

Lost Pines Groundwater Conservation District

Board of Directors Agenda Minutes

Wednesday, January 18, 2023

The Board of Directors convened at 7:02 p.m. in a meeting pursuant to public notice having been given, at Elgin Public Library Civic Center – City Council Chambers, Elgin, Texas. The following members of the Board were present: President Sheril Smith; Vice-President Kathryn Rogers; Secretary-Treasurer Elvis Hernandez; Directors: Thomas Arsuffi, Melissa Cole, Herbert Cook, Phil Cook, Larry Schatte, Billy Sherrill and Michael Simmang.

Staff members present: Jim Totten, General Manager, Peggy Campion and Dana Goertz.

Consultants present: Natasha Martin, April Griffin and Greg Ellis, Attorneys and Allan Standen and Bill Hutchison, Hydrogeologist.

President Smith called the meeting to order, welcomed the public and introduced Lee County Judge Frank Malinak.

3. *Public Comments.* The Board heard public comments from Don Hardy, Nancy McKee, Judge Frank Malinak, Linda Curtis, League of Independent Voters, Hugh Brown, Emma Smith and Skip Connett, Friends of Land.

2. *Pursuant to Board Rule 2.1 A, the Board will conduct its annual election for president, vice-president and secretary-treasurer.* Director Arsuffi moved to follow an election procedure using a slate nomination. Director Cole seconded the motion. President Smith and Directors Arsuffi, Cole and P. Cook voted in favor with Vice-President Rogers, Secretary-Treasurer Hernandez, Directors H. Cook, Schatte, Sherrill and Simmang voting against. Motion failed. President Smith then called for nominations for President. Vice-President Rogers nominated Elvis Hernandez for President. Director P. Cook nominated Sheril Smith for President. Vice-President Rogers, Secretary-Treasurer Hernandez, Directors H. Cook, Schatte, Sherrill and Simmang voted for Elvis Hernandez and President Smith, Directors Arsuffi, Cole and P. Cook voted for Sheril Smith. The vote was 6 to 4 in favor of Elvis Hernandez. Director H. Cook then nominated Kay Rogers for Vice-President. There being no other nominations, nominations closed. The Board voted 7 to 2 in favor of Kay Rogers for Vice-President with Directors Arsuffi and P. Cook voting against. Director Sherrill nominated Michael Simmang for Secretary-Treasurer. There being no other nominations, nominations closed. The Board voted unanimously for Michael Simmang for Secretary-Treasurer.

At 7:32 p.m. the Board recessed for a short break. The Board went back into session at 7:38 p.m. President Hernandez presided over the remainder of the meeting.

4. *Consent Agenda:*

a. *Minutes of the December 8, 2022 special called Real Estate meeting, December 8, 2022 special called Rules Hearing and the December 14, 2022 regular Board meeting.*

b. *Financial report through December 31, 2022*

c. *Invoices received and payments greater than \$5,000.00*

d. *Water well monitoring update.*

e. *Recent and future educational opportunities, calendar and events.*

Director Simmang moved to approve the consent agenda. Director H. Cook seconded the motion, which carried unanimously. Director Smith had a question concerning the invoice of Greg Ellis.

5. *Regular Agenda:*

Items 5 e, h and i will be heard after 5 l.

a. *Discussion, consideration, and possible action on the District Hydrogeologist's scope of work and related 2023 expenses.* Director Cole moved to proceed with Phase 1, Phase 2 and the hydrogeological model. Director Smith seconded the motion, which carried unanimously.

b. *Discussion, consideration, and possible action on publishing notice for a public hearing on amendments to the District's rules.* Vice-President Rogers moved to direct District staff and legal Counsel to finalize the proposed rules with the Management Committee and publish notice for a second public hearing on proposed rule amendments on or about March 15, 2023. Director Sherrill seconded the motion, which carried unanimously.

c. *Presentation by District Hydrogeologist regarding Desired Future Conditions.* Dr. Bill Hutchison, Hydrogeologist gave a presentation on Phase 1, Task 1 concerning the DFC's and made recommendations to the Board. After Board discussion, Director P. Cook moved to approve Mr. Hutchison's approach to the planning cycle. Director Cole seconded the motion, which carried unanimously.

d. *Discussion, consideration, and possible action on the District adoption of GMA 12 adopted Desired Future Conditions for relevant District aquifers.* The Board heard comments from Andy Weir. Director Cole moved to approve the resolution adopting the GMA 12 DFCs for the relevant aquifers in the District as presented to the Board. Vice-President Rogers seconded the motion, which carried with 8 in favor and Directors P. Cook and Smith abstaining. Motion carried.

f. *Discussion, consideration, and possible action on establishing a policy on communications between consultants and legal counsel and the Board.* Natasha Martin, Attorney, explained that the policy provided guidance on and established processes for communications between the board to legal counsel and also a process for providing direction to attorneys. There are amendments to the policy presented to the Board to be evaluated. Director P. Cook moved to table this item and refer it to the Governance Committee for further evaluation and updates. Director Smith seconded the motion, which carried unanimously.

g. Discussion, consideration, and possible action on the legal services contract of Gregory M. Ellis, Attorney at Law. Director Smith moved to approve the legal services contract of Gregory M. Ellis, Attorney at Law. Director Cole seconded the motion, which carried unanimously.

j. Committee Reports with possible Board discussion. No action will be taken.

i. Financial Services Committee. President Hernandez reported no update.

ii. Governance Committee. Director Smith reported the committee had met and discussed staff evaluations due in December and General Manager's evaluation due in February, communications policy, Greg Ellis contract and RFQ's for auditors and the web page.

iii. Infrastructure Committee. Director P. Cook reported that a building had been bought in Giddings to house the District offices and discussion was had on an RFP for contractors to do the renovations.

iv. Education Outreach Committee. There was no report given.

v. Management Committee. Director Cole gave the management committee report. Please see attached.

k. General Manager's Report. President Elvis Hernandez next recognized General Manager Totten to present the General Manager's report. Please see attached.

l. Discussion of Lost Pines groundwater Conservation District legislation, related legislation and/or activities occurring that affect or pertain to the District and groundwater. Greg Ellis gave a legislative update to the Board.

The Board went into executive session at 9:04 p.m. to discuss agenda items 5 e, h and i, pursuant to Texas Government Code Sec. 551.071, or any closed session permitted by law, to consult with its attorney. At the conclusion of the closed meeting, the Board went back into open meeting at 10:57 p.m. President Hernandez announced that no votes were taken during the closed meeting.

5 e. Discussion, consideration, and possible action on Request for Proposal for renovations to the District's future office in Giddings, Texas. Vice-President Rogers moved to direct District staff and Legal Counsel to finalize the RFP and proceed with a solicitation for renovations to the Giddings property subject to further review of the infrastructure committee. Director Sherrill seconded the motion, which carried unanimously. Director P. Cook, Infrastructure Committee Chair, requested that staff provide the committee with specific guidelines on how to proceed.

5 h. Discussion, consideration, and possible action on draft legislation to amend Texas Special District Local Laws Code, Chapter 8849, Lost Pines Groundwater Conservation District, related to District mitigation and fees. The Board heard comments from Andy Weir. Director Cole moved to approve the amendments to Texas Special District Local Laws Code, Chapter 8849 as presented to the Board, and direct District Lobbyist to proceed with settlement negotiations. Director Smith seconded the motion, which carried unanimously.

5 i. Discussion and possible action regarding Gatehouse Water, LLC v. Lost Pines Groundwater Conservation District et al., Cause No: 1:22-cv-00132, United States District Court of the Western District of Texas. Director Arsuffi moved to approve the proposal presented by Legal Counsel in executive session to settle the GateHouse Water litigation and direct Legal Counsel to proceed with settlement negotiations. Director Schatte seconded the motion, which carried unanimously.

m. Announcements. Andy Weir announced that there would be a Lee County Day at the Capitol. Natasha Martin, attorney, reported that the Changing Face of Water Law conference will be held in February in San Antonio, Texas.

n. Discussion, consideration, and possible action on District Board meeting calendar. Board meeting dates were included in the packet for 2023 and the consensus of the Board was that the December meeting should be held December 13, 2023.

o. Set date and location of next meeting. The next regular Board meeting of the Lost Pines Groundwater Conservation District will be held February 15, 2023, 7:00 p.m at City of Giddings Council Chambers, 118 E Richmond Street, Giddings, Texas.

p. Future agenda items. Director Smith will request at a future Board meeting the itemization of legal bills.

6. Executive Session:

a. Executive session of the Board pursuant to Tex. Gov't Code section 551.071, or any closed session permitted by law, to consult with its attorneys and seek advice regarding GateHouse Water, LLC v. Lost Pines Groundwater Conservation District, et al., Cause No: 1:22-cv-00132, United States District Court of the Western District of Texas.

b. Executive session of the Board pursuant to Tex. Gov't Code section 551.071, or any closed session permitted by law, to consult with its attorneys and see advice regard Item 5(3) above.

President Hernandez adjourned the meeting at 11:06 p.m.

Approved:



Elvis Hernandez, President



Michael Simmang, Secretary-Treasurer

Lost Pines Groundwater Conservation District

P. O. BOX 1027
Smithville, TX 78957

MEMORANDUM

DATE: January 18th, 2023
TO: President and Board of Directors
FROM: General Manager & Staff
SUBJECT: January 2023 General Manager's Report

1. Statistics Exempt Wells:
LPGCD Form 100's Drilling Permits received
December 1st through December 31st 2022 (11)
LPGCD Form 300's Certificate of Registrations received
December 1st through December 31st 2022 (0)

Wells plugged: 0 Water quality test: 0 Wells gauged: 5

Drought Conditions: Approximately forty-eight percent of Lee County is reported as experiencing abnormally dry conditions. Approximately two percent of Bastrop County is experiencing moderate drought conditions while eight one percent of the county is reporting abnormally dry conditions.
(Drought.gov)

1. The District has received comments back from TWDB regarding the submitted management plan including a requirement to include the newly released MAG report. GMA 12 has not been active since the last board meeting.
2. The District has transitioned to the new HALFF database and is currently working on reconciling the existing TWDB well records with the District well records. Once that is complete staff will move on to updating production data and then water quality data.
3. In late December the general manager had preliminary discussions with the professor at Texas A&M who helped implement the BVWatersmart program and website.
4. We have received the press release and flier for the Bastrop County TWON meeting in February. The information will be on the District website shortly.
5. Pending Permits:
 - i. Multiple permit applications for a total of 64,112 af/yr are being processed.
6. Upcoming meetings
 - i. None at this time

LPGCD Management Committee
Minutes of meeting 1-1-2023
Submitted by Melissa Cole

Attending: Melissa Cole, Tom Arsufi, Sheril Smith, Elvis Hernandez, Jim Totten, Natasha Martin

Natasha advised on the issue of a 10% variance of the DFCs. Variance can not be applied after adoption of the DFCs by the GMA. Districts must adopt what the GMA has adopted. So, a variance is not a possibility at this time.

The committee addressed the LRE proposal. In order to streamline the projects' implementation it was decided to recommend to the Board the approval of Phase 1, Phase 2, and the Hydrogeologic model so that Jim can coordinate with LRE in moving forward with an approved scope of work subject to the annual budget limitations.

A timeline developed by Elvis was discussed. It was decided to use the timeline as a model to adhere to when able with the possibility that the Management Plan may be delayed in adoption. After receiving the MAGs there is technically a 2 year window before adoption is required. An adoption of the Management Plan by the end of the summer would be an option if not by May of this year.

Natasha had submitted a final draft of the rules. The substantive changes were individually discussed and the committee recommends adoption as presented.