



BOARD MEETING MINUTES

SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

Wednesday, March 20, 2024, at 9:30 a.m.

A quorum of the Southwestern Travis County Groundwater Conservation District Board of Directors held a monthly board meeting and public hearing on Wednesday, March 20, 2024, at 9:30 a.m. at the District's office at 8656 W. Highway 71, Building A, Suite 224, Austin, Texas 78735. The meeting was open to the public and a videoconference remote participation option was provided, instructions for accessing the remote videoconference were provided with the Public Notice of Meeting.

1. **Call to order, declare meeting open to the public, take roll and declare quorum status** – President Scadden called the public meeting to order at 9:30 a.m. on Wednesday, March 20, 2024. Six directors were present at the meeting constituting a quorum, including President Scadden, Director Leva, Director Van Ackeren, Director Urie, Director Davis, and Director Norton. Also present were General Manager Lane Cockrell and District Regulatory Compliance Specialist Virginia Smith, General Counsel Cole Ruiz with Lloyd Gosselink, Pete Golde, Jim Phillips, Kaveh Khorzad with WetRock Groundwater Services, Ben Carter, Kyle McDaniel, Lance Oriti, and Alex Howell with JPD Backyard Finance, LLC, and Jim Truitt with Clancy Utility Holdings, LLC. The following individuals participated remotely by videoconference call: Audrey Cooper with Lloyd Gosselink, CJ Bennett and Rusty Tarver with Mirasol Capital, Ed McCarthy representing Mirasol Capital and Clancy Utility Holdings, LLC, Tom Smith, Karen Hadden, Blake Taylor, Christy Muse, Jon White with Travis County, and Kimberly Kelley.
2. **Announcements** – No announcements.
3. **Public Comments** – No public comments were presented.
4. **Discuss and possibly act on matters related to Director vacancy** – President Scadden reminded the Board and the public that Brian Hunt resigned from the Board of Directors due to potential conflicts of interest and reported that Mr. Jim Phillips has volunteered to fill the vacancy on the Board. General Manager Cockrell reported that he confirmed that Mr. Jim Phillips meets the eligibility requirements to serve on the Board as an at-large Director. A motion was made by President Scadden to appoint Jim Phillips to fill the vacancy on the Board of Directors. Motion seconded by Director Leva. Motion carried 5 Ayes – 0 Nays – 1 Absent. President Scadden reported that Director Norton moved to a new property within the District that no longer uses groundwater, and therefore, Director Norton no longer meets the eligibility requirements to serve on the Board as an at-large Director. President Scadden reported that Director Norton will likely tender his resignation ahead of the next board meeting and will continue to serve as a holdover at-large director until a replacement is appointed.

Director Davis joined the open meeting at 9:42 a.m. A quorum of six directors remained present, including President Scadden, Director Leva, Director Van Ackeren, Director Urie, Director Davis, and Director Norton.

5. **Public hearing regarding JPD Backyard Finance, LLC operating permit application** – President Scadden called the public hearing to order at 9:43 a.m. on March 20, 2024. President Scadden reported that JPD Backyard Finance, LLC submitted an application for an operating permit to produce 3,700,492 gallons (11.36 acre-feet) of groundwater annually from the Lower Trinity Aquifer to maintain a site water feature from which water will be diverted for irrigation use. President Scadden reported that the District did not receive any requests for a contested case hearing on the permit application prior to the meeting and asked whether anyone present at the meeting would like to request a contested case hearing. No requests for a contested case hearing were submitted at the public hearing. General Manager Cockrell was sworn in to provide testimony on behalf of the District, and Ben Carter, Kaveh Khorzad, Kyle McDaniel, Lance Oriti, and Alex Howell were sworn in to provide testimony on behalf of the applicant, JPD Backyard Finance, LLC.

Kyle McDaniel provided a presentation to the Board of Directors regarding The Backyard development and JPD Backyard Finance, LLC's operating permit application. Alex Howell provided comments to the Board regarding the landscaping and vegetation on the property that the applicant intends to irrigate. Ben Carter and Lance Oriti provided comments to the Board regarding planned rainwater harvesting and other elements of the site plan.

General Manager Cockrell reported that Chapter 36 of the Texas Water Code and District Rule 3.4(C) govern what the Board may consider when making a decision on any permit application. General Manager Cockrell provided a presentation to the Board outlining District Rule 3.4(C), and presented the draft operating permit prepared by District staff. General Manager Cockrell presented information regarding the potential loss of groundwater to evaporation from the detention pond. Additionally, General Manager Cockrell presented information regarding potential construction issues in Well No. 1 which may allow leakage from an overlying aquifer with substantially different water quality into the Lower Trinity Aquifer.

Kaveh Khorzad provided comments to the Board regarding construction details for Well No. 1.

General Manager Cockrell provided a summary of the staff recommendation and reported that the proposed draft permit prepared by District Staff would grant the applicant a total authorized annual use of 2,310,000 gallons, or 7.09 acre-feet.

President Scadden asked whether the Board may consider authorizing groundwater production to be used for irrigation purposes while denying the portion of groundwater production proposed for maintaining a constant level in a detention pond for aesthetic purposes. Cole Ruiz stated that, because the District is located in the Hill Country Priority Groundwater Management Area, Chapter 36 of the Texas Water Code requires the Board to consider whether the proposed use of water is intended to maintain a surface impoundment to enhance the appearance of the landscape.

Grant Howell, Ben Carter, and Lance Oriti provided additional testimony regarding the design of the detention pond, irrigation system, and other elements of the project. Kyle McDaniel provided additional testimony regarding City of Bee Cave development requirements related to the detention pond.

General Manager Cockrell provided additional information regarding the term of the proposed draft permit, the permit renewal process, and provided clarification regarding the authorized uses described in the proposed draft permit.

Director Norton posed questions regarding the plant types and irrigation demand described in the application.

Grant Howell provided additional testimony regarding the plant types used on site and their irrigation demand.

Tom Smith provided public comments regarding the possibility of storing groundwater in enclosed tanks to minimize evaporative loss and the potential use of treated effluent instead of groundwater.

President Scadden declared a ten-minute recess and adjourned the public hearing at 11:27 a.m. for a temporary break. President Scadden reconvened the public hearing at 11:36 a.m. A quorum of six directors remained present, including President Scadden, Director Leva, Director Van Ackeren, Director Urie, Director Davis, and Director Norton.

President Scadden asked the applicant team to address questions posed earlier regarding potential use of alternative water sources and potential conservation and mitigation strategies.

Ben Carter provided additional testimony regarding the applicant's plans to utilize rainwater harvesting. President Scadden asked why the applicant doesn't plan to use treated effluent from West Travis County PUA for irrigation purposes and to maintain the detention pond. Ben Carter and Kyle McDaniel provided additional testimony regarding the potential use of treated effluent from West Travis County PUA, and Kyle McDaniel reported that the development will use drinking water from West Travis County PUA. Ben Howell provided additional testimony regarding the "high efficiency" irrigation system design.

Tom Smith and Karen Hadden provided additional public comments and expressed concerns regarding evaporation loss and encouraged use of alternative water sources.

Kyle McDaniel and Ben Carter provided additional testimony regarding The Backyard development.

President Scadden posed questions and expressed concerns regarding potential impacts to nearby residential wells that are dependent on this groundwater resource.

Kaveh Khorzad provided additional testimony regarding potential impacts to nearby residential groundwater wells.

President Scadden adjourned the public hearing at 11:52 a.m. President Scadden reconvened the open meeting at 11:53 a.m.

6. **Discuss and possibly act on matters related to JPD Backyard Finance, LLC operating permit application** – President Scadden stated his concerns regarding the potential loss of groundwater through evaporation in the applicant's detention pond. President Scadden also expressed concerns

regarding potential cross contamination of the Lower Trinity Aquifer due to potential construction issues of the applicant's Well No. 1. Director Norton also expressed concerns regarding the loss of groundwater through evaporation from the applicant's detention pond. President Scadden proposed granting an operating permit to the applicant for the amount necessary for landscape irrigation, but not the amount projected for maintenance of the water level in the applicant's pond for aesthetic purposes. A motion was made by President Scadden to approve the operating permit for JPD Backyard Finance, LLC, as prepared by District Staff with an amended annual withdrawal amount of 1,142,452 gallons, and to authorize District Staff to negotiate additional language in the permit to address how the permittee's compliance with District drought restrictions will be monitored and assessed. Motion seconded by Director Norton. Motion carried 6 Ayes – 0 Nays.

7. **Discuss and possibly act on matters related to contested case hearing for Clancy Utility Holdings, LLC operating permit application** – General Manager Cockrell requested Board authorization to open a new bank account for the District to hold Clancy Utility Holdings, LLC's SOAH deposit in escrow. A motion was made by Director Norton to authorize General Manager Cockrell to open a bank account on behalf of the District to hold the funds from Clancy Utility Holdings, LLC for the SOAH contested case hearing. Motion seconded by Director Van Ackeren. Motion carried 5 Ayes – 0 Nays – 1 Abstaining. Director Davis abstained from voting. General Manager Cockrell reported that he will obtain signature cards from the bank and bring them back for Board Officers to sign. Director Norton asked how much the SOAH hearing will cost the District in total. Cole Ruiz reported that once SOAH has prepared the interlocal agreement for the hearing the Board will have a better understanding of the total cost. Cole Ruiz reported that the initial estimate from SOAH was \$56,000.00 for the contested case, however that estimate may come down. Cole Ruiz reported that Lloyd Gosselink will represent the District's General Manager in the SOAH hearing on Clancy Utility Holdings, LLC's permit application. Cole Ruiz reported that his firm will not represent the Board of Directors at the hearings. Cole Ruiz reported that it is typical for groundwater conservation district boards to engage separate counsel for the narrow purpose of representing them at a contested case hearing. President Scadden raised the idea of the Board authorizing two members of the Board to interview potential candidates to serve as the Board's counsel in the SOAH hearing. After some discussion, President Scadden indicated a consensus that he and Director Van Ackeren would speak with potential candidates to serve as the Board's counsel for the SOAH hearing.
8. **Discuss and possibly act on matters related to License Agreement with The Foundation at Shield Ranch to reserve a meeting space for upcoming Hamilton Pool Management Zone stakeholder group meeting** – General Manager Cockrell reported that the District's facilitator for the Hamilton Pool Management Zone stakeholder group, Christy Muse, has worked to reserve meeting spaces for each planned stakeholder group meeting. General Manager Cockrell reported that Christy Muse would like to hold the April stakeholder meeting at the Campsite at Shield Ranch in order to provide the stakeholders with a good example of a local land conservation site, which would require a reservation fee of \$475.00, and would include refreshments for the meeting and a tour of the conservation facilities. General Manager Cockrell reported that Shield Ranch is offering the District a discounted rate. President Scadden raised concerns regarding spending additional money on this matter. Director Van Ackeren and Pete Golde offered to split the cost of the reservation fee so the stakeholder group can use the space. A motion was made by Director Van Ackeren to approve the license agreement with The Foundation at Shield Ranch to reserve their space for the Hamilton Pool

Management Zone stakeholder group meeting. Motion seconded by Director Leva. Motion carried 6 Ayes – 0 Nays.

9. **Discuss and possibly act on approving previous meeting minutes** – President Scadden presented draft minutes for the January 22, 2024 public hearing to the Board for consideration. A motion was made by Director Norton to approve the minutes of the January 22, 2024 public hearing with revisions. Motion seconded by Director Urie. Motion carried 5 Ayes – 0 Nays – 1 Abstaining. Director Davis abstained from voting. President Scadden presented draft minutes for the February 14, 2024 regular board meeting to the Board for consideration. A motion was made by Director Norton to approve the minutes of the February 14, 2024 regular board meeting as presented. Motion seconded by Director Van Ackeren. Motion carried 6 Ayes – 0 Nays.
10. **Discuss and possibly act on matters related to District drought stage status** – General Manager Cockrell presented a map to the Board showing the drought intensity within the District and Travis County as of March 12, 2024, and reported that there had been little change in local drought conditions since the Board’s last meeting. General Manager Cockrell reported that the majority of the District is still under D-2 Severe Drought, which requires a twenty percent curtailment under the District Rules. No action taken under this agenda item.
11. **Discuss and possibly act on matters related to Interlocal Cooperation Agreement with Travis County** – General Manager Cockrell reported that the District’s last invoice submitted under the Interlocal Agreement (ILA) for fiscal year 2023 had still not been approved for payment by Travis County. General Manager Cockrell reported that he has been in contact with the Travis County attorney to try to determine why the invoice had not been approved for payment. General Manager Cockrell reported that the Travis County attorney recommended that the District retract the invoice and begin submitting new invoices for incurred expenses under the current ILA for fiscal year 2024. General Manager Cockrell reported that the Travis County attorney also recommended amending the fiscal year 2024 ILA with Travis County to avoid further delays. A motion was made by Director Leva to authorize President Scadden to execute an amendment to the fiscal year 2024 interlocal agreement with Travis County. Motion seconded by Director Van Ackeren. Motion carried 6 Ayes – 0 Nays.
12. **Receive, discuss, and take action as necessary on Board Committee Reports:**
 - a. **Finance** – Pete Golde provided a report to the Board regarding the financial reports dated February 29, 2024. The balance sheet indicated assets totaling \$94,611.34, and liabilities totaling \$3,984.99. The fiscal year to date profit and loss report indicated expenses totaling \$185,620.70, gross profit totaling \$42,478.70, and net income totaling \$-142,671.39 through February 2024. Pete Golde provided a summary of the checks issued by the District since the last board meeting, a summary of expenses by vendor, and a fiscal year to date summary of expenses by budgetary line item.
 - b. **Legislative** – No action taken under this agenda item.
 - c. **Science & Outreach** – General Manager Cockrell reported that the District’s website received 744 unique visits during the month of February. General Manager Cockrell reported that the District will be collaborating with the UT Bureau of Economic Geology

on an upcoming dye trace study, and reported that he will provide an update to the Board after the study takes place.

- d. **Rules** – No action taken under this agenda item.

13. **General Manager's Report:**

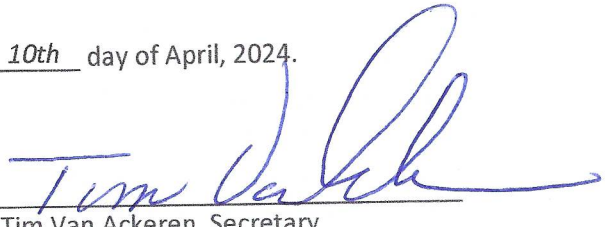
- a. **Summary of permitting, application, and registration inquiries and submissions** – General Manager Cockrell provided a summary of the permit applications and well registrations received by the District during the month of February. General Manager Cockrell reported that the District received two (2) new well registrations, seven (7) new well drilling authorization applications for new wells, and one (1) operating permit application. General Manager Cockrell reported that the District received nine (9) new water utility service connections during the month of February, and that reported production for the month shows a total production of 42.3 acre-feet (13.8 million gallons).
- b. **Regulatory items and updates related to TWDB, TCEQ, GMAs, and other organizations** – General Manager Cockrell reported that the next GMA 9 joint planning meeting will be held on March 26, 2024, at 10:00 a.m. in Boerne, Texas at the Cow Creek GCD offices. General Manager Cockrell reported that GMA 9 plans to conduct synoptic water-level measurements across all the member districts and reported that he will provide an update after the synoptic measurements are completed. General Manager Cockrell reported that the first Hamilton Pool Management Zone stakeholder meeting was held on February 25, 2024, and that the next meeting will be held on March 25. Director Davis reported that the first stakeholder meeting was a success and a great start for planning. General Manager Cockrell reported that only two potential stakeholders declined to participate.
- c. **Overview of current District groundwater monitoring program** – No action taken under this agenda item.
- d. **Other items of interest not requiring Board action** – No action taken under this agenda item.

14. **Discuss and establish possible agenda items for future Board Meetings** – President Scadden reported that an agenda item will need to be added for the Board to consider engaging separate counsel for representation at the SOAH hearing. President Scadden also requested that Christy Muse provide an update to the Board on the progress of the Hamilton Pool Management Zone stakeholder meetings. General Manager Cockrell reported that agenda items will also be needed for committee appointments and to ratify executed agreements related to the Clancy Utility Holdings, LLC's SOAH hearing and potential amendments to the Interlocal Agreement with Travis County for fiscal year 2024.

15. **Discuss and possibly act on setting the date, time, and location for the next Board Meeting** – President Scadden reported that the next regular board meeting will be held on April 10, 2024, at 9:30 a.m. at the District's office.

16. **Adjourn** – A motion was made by Director Davis to adjourn the open meeting at 1:22 p.m. Motion seconded by Director Leva. Motion carried 6 Ayes – 0 Nays.

PASSED, APPROVED, AND ADOPTED THIS THE 10th day of April, 2024.

A handwritten signature in blue ink, appearing to read "Tim Van Ackeren", written over a horizontal line.

Tim Van Ackeren, Secretary