

Lost Pines Groundwater Conservation District

Board of Directors Agenda Minutes

Wednesday, January 20, 2021

The Board of Directors convened at 7:10 p.m. in a telephonic/video conference meeting pursuant to public notice having been given, pursuant to the Office of the Governor's temporary suspension of certain open meetings act laws due to the novel coronavirus. The following members of the Board were present: President Michael Talbot; Vice-President Sheril Smith; Secretary-Treasurer Michael Simmang; Directors: Herbert Cook, Phil Cook, David Fleming, Kay Rogers, Larry Schatte, Billy Sherrill and Carl Steinbach.

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

Consultants present: Natasha Martin and Matt Kutac, Attorneys; Andy Donnelly, Hydrogeologist.

The following members of the public attended the meeting: see attachment one (1).

1. President Talbot called the meeting to order.
2. Welcome and introductions.
3. *Pursuant to Board Rule 2.1 A, the Board will conduct its annual election for president, vice-president and secretary-treasurer.* With President Talbot and Secretary-Treasurer Simmang agreeing to remain in their positions and Vice-President Sherrill choosing to step down from his position, Director P. Cook moved that President Talbot and Secretary-Treasurer Simmang remain in their respective roles. Director Fleming seconded the motion, which carried unanimously. With Director Smith agreeing to accept the nomination as Vice-President and there being no other nominations, Director Rogers moved that the nominations close. The motion was seconded and carried with Director Sherrill opposed.
4. *Public Comments.* The Board heard comments from the public.
5. *Review and approval of the minutes of the December 16, 2020 Board meeting.* Director Fleming moved to approve the minutes of the December 16, 2020 Board meeting. Director Steinbach seconded the motion, which carried unanimously.
6. *Consideration and possible action on the 2021 District calendar.* Director Fleming moved to approve the 2021 District calendar. Director Schatte seconded the motion, which carried unanimously.
7. *Consideration of the financial report for the period of December 1, 2020 through December 31, 2020.* General Manager Totten presented the financial report. Director Steinbach moved to acknowledge acceptance of the financial report as presented. Director Schatte seconded the motion, which carried unanimously.

8. *Consideration of and possible action on District surety bonds for the directors and any other District officer or employee.* Director Fleming moved to approve the issuance of surety bonds for the directors and any other District officer or employee. Director Herbert Cook seconded the motion, which carried unanimously.

9. *Discussion of and possible action on the formation of and appointment of members to a Legislative Committee.* The Legislative Committee will be comprised of President Talbot, Vice-President Smith, Secretary-Treasurer Simmang, General Manager Totten and Attorney Natasha Martin.

10. *Consideration of and possible action regarding the request of Recharge Water, LP for reissuance of Operating and Transport Permits to reflect a March 9, 2023 expiration date as a result of tolling of the permits from judicial action and renewal of Transport Permits authorized under District Well Nos. 5855512, 5855513, 5855514, 5855216, 5855217, 5855323, 5857809, 5855218, 5847602, 5847303, 5847304, 5848212, 5848121, and 5848122 from the Simsboro aquifer located in Bastrop and Lee Counties, which the District has processed as a request for amendment of the dates of expiration of Operating Permit pursuant to Rule 7.2.C and a request for renewal of the Transport Permits pursuant to Rule 6.6.C ("Recharge Requests").* Director Fleming recused himself from this agenda item. Director Phil Cook stated he would not be participating in this agenda item. Paul Terrill, attorney for Recharge Water addressed the Board concerning this matter and the Board also heard from Natasha Martin, attorney for the District. At the conclusion of hearing from the attorneys, the Board heard comments from the public. At 7:54 p.m. the Board went into executive session. At the conclusion of the closed meeting, the Board went back into open meeting. After returning to open session, President Talbot announced the time to be 8:32 p.m. and that no votes had been taken in the closed session. Calling for a motion, Secretary-Treasurer Simmang moved to authorize the renewal of the transport permits with expiration dates sync up with the operating permit expiration dates of January 1, 2022. Director Herbert Cook seconded the motion, which carried unanimously.

11) *Consideration of and possible action regarding the request of GateHouse Water, LLC to renew Transport Permits for District Well Nos. 5933122, 5933123, 5933217, 5933409, 5933410, 5933411, 5933412, 5933413, 5933504, and 5933505 from the Simsboro aquifer located in Lee County, which the District has processed as a request for renewal of the Transport Permits pursuant to Rule 6.6.C ("GateHouse Renewal Request").*

12. *Consideration of and possible action regarding the request of GateHouse Water, LLC for a no-increase amendment to Special Condition No. 8 of Operating Permits for District Well Nos. 5933122, 5933123, 5933217, 5933409, 5933410, 5933411, 5933412, 5933413, 5933504, and 5933505 from the Simsboro aquifer located in Lee County ("GateHouse Permits"), and a request to modify the 2016 Monitoring Well Agreement applicable to the GateHouse Permits to address certain District monitoring network issues raised by the District Board, which the District has processed pursuant to Rules 7.2 and 15.4 ("GateHouse Amendment Request").* Agenda Items 11 and 12 are being heard together. The Board was addressed by Ed McCarthy, Attorney for GateHouse Water and Steve Kallman, a representative for GateHouse Water. Mr. McCarthy and Mr. Kallman answered questions from the Board and the Board then heard comments from the public. At the conclusion of public comments, the Board went into executive session at 9:41 p.m.

for Agenda Items 11 and 12. President Talbot recused himself from executive session. At the conclusion of the closed meeting, the Board went back into open meeting at 10:43 p.m. With President Talbot being recused, Vice-President Smith called for a motion on Agenda Item 11. Director Fleming moved to renew the transport permits as listed in Agenda Item 11 in order to synchronize the expiration dates of the transport and operating permits to January 21, 2026 and January 26, 2026. Director Phil Cook seconded the motion with Directors Fleming, P. Cook, Rogers, Steinbach, Schatte, H. Cook and Secretary-Treasurer Simmang voting for and Director Sherrill voting against. Motion carried. Two motions were then made concerning Agenda Item 12. Director Fleming moved to suspend special condition 8 in the operating permits so that the permitted withdrawal will not be reduced until the validity of the submitted contract is evaluated. The motion was seconded with Directors Fleming, P. Cook, Rogers, Steinbach, H. Cook, Schatte and Secretary-Treasurer Simmang voting for and Director Sherrill voting against. Motion carried. Director Fleming then moved to table the operating permit amendment and the amendments to the GateHouse monitoring well agreement. Secretary-Treasurer Simmang seconded the motion. Directors Schatte, H. Cook, Steinbach, Rogers, Fleming, P. Cook and Secretary-Treasurer Simmang voted for with Director Sherrill voting against. Motion carried.

13. *General Manager's Report.* President Talbot next recognized General Manager Totten for presentation of the General Manager's report.

14. *Discussion of Lost Pines Groundwater Conservation District Legislation, related legislation and/or activities occurring that affect or pertain to the District and Groundwater.* There was no legislative report given.

15. *Consideration of conferences, meetings and educational opportunities Board members desire to attend.* There were none at this time.

16. *Consideration of agenda calendar and events.* The next regular meeting of the Board of Directors will be February 17, 2021 via telephonic/video conference.


17. *Executive session pursuant to Tex. Gov't Code section 551.071 so that the Board may seek the advice of its Attorney regarding pending or contemplated litigation, including, but not limited to the following:*

- a) *Item 10, Consultation with Attorneys regarding the above-posted Recharge Requests.*
- b) *Items 11 and 12, Consultation with Attorneys regarding the above-posted GateHouse Renewal and Amendment Requests.*


The Board went into executive session during Items 10, 11 and 12.

President Talbot adjourned the meeting at 10:55 p.m.

Approved:



Michael Talbot, President



Michael Simmang, Secretary-Treasurer