



# **SPECIAL MEETING MINUTES**

## **OF THE**

### **SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT**

#### **Via Telephone Conference**

In accordance with the order of the Office of the Governor issued March 16, 2020, the SWTCGCD Board of Directors conducted a Special Board Meeting as a remote access only meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). The meeting was open to the public and instructions for accessing the conference call were provided in advance with the Notice of Meeting

**Wednesday, July 29, 2020 at 10:00 am**

**1. Call to order, declare meeting open to the public, take roll and declare quorum status**

Director and Board President Scadden called the meeting of the Southwestern Travis County Groundwater Conservation District (SWTCGCD or District) Board of Directors to order at 10:00 AM on Wednesday July 29, 2020. Six District Directors were present on the conference call constituting a quorum, including Directors Davis, Hennings, Dower, Scadden, Van Ackeren and Urie. Director Hunt was absent. Also present were General Manager Kodi Sawin, Kirk Holland, General Counsel Ty Embry, Carrol Norrell, Chris Knox with Texan Water and Pete Golde.

At the request of Director Scadden all present introduced themselves.

**2. Public comments**

Director Scadden called for public comments. There were no public comments.

**3. Discuss and possibly act on matters related to the District Budget and submitting a draft budget to Travis County**

Director Scadden proposed revision the Budget Committee membership to be Directors Scadden, Dower and Urie with Director Dower replacing Director Van Ackeren.

***On a motion by Director Hennings and a second by Director Van Ackeren the Board approved the revised Budget Committee membership consisting of Directors Scadden, Dower, and Urie – 6 Ayes to 0 Nays***

Director Scadden asked the Board for approval to share the draft budget with Vikki Kennedy at Travis County. Director Hennings suggested sending it after the first iteration of the Fee Schedule is complete. Director Dower suggested that it be sent after changes are made at today’s meeting, especially changes to the expenses. Director Hennings added that we should



note that this budget is preliminary and subject to change. Director Scadden said the budget needs to be finalized and adopted at the September Board meeting.

***The Draft Budget is attached as Exhibit A***

**4. Executive Session to receive legal counsel from SWTCGCD Attorney regarding portions of the draft District Rules**

The Board went into Executive Session at 10:39 AM in accordance with Section 551.071 of the Texas Open Meetings act to receive advice from Legal Counsel regarding District fees. Present in the Executive Session were Directors Davis, Hennings, Dower, Scadden, Van Ackeren and Urie, General Counsel Embrey, General Manager Sawin and Consultant Holland. The Executive Session concluded at 10:50 AM. No action was taken by the Board during the Executive Session.

The regular meeting was re-convened at 10:52 AM.

**5. Discuss and possibly act on matters related to formulating District Rules, including setting a Public Hearing on the rulemaking at some future Board meeting.**

Director Scadden said the Board would now discuss District Fees. Mr. Holland reviewed the Summary Fee Table which shows the Fees discussed at the last meeting in red.

***The Summary Fee Table is attached as Exhibit B***

Mr. Holland then reviewed the document titled *Several Additional Rulemaking Options for Board Consideration* which presents the following options:

Option A – Combined Well Drilling/Modification Authorization Applications and Construction Fee

Option B – Tiered Production Authorizations

Option C – More Favorable Treatment of Agricultural Use Wells

Option D – Incentivize Earlier Permit Applications

***The Documents titled Several Additional Rulemaking Options for Board Consideration and Table Showing Alternative Fees are attached as Exhibit C***

Mr. Holland advised that there is a need for the board to make decisions on these issues by Friday July 31<sup>st</sup> in order to post the required notice for a Public Hearing at the August meeting, but we could have the Public Hearing at a Special meeting at the end of August.

Mr. Holland went on to review the *Alternative Fees Table* which is based on the previously discussed options.

A discussion ensued regarding the need to keep the Construction Fee separate and capped at \$1,000 to align with the enabling legislation. Director Scadden suggested referring to the Well



Drilling Application (WDA) Fee as the Well Drilling Authorization and Well Construction Application Fee with a maximum fee of \$1,000. Director Dower asked if Exempt Wells would be charged this fee and Director Scadden said the enabling legislation does not prohibit charging an Exempt Well a construction fee, but he acknowledged that it does prohibit charging Type 2 Exempt Wells with a construction fee. Directors Dower and Hennings reiterated that they felt that the Well Construction Fee needed to be kept separate as a line item and named as such to fall within the guidelines of the Enabling Legislation using the exact words used there. Mr. Holland agreed that Option A will keep the Well Construction Fee separate. Directors Scadden said he agreed and Director Hennings said she did as well, and she added that she thought it was important to keep the fee for agricultural wells as low as possible. Director Davis agreed with keeping the agricultural well fees low.

Director Davis asked if it was possible to color code each fee to indicate whether it is based on the enabling legislation or on Chapter 36. Mr. Holland said we have not yet said if the Fee Table would be part of the Fee Schedule, but we could. Director Scadden said he strongly felt that the Table should be included, and Director Davis said the Fee Schedule is hard to understand and explain.

A discussion took place regarding whether to have full up-front fees and the shock that might invoke versus raising fees later. Mr. Holland said that it appears that the revenue to be raised from production fees is not going to be enough and we may need to maximize other fees to raise the required revenue. Director Scadden said that we need to find the happy medium between the shock of charging fees that were never charged before and having the perception of creeping fees that rise later, and public education is important.

Mr. Holland said that clearly there is a prohibition on charging well Construction Fees on large tract (10 Acres or more) Domestic & Livestock Wells (ranch wells) producing less than 25,000 gallons per day. However there is no specific prohibition on charging a Construction Fee for other types of Exempt Wells, but as Director Dower points out, elsewhere in the Enabling Legislation there is language indicating that these types of fees were not intended to be charged to any Exempt wells. After some additional discussion it was agreed that no construction fees would be charged for Exempt Wells, and a discounted fee of \$500 would be charged for agricultural wells.

After some discussion of the proposed two-tiered fee schedule for small and large wells it was agreed the added complexity of such a tiered fee schedule was not justified.

Mr. Holland said the annual renewal of operating permits allows adjustment based on what is going on in the aquifer and is an incentive to comply with the permit requirements. It was agreed that the Renewal Fee would be \$200 without a public hearing and \$400 with a public hearing for non-agricultural wells and \$100 without a public hearing and \$200 with a public hearing for agricultural wells.

A discussion ensued regarding the desirability of incentivizing early registration through an early discount and the public outreach needed to educate well owners about requirements and fees.

There was a discussion of Well Plugging permit Application Fees and a \$100 per well across the board fee was agreed upon.



Mr. Holland said that he had eight questions that he wanted to get answers to from the Board and he felt that he had. He asked to run through the eight questions quickly. The questions are:

1. Do we want to include the Fee Summary Table along with the Fee Schedule narrative – Yes
2. Are we OK with looking at October 1, 2020 for the effective date of our Fee Schedule – Yes
3. Do we want to have less than the statutory maximum fees – Yes
4. Are we OK with having a two-stage WDA/permit application process – Yes
5. Are we OK with having separate WDA and Well Construction Permits – Yes
6. Are we OK with having two tiers of operating permits – No
7. Do we want to have early discount for general permit and operating permit fees for existing wells of 50% for the first six months – Yes
8. Are we OK with a service connection fee of \$1,000 per connection to a public water supply after October 1<sup>st</sup> and a \$200 fee to new RV slips after October 1<sup>st</sup> – Yes

Mr. Holland asked if it was OK with the Board that he and General Manager Sawin take the information from this meeting and create a new fee narrative and table and put them out for the Public Hearing. Director Scadden asked that they coordinate with the Rules Committee as much as possible and proceed.

Director Hennings asked if our fee schedule would include fines for enforcement actions or will that be done in a separate Public Hearing. General Counsel Embrey said that he envisioned that being done in a separate Public Hearing.

Mr. Holland and General Manager Sawin presented the schedule for approval of Fees and Rules.

Director Scadden thanked Mr. Holland and General Manager Sawin for their hard work.

## 6. Adjourn

***On a motion by Director Dower and a second by Director Hennings, the Board voted to adjourn the meeting – 6 ayes to 0 nays. The meeting was adjourned at 1:24 PM.***

PASSED, APPROVED AND ADOPTED THIS 9th day of September 2020


  
Tim Van Ackeren, Secretary



EXHIBIT A

Draft Budget

**Southwestern Travis County Groundwater Conservation District**  
**Fiscal Year 2021 Draft**  
October 1, 2020 - September 30, 2021

<b>Revenues</b>		<b>FY 2020 Budget</b>	<b>FY 2021 Budget</b>
<b>Category/Description</b>	<b>EOY Projected</b>	<b>Draft</b>	
Application Fee	\$0	\$18,000	
Non Exempt Well Construction Fee	\$0	\$5,000	
Non Exempt General Permit Well Construction Fee	\$0	\$15,500	
Permit Renewal Application Fees	\$0	\$0	
Water Utility Service Connection Fee	\$0	\$60,000	
Production Fee	\$0	\$168,700	
Interest Income	\$0	\$100	
Interest Income Savings Account	\$0	\$0	
Misc. Income	\$0	\$250	
Funding from Travis County (1)	\$15,000	\$0	
Funding from Travis County (2) ILA	\$77,136	\$8,500	
Funding from Travis County (3)	\$0	\$100,000	
Enforcement Penalty Income	\$0	\$0	
Technical Projects Cost Sharing Reimbursements	\$0	\$0	
<b>Total Projected Revenues</b>	<b>\$92,136</b>	<b>\$376,050</b>	
<b>Expenses</b>			
Outstanding Obligations	\$0	\$0	
Personnel Expenses	\$2,225	\$195,243	
Vehicle Expenses	\$2,000	\$4,000	
Contract/Professional Services	\$71,000	\$89,300	
Office and Administrative Expenses	\$14,911	\$67,801	
Technical Operations Expenses	\$2,000	\$19,025	
Contingency Fund FY19 Allocation			
<b>Total Projected Expenses</b>	<b>\$92,136</b>	<b>\$375,369</b>	
<b>Fund Balance</b>	<b>\$0</b>	<b>\$681</b>	



## EXHIBIT B

### Summary Fee Table







## EXHIBIT C

### Several Additional Rulemaking Options for Board Consideration and Table Showing Alternative Fees

## **Part II. Several Additional Rulemaking Options for Board Consideration**

The fee-setting scenario in the Part I. Fee Table accompanying this narrative (and in the current Schedule of Fees narrative) is based on staff's understanding of "where we left things" after our Board meeting on 7/21. There are several additional optional approaches for the Board to consider, and to come to resolution on each of them before we present the proposed Fee Schedule to the public. (Some of these may be affected by what we discuss in Executive Session with Ty next Wednesday.) We need to address these in our Board meeting Wednesday and resolve all four of them by no later than Friday morning, July 31<sup>st</sup>.

### **Option A – Combined Well Drilling/Modification Authorization Applications and Construction Fee**

Currently, these are two different line-item fees for proposed wells. But the Well Drilling/Modification Authorization (herein, WDA) is an actual application with an application fee to offset staff time for evaluating it, which naturally incorporates details on well construction along with other characteristics (spacing, nearby production, Management Zones (MZs), etc.). Essentially, the WDA application fee naturally subsumes the well construction fee. Combining them into one fee would provide some additional, appropriate latitude in fee-setting. And further, it would obviate the need to differentiate among statutory types of Exempts.

Staff recommendation: Remove the Well Construction Fee line item in both the table and the narrative and combine that fee, or an appropriate part of it for a given circumstance, into a single fee for "WDA Application". A suggested schedule of this fee for the various types of new wells is shown in the enclosed Part III. Alternative Fee Table.

### **Option B – Tiered Production Authorizations**

Currently, we make no distinction for the application fees for either Operating Permits or General Permits by Rule based on the size of the well's production. There are more and different staff resource demands expended in evaluating permit applications for larger wells than smaller wells. Most GCDs, including our adjacent GCDs, recognize this in their production application fee structures, rather than take a "one size fits all" approach. This distinction is particularly apt when the well size necessitates aquifer testing and evaluation of the resulting hydrogeological report, but also when a Public Hearing (PH) is required. Please note also that the aquifer-testing requirement may exist whether the prospective permit is an Operating Permit or a General Permit by Rule, but the General Permit does not require PHs.

Staff recommendation: Have a minimum of two tiers of Operating Permits, a higher one for wells requiring aquifer tests, i.e., demand equal to or more than 2 million gallons per year (MG/Yr), and a second, lower one for wells with less than 2 MG/Yr demand. Avoid the complication of tiers for General Permits and simply have a lower application fee for all such wells than the fees for Operating Permits, to account for not requiring a PH. A suggested schedule of this fee reflecting this structure is shown in the enclosed Part III. Alternative Fee Table.

### **Option C – More Favorable Treatment of Agricultural Use Wells**

Currently the only differentiation in fee treatment between Agricultural (“Ag”) and Non-Agricultural (“Non-Ag”) wells is the statutorily required lower production-fee rate for Ag use. Farmers and ranchers need all the help they can get in our state, absent compelling groundwater conditions.

Staff recommendation: Reduce the various application fees for Ag wells by a meaningful amount, when compared to those for Non-Ag wells. But also emplace a prohibition on new Ag wells in the Middle Trinity Aquifer MZ in Area 2. (This is something of a “you give some, you take some” situation, but it’s rooted in good science and public policy.) As shown in Part III. Alternative Fee Table, this also can eliminate the need to differentiate between the types of Exempt Uses as well as treat Ag Non-exempts more favorably.

### **Option D – Incentivize Earlier Permit Applications**

Currently, there is no incentive offered to those with existing wells to get their permit applications into the District as soon as feasible. The natural tendency would be to wait and see if they really must do anything and ascertain what more precisely is needed and not needed, especially if there is not a down-side to waiting. On the other hand, we need to get a better handle on the regulated universe as quickly as possible, as well as initiate fee generation as soon as we can.

Staff recommendation: Offer a temporary early-bird rebate of some amount to be determined, say 20% but it could be 40%, for those who get essentially complete applications, including application fees, into us for their already installed wells in the first six(?) months. This of course only affects the Existing and/or Already Installed Wells, as shown in Part III. Alternative Fee Table.

