North Drive, Conroe, Texas, within the boundaries of the District on July 9, 2019.

CALL TO ORDER:

President Melder presided and called to order the regular Board of Directors meeting at 6:04 PM, announcing that it was open to the public.

ROLL CALL:

The roll was called of the members of the Board of Directors, to wit:

Jon Paul Bouché
Harry Hardman
Webb Melder
Jonathan Prykryl
Larry A. Rogers
Jim Spigener
Stuart Traylor

All members of the Board were present, with the exceptions of Director(s) Hardman and Spigener, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Samantha Reiter, Interim General Manager; Stacey V. Reese, District Counsel; District staff; and members of the public. *Copies of the public sign-in sheets and comment cards received are attached hereto as Exhibit "A".*

PUBLIC COMMENTS:

Simon Sequeira, Quadvest, expressed support for the new Board of Directors. He encouraged them “to keep doing what you’re doing”.

APPROVAL OF THE MINUTES:

President Melder stated the Board would consider the meeting minutes as listed for approval on today's agenda. Without further discussion, upon a motion by Director Rogers, seconded by Director Traylor, the Board approved the meeting minutes as presented.

- a) June 11, 2019, Special Board Meeting
- b) June 11, 2019, Public Hearing on Permit Applications
- c) June 11, 2019, Regular Board of Directors Meeting
- d) June 26, 2019, Combined GMA 14 Joint Planning Committee

REVIEW OF UNAUDITED FINANCIALS FOR THE MONTH OF JUNE 2019:

Ms. Kay Martin, bookkeeper, reported that for the month of June 2019, income was \$193,852 and expenses were \$127,245 resulting in net income of \$66,607. Year-to-date net income is \$438,409. Total cash was \$796,376.

1. Review 2nd Quarterly Investment Report 2019 – Kay Martin, bookkeeper, reported at beginning of the quarter the balance, including TexPool and First Financial Bank Money Market accounts, as \$1,181,000 and on June 30, 2019 fund balances as \$771, 408. Expenses exceeded deposits by \$411,757; while interest earned was \$1,166.

DISCUSS, CONSIDER, AND TAKE ACTION AS NECESSARY TO AUTHORIZE ENGAGEMENT WITH AUDIT FIRM TO SERVE AS THE DISTRICT'S AUDITOR FOR THE FISCAL YEARS OF 2019 AND 2020:

Ms. Kay Martin gave a thorough discussion of historical District audits naming the firms previously hired and giving research from the American Institute of Certified Public Accountants (AICPA) addressing audit rotation. Ms. Martin stated several positives involved with using the same CPA firm for multiple annual audits. She recommended that a decision on an auditor be made no later than October.

Following the discussion, Director Rogers asked Ms. Martin if she had any reservations about renewing the contract with BrooksWatson & Company. She had only compliments for the firm. Upon a motion by Director Bouché and seconded by Director Prykryl, the engagement of BrooksWatson & Company was confirmed. *A copy of the engagement with BrooksWatson & Co is attached hereto as Exhibit "B".*

DISCUSS, CONSIDER, AND TAKE ACTION AS NECESSARY REGARDING THE DISTRICT'S BANKING DEPOSITORY FOR THE DISTRICT'S PUBLIC FUNDS FOR A TWO-YEAR TERM WITH A TWO-YEAR RENEWAL:

Ms. Martin related the District's experience in using First Financial Bank as the banking depository. The depository services are for two accounts – the money market and the operating account. The contract expires on August 31, 2019. She enumerated the favourable terms within the current contract which were: 1) no monthly service or activity charges; 2) check stock for the operating account; 3) positive pay (fraud protection); 4) remote deposit and 5) pledged securities to collateralize public funds. In order to be ready for large deposits in December, it is prudent to

secure a depository institution soon. Director Traylor noted that there was no contract proposal. The Board requested that Ms. Martin obtain a proposal from First Financial Bank to be considered at the August board meeting.

UPDATE AND DISCUSSION REGARDING 2020 OPERATING BUDGET AND WATER USE FEES:

Ms. Martin explained the operating budget presentation would be divided into two parts – how revenue is earned and the expense component. She defined revenue as income created by invoicing permittees for their allocations for the coming year. Invoices for 2020 fees will be created in November 2019, mailed by December 1, 2019 and due by January 1, 2020. The amount invoiced to each permittee is the rate (as set by the LSGCD Board), per 1,000 gallons, times their permitted allocation.

Additionally, in 2019 Large Volume Groundwater Users (LVGU) were invoiced based on their initial conservation obligation (ICO). Groundwater Reduction Plan (GRP) sponsors were responsible for paying the fees for members of their GRP. Small Volume Groundwater Users (SVGU) were invoiced on their permitted allocations, this includes both Historical Use Permits (HUP) and Operating Permits (OP). HUP permits were issued to wells completed and operational prior to August 26, 2002. Operating Permits are issued for wells permitted after August 26, 2002.

Ms. Martin added that the District also issues permits for Alternative Water Source (AWS) wells, which include wells drilled in the Catahoula reservoir, and agricultural fees that are invoiced \$1.00 per acre foot.

As bookkeeper, Ms. Martin generates approximately 1,500 permits that are invoiced individually. Permittees whose annual water use fee is \$500 or less are required to pay annually. Permittees whose annual water use fee is more than \$500, may elect to be billed quarterly. To facilitate this quarterly option, each applicable permittee is sent a letter informing them of the option to elect quarterly instalments. She said the time required to send these letters and prepare invoices was one month. Due to current District rules, the water use rate schedule requires the water use fee be established at least 45 days before the end of the calendar year; or November 17, 2019.

President Melder reaffirmed the board's desire to reduce the water use fees.

Director Rogers reported that within the first six months of operation under the new Board's guidance; the District had achieved a cost savings of over \$66,000 on one contract and is anticipating further cost savings on future 2020 contracts. He also stated that there had been cost savings on Operational Expenses, and the team is exploring potential outsourcing of various services for additional cost savings. President Melder commended Director Roger's effort in evaluating all contracts and lowering expenses.

RECEIVE INFORMATION FROM DISTRICT'S TECHNICAL CONSULTANTS REGARDING PROPOSED STUDIES AND POSSIBLE ACTION ON SAME:

Mike Thornhill, District Hydrogeologist, reviewed the elements of the joint proposal of Harden Hydrology & Engineering and Thornhill Group, Inc. to perform subsidence studies for the District. He outlined the three study phases as Phase I – Assessment of past and current subsidence investigations; Phase II – Detailed technical evaluation of data and modeling and Phase 3 – Appraisal of ramifications and future considerations. Mr. Thornhill described the seven tasks to accomplish Phase I as: 1) Background data compilation and workup; 2) Synopsis of past studies and information; 3) HAGM modeling; 4) Overview of regulation and management frameworks; 5) meetings with cooperators and stakeholders; 6) Develop scope of work and costs for subsequent phases and 7) Summary report and presentation to Board. The proposal included Phase 1 only; and the fee was not to exceed \$60,000 with completion date by November 30, 2019.

After the presentation, Director Traylor motioned to accept the proposed studies and Director Bouché seconded. Motion passed.

DISCUSS, CONSIDER, AND TAKE ACTION AS NECESSARY REGARDING LEGAL ADVICE ON THE TEXAS OPEN MEETINGS ACT REQUIREMENTS:

Ms. Stacey Reese read Ms. Fancher’s opinion letter. She highlighted the three sections of the letter which comprised of: 1) written notice of Executive Session agenda items; 2) discussion of legal matters in Executive Session; and 3) statutory defense. Ms. Reese concurred with Ms. Fancher’s opinion that the District was in compliance with Texas Open Meetings Act. She urged board members to contact Ms. Fancher; should they need any clarification. *A copy of the legal opinion is attached hereto as Exhibit “C”.*

EXECUTIVE SESSION:

After a proper and legally sufficient announcement to the public by President Melder, the Board of Directors recessed into a Closed Executive Session at 7:16 PM pursuant to Texas Government Code, Sections 551.071, to consult with the District’s attorney regarding pending or contemplated litigation, settlement offers, personnel matters (§551.074), 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.

RE-CONVENE IN OPEN SESSION:

Following Executive Session, the Board reconvened in Open Session and President Melder declared it open to the public at 8:20 PM.

DISCUSS, CONSIDER, AND TAKE ACTION AS NECESSARY TO APPROVE RESOLUTION #19-006 RE-ESTABLISHING DATE AND TIME OF FUTURE BOARD MEETINGS:

Following a brief discussion, Director Prykryl motioned to keep the meeting time the same but place Executive Session after the Public Comments agenda item. Director Bouché seconded. The motion carried. Since the meeting time would not be changed, the resolution was unwarranted.

RECEIVE INFORMATION AND/OR STATUS UPDATE REGARDING THE TWO STUDY GROUPS ON PROPOSED DRAFT RULES:

Ms. Stacey Reese, District Council, reported that the study groups met and were making progress toward the goal of finishing draft rules by the end of the summer. Further, a joint workshop combining both study groups was planned in the near future. The date would be set for such a public workshop acknowledging the 20-day posting requirement.

DISCUSS, CONSIDER, AND TAKE ACTION AS NECESSARY REGARDING DISTRICT'S CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT:

President Melder opened the discussion by reading a memorandum from Director Hardman (in his absence) to the board concerning the NDA agreement approved in June's board meeting. Director Rogers motioned to reconsider the motion. President Melder seconded. Motion carried. Director Rogers motioned to withdraw the NDA and President Melder seconded. The motion carried. *A copy of Director Hardman's memorandum is attached hereto as Exhibit "D".*

DISCUSSION ON DISTRICT MEDIA POLICY:

Ms. Reese asked for questions concerning the media policy. None were received.

DISCUSS, CONSIDER, AND TAKE ACTION AS NECESSARY REGARDING APPROVAL OF THE DISTRICT'S MANAGEMENT PLAN AND/OR APPEAL OF THE TEXAS WATER DEVELOPMENT BOARD EXECUTIVE ADMINISTRATOR'S DECISION:

Ms. Stacey Reese reviewed the reasons for filing an appeal of the TWDB's decision for denying the District's Management Plan. Those included were:

- No express authorization or statute in rules to reinstate the lapsed DFCs;
- No statutory guidance on review of management plan where unreasonable DFCs have not been resolved;
- 2010 DFCs were adopted under old statutory scheme intentionally ended by the legislature to rectify scientific and due process concerns;
- 2010 DFCs were derived using similar methodology as the 2016 DFCs which were found no longer reasonable'
- The assumed pumpages used to create the 2010 and 2016 DFCs were essentially identical and based on current statutorily void and unenforceable rules;
- There are concerns that if the 2010 DFCs were adopted and embraced by the District Management Plan could there be potential violation of LSCGD's settlement agreement with City of Conroe and petitioners; and
- Would the District be in violation of its settlement agreement in connection with final judgment in that litigation?

Director Rogers motioned to have counsel file an appeal with the TWDB regarding the District's Management Plan. Director Prykryl seconded the motion. The motion carried.

GROUNDWATER MANAGEMENT AREA 14 - UPDATE THE BOARD ON THE LEGAL, TECHNICAL, AND FINANCIAL ISSUES RELATED TO JOINT PLANNING ACTIVITIES AND DEVELOPMENT OF DESIRED FUTURE CONDITIONS IN GMA 14:

a) Discussion, consideration, and possible action on any items related to Lone Star GCD's proposal(s) to and/or participation in GMA 14:

Ms. Samantha Reiter, Interim General Manager, reported that at the June 26th GMA 14 joint meeting the group discussed subsidence. On behalf of the District, Director Hardman requested that GMA 14 reconsider the second round of DFCs and/or expedite the third round of discussion. The next meeting is August 15th at the HGSD offices.

GENERAL MANAGER'S REPORT:

Samantha Reiter announced the last week of July as time for install of broadcasting equipment insuring that it will be operative for the August 13th board meeting. She also reported on SJRA's notice that funds were withheld from the 3rd quarterly payment to the District consistent with the amount that the City of Conroe owes SJRA. The District has reached out to City of Conroe to try and resolve the matter.

GENERAL COUNSEL'S REPORT:

Ms. Reese updated the Board on two new Supreme Court cases. In the case of Knick -vs- Scott, the ruling was reversed a long-standing precedent which required a plaintiff to file a claim in state court first, before able to file the claim in federal court. She explained this is important because the Stratta/Fazzino -vs- Brazos Valley GCD case is pending in the 5th Circuit. Another case referred to as "Our Doctrine" which gives deference to an agency's interpretation of its own rules and regulations. It has set out limitations in order to manage federal agencies which have been using the court decision to allow interpretation differently and indecisively depending on the circumstances.

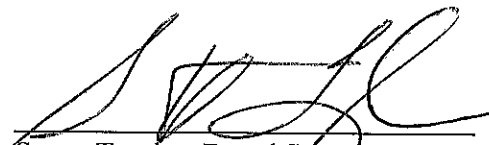
NEW BUSINESS:

None was received.

ADJOURN:

There being no further business, upon a motion made by Director Traylor and seconded by Director Prykryl, the meeting was adjourned at 8:43 PM.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF AUGUST 2019.


Stuart Traylor, Board Secretary



SIGN IN SHEET

July 9, 2019
Board Meeting

Do you wish to speak on an agenda item?	NAME	CITY, STATE, ZIP	E-Mail	Would you like to receive LSGCD updates & information?
N	Scott Currier	The Woodlands, TX	on file	N
N	Kenny Eichelberg	Shenandoah, TX	on file	N
N	MARK SMITH	Conroe, TX	on file	N
N	GLENNA SCORAN	SHENANDIAH TX	—	—
N	John DAVIS	Montgomery	John.DAVIS@VoteJohnDavis.org	—
N	TINA FELUAI	CONROE TX	on file	—
N	Spur Stebbins	Houston	on file	—
N	Richard Owen	Oak Ridge North	on file	—
N	Phil Smith	THE WOODLANDS, TX	Phillip.smith@edamember.com	WTCRWA
N	MATT CORLEY	MONTGOMERY, TX	marky@sjr.net	—
N	Michael Sullivan	Conroe	msullivan@blayengineering.com	N
N	Jeanica Osegueda	City of Houston	on file	—
N	PAUL R. NELSON	Retired	Plnlstn2@gmail.com	Do



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www.lonestargcd.org

Speaker Request Form

Those wanting to comment or register support for or against a specific agenda item are asked to fill out the Speaker Request Form.

Date of Meeting: 7-9-19
Name: Simons Spawelc
Address: 26620 FM 2976
City: Magnolia State: _____ Zip: _____
Email: _____

IF SPEAKING FOR AN ORGANIZATION:

Name of Organization Quadrant

Speaker's Official Capacity _____

Agenda Item No.: _____

- FOR (If applicable)
 AGAINST (If applicable)

Registering Position, NOT Testifying _____

To speak on an item not listed on the agenda, please indicate area of interest: :

Please remember to step to the lectern as soon as you are recognized by the chair; state your name before beginning your presentation. If you have written notes you wish to present to the Board, PLEASE FURNISH AN EXTRA COPY FOR DISTRICT FILES.

Please see the back of this comment card for additional procedures, practices and notes followed and/or requested by the District when making public comment.

Thank you for your cooperation.



BROOKSWATSON & CO.
CERTIFIED PUBLIC ACCOUNTANTS

July 3, 2019

To the Board of Directors:
Lone Star Groundwater Conservation District
655 Conroe Park North Drive
Conroe, Texas 77303

The following represents our understanding of the services we will provide to Lone Star Groundwater Conservation District.

You have requested that we audit the business-type activities of the Lone Star Groundwater Conservation District as of December 31, 2019, and 2020, and for the years then ended and the related notes, which collectively comprise Lone Star Groundwater Conservation District's basic financial statements as listed in the table of contents. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audit will be conducted with the objective of our expressing an opinion on each opinion unit applicable to those basic financial statements.

Accounting principles generally accepted in the United States of America, (U.S. GAAP,) as promulgated by the Governmental Accounting Standards Board (GASB) require that the required supplementary information ("RSI"), such as management's discussion and analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America, (U.S. GAAS). These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by U.S. GAAP. This RSI will be subjected to certain limited procedures but will not be audited:

- Management's Discussion & Analysis

Supplementary information other than RSI will accompany Lone Star Groundwater Conservation District's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and perform certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and additional procedures in accordance with U.S. GAAS. We intend to provide an opinion on the following supplementary information in relation to the basic financial statements as a whole:

- Budgetary Comparison Schedule
- Comparative Statement of Revenues and Expenditures
- Proprietary Fund Expenditures
- Cash and Temporary Investments
- Board Members, Key Personnel and Consultants

Auditor Responsibilities

We will conduct our audit in accordance with U.S. GAAS. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the basic financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the basic financial statements, whether due to fraud or error, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements.

An audit also includes evaluating the appropriateness of accounting policies used, and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the basic financial statements. If appropriate, our procedures will therefore include tests of documentary evidence that support the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of cash, investments, and certain other assets and liabilities by correspondence with creditors and financial institutions. As part of our audit process, we will request written representations from your attorneys, and they may bill you for responding. At the conclusion of our audit, we will also request certain written representations from you about the basic financial statements and related matters.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements (whether caused by errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental

regulations) may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS.

In making our risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the basic financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the basic financial statements that we have identified during the audit. Our responsibility as auditors is, of course, limited to the period covered by our audit and does not extend to any other periods.

We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Compliance with Laws and Regulations

As previously discussed, as part of obtaining reasonable assurance about whether the basic financial statements are free of material misstatement, we will perform tests of Lone Star Groundwater Conservation District's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Management Responsibilities

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America
- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of basic financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements; and

- c. To provide us with:
 - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the basic financial statements such as records, documentation, and other matters;
 - ii. Additional information that we may request from management for the purpose of the audit; and
 - iii. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
- d. For including the auditor's report in any document containing basic financial statements that indicates that such basic financial statements have been audited by the entity's auditor;
- e. For identifying and ensuring that the entity complies with the laws and regulations applicable to its activities;
- f. For adjusting the basic financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the basic financial statements as a whole; and
- g. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility: (a) for the preparation of the supplementary information in accordance with the applicable criteria; (b) to provide us with the appropriate written representations regarding supplementary information; (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information; and (d) to present the supplementary information with the audited basic financial statements, or if the supplementary information will not be presented with the audited basic financial statements, to make the audited basic financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

Reporting

We will issue a written report upon completion of our audit of Lone Star Groundwater Conservation District's basic financial statements. Our report will be addressed to the governing body of Lone Star Groundwater Conservation District. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us

to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

With respect to any nonattest services we perform, such as preparation of financial statements and related schedules, Lone Star Groundwater Conservation District's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Government Auditing Standards require that we document an assessment of the skills, knowledge, and experience of management, should we participate in any form of preparation of the basic financial statements and related schedules or disclosures as these actions are deemed a non-audit service.

Other

We understand that your employees will prepare all confirmations we request and will locate any documents or support for any other transactions we select for testing.

If you intend to publish or otherwise reproduce the basic financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

Provisions of Engagement Administration, Timing and Fees

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

The timing of our audit will be scheduled for performance and completion as follows:

	<i>Begin</i>	<i>Complete</i>
Document internal control and preliminary tests	January	January
Mail confirmations	January	January
Perform year-end audit procedures	April	April
Issue audit report		April

Jon Watson is the engagement partner for the audit services specified in this letter. His responsibilities include supervising BrooksWatson & Co., PLLC's services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

Our fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses. Invoices will be rendered every two weeks and are payable upon presentation. We estimate that our fee for the audit of the current and subsequent year will be:

2019	2020
\$8,750	\$8,750

We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. We are not responsible for bank, attorney, or confirmation fees billed as part of the completion of the audit. Whenever possible, we will attempt to use Lone Star Groundwater Conservation District's personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit. Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

During the course of the audit we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

You agree to inform us of facts that may affect the basic financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

At the conclusion of our audit engagement, we will communicate to the board of directors the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;

- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

The audit documentation for this engagement is the property of BrooksWatson & Co., PLLC and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulators pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of BrooksWatson & Co., PLLC's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to regulators. The regulators may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the basic financial statements including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,

A handwritten signature in cursive script that reads "BrooksWatson & Co.".

BrooksWatson & Co., PLLC
14950 Heathrow Forest Pkwy | Ste 530
Houston, TX 77032

RESPONSE:

This letter correctly sets forth our understanding.

Lone Star Groundwater Conservation District

Acknowledged and agreed on behalf of Lone Star Groundwater Conservation District

Signature: Webb Melder

Board Member Name (PRINT): Webb Melder, Board President

Date: 7.9.19

Signature: Samantha Reiter

General Manager Name (PRINT): Samantha Reiter

Date: 7.9.19



July 8, 2019

Mr. Webb Melder, President, Board of Directors
Board of Directors
Lone Star Groundwater Conservation District
655 Conroe Park North Drive
Conroe, Texas 77303

Via Email

Re: Legal Opinion Regarding Texas Open Meetings Act Executive/Closed Session Matters

Dear Mr. Melder and Board of Directors:

The purpose of this letter is to provide the Lone Star Groundwater Conservation District ("District") Board of Directors ("Board") with a legal opinion regarding the Texas Open Meetings Act ("Act") requirements related to conducting executive sessions, also commonly referred to as closed sessions, of the District Board. The advice provided in this memo is based upon my knowledge of the District's practices related to receiving legal advice from its attorney in executive sessions under Section 551.071 of the Texas Government Code. This letter addresses three main topics related to executive sessions of the District Board, as follows:

1. Written Notice of Executive Session Agenda Items

The issue of how executive session matters must be noticed is well established in Texas law. The Attorney General's office has interpreted the law on this topic on several occasions, and concluded that the Act does not require an agenda to state exactly which items will be discussed in executive session.¹ The Act does require any item to be discussed at a meeting—whether in open or executive session—to be listed as an agenda item.² The key distinction, however, is that while any item discussed in executive session must be listed on the agenda, there is no judicial decision or Attorney General ruling requiring a governmental entity to distinguish which of the agenda items will be discussed in executive session.

The Texas Supreme Court ruled in *Cox Enterprises, Inc. v. Board of Trustees of Austin ISD* that Austin ISD's notice of items discussed in executive session was inadequate. The reason the Court found the notice to be inadequate was due to the lack of description for the agenda items at issue, and not because the board failed to state which items were to be discussed in executive session. The *Cox Enterprises* decision does not state that an entity must specifically indicate

¹ Op. Tex. Att'y Gen. No. JC-0057 (1999); Tex. Att'y Gen. LO-90-27; Texas Municipal League, "Open Meetings Act Made Easy" at 8 (2017 Editor); The Office of the Attorney General of Texas, "Open Meetings Act Handbook 2018" at 26.

² *Cox Enters., Inc. v. Bd. of Trs. of Austin Ind. Sch. Dist.*, 706 S.W.2d 956, 958 (Tex. 1986).

which items are to be discussed in executive session, and as stated previously, nor does any other court opinion that is binding precedent on the District.

The law is also clear that the District must first convene in open session, and must provide a statement as to which section it intends to rely upon to convene in executive session.³ According to the relevant statute and related judicial interpretation of the statute, this statement may be made verbally during the Board meeting, and does not impact the District's ability to go into executive session to receive legal advice on any matter listed in executive session.⁴

Although some entities do voluntarily distinguish in their agendas exactly which items will be discussed in executive session, the Texas Attorney General cautions that, "an abrupt departure from this practice could deceive the public and thereby render the notice inadequate."⁵ As a result, I counsel clients against providing notice of exactly which items will be discussed in executive session on the agenda. First, as the Attorney General cautions, any future departure from this voluntary practice could be an issue. Second, because many entities like the District meet monthly, I recommend against limiting which items can be discussed in executive session in the event an item on the agenda that we did not foresee as needing legal advice does in fact require legal advice at the Board meeting. For example, the agenda for a Tuesday regular Board meeting like the District's is posted on the Friday before the meeting, and a lot can, and often does, happen in the four (4) days before the Board meeting that could require legal advice on one of the items listed in the agenda. If the District were to voluntarily distinguish which items are to be discussed in executive session, then the District would not be able to receive legal advice on any item not specifically called out as being an executive session item. This means the District would have to call a special Board meeting or wait until the following regularly scheduled meeting a month later in order to receive legal advice on the topic. The intent is not to prevent transparency, but rather to allow the District to conduct business in an efficient and prudent manner under the law.

2. Discussion of Legal Matters in Executive Session

With regard to receiving legal advice in executive session under Section 551.071 of the Texas Government Code, the Attorney General's office has ruled that an entity may meet with its attorney to receive legal advice on any matter listed on the agenda.⁶ These discussions must relate solely to legal matters, and an entity must be careful not to deliberate on general policy matters that do not involve receiving legal advice.⁷ In addition, an executive session convened under Section 551.071 to receive legal advice does not have to be limited to litigation matters because the Act expressly states that an entity can go into executive session on matters that are attorney-

³ TEX. GOV'T CODE § 551.101; *Martinez v. State*, 879 S.W.2d 54, 56 (Tex. Crim. App. 1994).

⁴ See *Rettberg v. Tex. Dep't of Health*, 873 S.W.2d 408, 411-12 (Tex. App.—Austin 1994, no writ); Tex. Att'y Gen. Op. No. GA-0511 (2007).

⁵ Tex. Att'y Gen. Op. No. JC-0057 (1999).

⁶ Tex. Att'y Gen. Op. No. JM-100 (1983); Texas Municipal League at 29; The Office of the Attorney General at 45-46.

⁷ *Id.*; Tex. Att'y Gen. No. JC-0233 (2000).

client privileged.⁸ Furthermore, a number of court decisions provide that the Board can engage in a discussion of factual information and express opinions in the context of receiving legal advice from an attorney in executive session if engaging in such discussion would “facilitate the rendition of legal advice by the government’s attorney.”⁹ The Act does not limit the amount of time the Board can convene in executive session to receive legal advice, and the judicial decisions make clear that the Board may discuss legal issues with the attorney as necessary to receive comprehensive legal advice on a topic.¹⁰ The Board must, of course, take final action on all matters in open session.¹¹

3. Statutory Affirmative Defense

Section 551.144 of the Texas Government Code makes conducting impermissible executive sessions a misdemeanor crime, but the same provision also states that it is an affirmative defense if the public official:

“acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.”¹²

As stated previously, there are a number of authorities that unequivocally provide that the District Board does not have to specifically list which agenda items will be discussed in executive session, and that the District Board may receive legal advice on any matter listed on the agenda. As such, any allegations of impropriety by the Board with regard to the two topics addressed above are incorrect for three primary reasons: (i) the allegations conflict with the clear rulings of Texas courts and opinions of the Texas Attorney General; (ii) the allegations conflict with multiple guidance documents interpreting the court rulings and opinion of the Texas Attorney General; and (iii) the District Board has received legal advice from its attorneys stating that it is in compliance with the law. Any challenge to the District’s practices related to these two topics is therefore a challenge to current law.

Finally, I have reviewed the agenda posted for the July 9, 2019, meeting of the District Board and find it to be in compliance with all current legal requirements under the Act, as interpreted by Texas courts and the Texas Attorney General. In addition, I have also received a briefing on the District Board’s practices with regard to receiving legal advice under Section 551.071 of the Texas Government Code, and find such practices to also be in compliance with current law. In fact, the District’s agenda format and manner of receiving legal advice in executive

⁸ TEX. GOV’T CODE § 551.071(2); *Weatherford v. City of San Marcos*, 157 S.W.3d 473, 486 (Tex. App.–Austin 2004, pet. denied).

⁹ *In re City of Galveston*, No. 14-14-01005-CV, 2015 WL 971314, *5–6 (Tex. App.–Houston [14th Dist.] March 3, 2015, orig. proceeding) (mem. op); *See also Weatherford*, 157 S.W.3d at 485; *Tex. State Bd. of Pub. Accountancy v. Bass*, 366 S.W.3d 751, 761 (Tex. App.–Austin 2012, no pet.); *City of Farmers Branch v. Ramos*, 235 S.W.3d 462, 468 (Tex. App.–Dallas 2007, no pet.).

¹⁰ *See Id.*

¹¹ TEX. GOV’T CODE § 551.102.

¹² TEX. GOV’T CODE § 551.144.

Lone Star Groundwater Conservation District
July 8, 2019
Page 4 of 4

session are also the standard practices of many governmental entities around the state. In the event the law were to change in the future related to the topics addressed in this letter, whether that be through a new ruling from a Texas court with binding precedent, an opinion issued by the Texas Attorney General, or a statute enacted by the Texas Legislature, I will let you know and we can discuss at that time. But for now, the District Board can rest assured that its practices related to executive sessions are in compliance with current law.

I believe this letter clarifies the issues raised, but please let me know if you have any questions. As always, I appreciate the opportunity to be of service to the District.

Regards,



Kristen O. Fancher

cc (via email): Ms. Samantha Stried Reiter, Interim General Manager, Lone Star Groundwater Conservation District

Ms. Stacey Reese, General Counsel, Stacey Reese Law, PLLC

MEMORANDUM

TO: Mr. Webb Melder, President LSGCD and Directors
FROM: Harry Hardman, Vice President LSGCD
SUBJECT: District's Confidentiality and Non-Disclosure Agreement
DATE: July 9, 2019

Gentlemen,

I apologize for being absent at tonight's meeting, but I am in Lubbock attending to my aging Mother's health. I have reviewed the posted agenda and see there is an agenda item to "Discuss, consider, and take action as necessary regarding District's Confidentiality and Non-Disclosure Agreement." Since this issue is important to me and has received negative and inaccurate publicity since our last meeting, I provide this statement regarding the NDA policy the Board adopted in our June meeting.

I was the Director who asked for this policy to be considered and voted on in our last meeting due to the fact that we were considering hiring a Public Relations person to coordinate activities on behalf of the District. My primary reason for recommending the NDA in connection with a PR consultant was based on learning about an incident at the High Plains GCD. The High Plains GCD was going through the process of changing its rules from spacing only to spacing plus production limits. Evidently, the proposed rules changes were hotly contested and incorrect information was rampant. The GCD used a PR firm that it has historically used to help with messaging. The PR firm was well known in the area and familiar with the group that was adamantly opposed to the rule changes and also the source of misinformation. The PR firm worked directly with the General Manager and would then repeat all information, including highly confidential information, to the group opposing the rules. The issue was not preventing transparency—the issue was that the GCD's own consultant was using the highly sensitive/confidential information the consultant obtained from the General Manager against the GCD (and being paid all the while). Unlike other types of consultants, PR firms and those with related marketing degrees are not subject to licensing, which normally would require the licensed professional to hold him/herself to certain ethical standards. An NDA is the only way to try and protect a GCD from this type of abuse for those consultants that do not have ethical standards built into their licenses.

My recommendation for the board to adopt an NDA is in no way a reflection on the integrity of the PR firm the Board was considering. I was merely trying to act prudently to protect the District from what happened to another GCD.

Since the District voted not to hire an outside PR firm, I do not see the need for an NDA to be in place at this time. For the record, NONE of the LSGCD's Consultants have ever been, or are now, subject to an NDA with the District. This board ran on, and I remain personally committed to, transparency. I hope this statement puts the minds of the citizens of Montgomery County at ease that the District continues to work on behalf of the best interests of its constituents and is committed to transparency as authorized under the law.

I leave it to my fellow directors to discuss, consider and take any action they deem necessary regarding the NDA.