

Date of Meeting: **March 4, 2021**
Time of Meeting: **7:00 PM**
Location: **First United Methodist Church**
901 Bowie ST
Wellington, TX 79095



Regular Meeting Minutes

The meeting was called to order at 7:12 PM.

Directors Present: Jerry Lewis – President, Mat Montgomery – Secretary/Treasurer, Matt Tarver, Rex Fuston, Michael Souder, and Terry Canada

Staff Present – Lynn Smith, P.G. – General Manager, Troy Thomason – Field Technician

Professionals Present: Ray Brady, P.G., Amy Bush, Cheryl Tarver - Bookkeeper, and Mickey Pride & Jason Pride – Auditors. (Keith Good – Attorney, Ellen Orr – Paralegal were also present via Google Meet.)

Guest: Chuck Wilbur, Stacie Smith

Public Comment: Chuck Wilbur- Appealing the \$50 fine for the failure to turn in production report's, said he was unaware of the rules and fine schedule. Jerry explained the rule change from two years ago and its implementation. Chuck asked if he owed \$100. Lynn explained that the Board allows him to be able to negotiate the price. Chuck said he has no data from the past few years, but he would like it. Lynn agreed to meet with him tomorrow at the office to get fee paid and data given to him. Chuck also questioned the production limits he is heard about at 12-18' and preferred 22' to start because we're not "these other counties." Jerry assured him we would have additional public meetings on that topic as we had already been doing.

1. Consent Agenda

- a. Consider and act on Minutes of January 28, 2021
- b. Consider and act on approval of January bills.
- c. Consider and act on Test Hole Permits:
 - i. 539 – Fuston Land Mgmt. (Ricky Fuston)
- d. Consider and act on Well Registrations:
 - i. 775 – JK Land & Livestock

At any time during the meeting and in compliance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, the Mesquite Groundwater Conservation District Board may meet in executive session for any of the following purposes: Consultations with Attorney (§551.071). Any subject discussed in executive session may be subject to action during an open meeting.

- ii. 779 – JK Land & Livestock
- iii. 781 – Paul Bell

Terry moved to approve the Consent Agenda, second by Rex, all ayes.

- 2. Consider and act on Well Permits.
 - a. 776 – John Klassen
 - b. 777 – John Klassen
 - c. 778 – John Klassen
 - d. 780 – Donald White

Matt moved to approve the well permits, second by Mat, all ayes with Michael Souder abstaining from discussion and vote.

- 3. Discuss and act on the 2020 Auditor's Report.

Mickey Pride reported on the 2020 expenses and revenue. Cheryl asked about log deposits and it was discussed by the auditors. Lynn explained that some have been cleaned up in the past, but not all. He and Cheryl are working on sorting out the rest. Mickey said until any are paid or voided, they stay on the books.

Lynn asked about setting a policy in July to void the refunds after a certain amount of time when driller logs have not been turned in. Jerry thought there may be something in the Rules already. The auditors advised creating such a policy.

Terry moved to accept the Auditor's report, second by Matt, all ayes.

- 4. Manager's Report –Lynn Smith

Lynn presented that he has over 90% of production reports, and all data received has been entered. He would like to have the data analysis done before discussing a specific number as a production limit. He plan to start meter inspections in March. Troy read rain gauges, but they do not record snowfall very accurately. Lynn reminded Board members that cybersecurity training was due by June. Finally, he asked for feedback on his handling of the few upset customers as of recent. The Board was satisfied with the resolution of each case.

- 5. Legal Comments -Keith Good

Keith Good asked Michael Souder about training on the public meetings act etc. and reminded him that it can be done online via Attorney General Office. Lynn has sent Michael a link and Michael said he would get the training done.

Keith reported on SB152 bill they have been watching and said it will likely be modified. He also reported on legal case of Mountain Pure Bottled Water around Palestine. The GCD appealed the District Court's ruling. Court of Appeals then reversed it. Now it is pending before the Texas Supreme Court. The question of whether its groundwater or surface water has not been before the court previously. He is hopeful the supreme court will not take the case.

6. Hydrogeologist Report – Ray Brady/Amy Bush

Amy reported on status of our explanatory report. They are also working with new modelers and watching TWDB to see if they will change any requirements before we look at DFC's. She is hopeful that requirements will be similar to prior explanatory reports. She reported on their attendance at MGCD public meetings. She said there was good turn-out at Quail and Turkey, much less so at Memphis. She felt like they got people thinking and realizing what needs to be done and that there were some good questions and a few answers at each meeting.

7. Discuss results of public meetings and consider specific Rule changes to address water declines within the District.

Jerry and Rex stated that the Board appreciated work of Lynn, Amy, and Ray at meetings and the way the information was presented. Lynn presented a summary in writing for the Board to read at their leisure. Lynn stated that individual comments to him were somewhat different that what people will say in front of their peers.

Terry was concerned that another meeting would be needed at Memphis. He thought producers there did not generally attend well historically. The Board as a whole did not feel another meeting was needed at this time. Lynn has talked to several producers in Hall county individually and thought there was general understanding with the ones he had visited.

8. Discuss status of APR submittals. Consider the possibility of District staff reading meters in the future and consider specific Rule changes to allow for that.

Lynn stated that he would like to look at various Rule changes in small parts and then present the text to the Board for approval prior to eventually holding a Rules Hearing. Board agreed, they preferred that as opposed to voting on everything in one setting.

APR submittals were discussed in Manager's report. He expects a few more reports to come in and be ready to present data analysis by April.

Currently, the Rules require landowners/ producers to send production reports. Lynn would like to re-word the rules to specify that meter readings are required or word them to allow staff to read meters and provide data reports back to the producers. Producers would still sign off on the report. Jerry voiced concern that they will not send report back in a timely manner. Terry asked about time frame. Lynn expects office staff could read meters in mid-November and be able to use same temporary staff that does water level measurements. Terry asked about cost. Lynn expects cost to be about the same because data entry is less labor intensive. Cost would basically be fuel and some labor for temporary staff and that it might run in the \$2000-\$4000 range. The Board generally supports this change but Keith voiced concerns about its enforcement.

9. Discuss other potential Rule changes that may be beneficial or may address current legislation in Austin.

Lynn presented the basics of SB152 and discussed specifically how notice is to be provided to landowners regarding well permits. Currently once Lynn checks the site and signs off on Well Permits, the well driller may begin drilling and the Board approves later. If neighbors must be informed and potentially contest some Permits, there will be a potential reason to delay the drilling. He asked the Board to discuss and consider ideas, but not decide tonight. Keith reiterated his hopes for the bill. Jerry Suggested waiting until July meeting to decide on rules affected by SB152

Lynn asked for input on suggested rule changes for well spacing (section 3.2) and density. He thought maybe Eliminate 8" wells and change spacing to 6" at 150 yards, 4" at 120 yards, and 2" at 75 yards along with similar adjustments in well density would be helpful over the long-term. Jerry concerned about having to grandfather a lot of existing wells. Lynn said that the short-term benefit is low but longer out, he expects to see mostly 4" wells in the future. Amy agreed stating that it saves some water in the longer term. The Board is interested in considering this further.

Regarding Production limits, Lynn proposed using language that allows producers to bank the water over a 3-year sliding period with possibly a cap for the maximum used in a single year. This was popular at all of the public meetings. The Board is interested in considering this further.

Regarding APR's, Lynn said that if we need to keep the methodology the same then the Rules need some work on the language regarding what we require on the production report. Rules currently require only total acre feet but that is not what we currently ask for or really want. The Board didn't voice an opinion on this matter.

Regarding unlicensed, lack or submitting drilling logs, and illegal drilling activities; Lynn would like to set up a list of registered drillers similar to that used at Llano Estacado UWCD. If a driller is not up to date on logs, they don't get any further permitting approved. Likewise, non-registered drillers would have to provide credentials and receive a small amount of training on our Rules prior to being placed on the list. Lynn believes this would help get driller's logs turned in, especially from non-area drillers who leave and never send logs. The Board is interested in considering this further.

Lynn suggested that we confirm that our Rules conform to state statute regarding hear notice times. The Board didn't voice an opinion on this matter.

Lynn suggested creating a section in the Rules describing what an authorized agent is, what they can do, and potentially what they can be penalized for. The Board is interested in considering this further.

Keith voiced concerns in some areas above and will provide guidance through the process. Lynn said he will write up the proposed changes for the board to review prior to the Rule Making Hearing.

10. Consider calling a Rule Making Hearing and setting a date for the same.

Jerry suggested holding off on setting a hearing date to provide time for Lynn to get the items discussed in writing. He also suggested waiting until after the state legislative session is complete so we know about any needed changes related to SB152 Several other Board members expressed their desire for the full Board to be present when the production cap is discussed in detail. No action was taken on setting a date.

11. Review, consider, and act on compliance matters before the District, including, without limitation, violations leading to potential water quality issues, water wasting violations, and inoperable meter violations.

Lynn pointed out that the compliance matters had pretty much been taken care of during the public comments and that he thought no Board action was needed at this time.

12. Other Business

None

13. Executive Session: Consultation with Attorney Regarding Attorney Client Matters exempt from open meetings pursuant to Texas Government Code §551.071

None

14. Set Date and Time for the next Board Meeting.

The Board determined that April 1, 2021 would be a good date for the next meeting. It was set for 7:00 PM in Memphis, TX.

15. Adjourn

Mat moved to adjourn the meeting, second by Rex, all ayes. Meeting adjourned at 9:27 PM.



Presiding Officer

04-01-2021

Date



Attest