

BLUEBONNET GROUNDWATER CONSERVATION DISTRICT

Board of Directors Meeting

Wednesday, February 6, 2013

6:00 PM

Bluebonnet Groundwater Conservation District

Board Room, Suite B & C

303 East Washington Avenue

Navasota, Texas

Minutes of the Meeting

In attendance: Directors Brandes, Davis, Groschke, Huebner, Minze, Morrison, OIsta, Patout, Reed, Sandel, and Ward; General Manager Holland and Administrative Assistant Paben; District General Counsel Dugat and District Hydrogeologist Consultant Dr. Hutchison; Visitors Vincent Morales, Charles Kalkomey, Jack Hamlett, John Maresh, Mimi Johnson, Tim N. Throckmorton, Clayton Chambers, and Bart Fletcher. Director Blezinger joined the meeting at 6:04 PM.

1. Call to order

The meeting was called to order by President Patout at 6:03 PM.

2. Public Comment

No public comment was made.

3. Discussion and possible action relating pending non-exempt Well Development, Operating, Aggregation, and Transportation Applications of Electro Purification LLC, including but not limited to:

- a) determination of administrative completeness in connection with the requirements to conduct a hydrogeological study.

GM Holland went over Rule 8.5F and its relation to the required hydrogeological study. He also referred the Board to the recommendations made by the District's General Counsel and the District's Hydrogeologist Consultant. Director OIsta requested for more information regarding the application to get a better understanding of the measure of this project. Director Morrison requested information on the end users and the initial need of the projected water use. Director Minze commented on the amount of water in regards to the rest of the District. Director OIsta asked questions in regards to the aquifer and the usable percentage for future wells, as well as safeguards in case of draw down. General Counsel Dugat answered questions about legal proceedings in restricting pumpage. He also reiterated that Board is only determining the application administratively complete in regards to the Phase I and Phase II of the hydrogeological study and that since the application is not administratively complete as of yet, the Board has not seen the application and once the application is deemed administratively complete the Board will have the opportunity to review the application and ask questions specifically about the application. Director Sandel moved that the Board accept the process as it has been done in the past to deem the application administratively complete. Director Morrison asked if the Phase II monitoring one well instead of ten needed to be included in the motion. General Counsel Dugat stated that we are not there yet and that District Hydrogeologist Consultant Dr. Hutchison would have to develop a plan that addresses that. District Hydrogeologist Consultant Dr. Hutchison stated that the first step is to do the full review of the Phase I report and then make that recommendation as part of that process. Director Morrison seconded the motion. Director Minze made sure that all of Dr. Hutchison's recommendations be addressed by going through this process. **Motion carried.**

- b) selection of separate Board and General Manager Legal Counsel.

GM Holland presented an overview of why the Board and the GM should have separate attorneys if there is a contested hearing, as well as the different options the Board has if a contested hearing takes place. Since the decision is the Board and the GM is a party, having the same attorney is not plausible. General Counsel Dugat explained the SOAH hearing process and the need for separate representation. Director Ward moved that the District attorney represent the General Manager and counsel of record for the proceedings and if necessary the Board hire another lawyer to represent the Board. Director Davis seconded. Director Sandel commented that the Board needs to designate a member to pick the new attorney. Director Ward modified his motion by adding that the executive committee selects the lawyer. General Counsel Dugat explained different scenarios of why having two separate legal representations is necessary through the process if there is a contested hearing.

Motion carried.

- c) the process and timeline associated with the review of the applications.

GM Holland presented the timeline as a road map for this process. Director Morrison asked General Counsel Dugat if he was aware of the timeline to which General Counsel Dugat answered that he created it. Director Minze asked questions regarding hearing the evidence if there is a contested hearing. General Counsel Dugat went into detail discussing the SOAH hearing process and the control of the decision. Director Blezinger commented on approving the application as a whole or not at all, or if the Board can accept parts of it. GM Holland replied that the Board can approve, modify or deny based on the results from Phase I and Phase II studies. General Counsel Dugat then stated the evidence can lead to accepting parts and adding permit conditions. Director Morrison moved that the Board accept process of timeline. GM Holland began to discuss an addition to the process. Director Olsa seconded the motion. GM Holland continued his discussion of this process and the need to update and align the District's Rules with Statute. Director Morrison commented on the state of current permits and if there is a need to adjust every one. GM Holland assured that the current permits are already accounted for. District Hydrogeologist Consultant stated that as the science changes, the MAG and DFCs adjust as well. **Motion carried.**

4. Discussion and possible action of performance review and recommendations of Executive Committee of the General Manager.

GM Holland pointed out the changes in language of the contract and its approval with the District's Auditor.

- a) Discussion and possible action to accept revised language of contract between Bluebonnet Groundwater Conservation District and General Manager.

Director Morrison moved that the Board accept the revised language of contract between Bluebonnet Groundwater Conservation District and General Manager. Director Davis seconded. **Motion carried.**

5. Date for next Board meeting – April 17, 2013.

6. Adjourn

There being no further business, Director Sandel moved that the meeting be adjourned. Director Ward seconded. **Motion carried.** The meeting was adjourned at 7:07 PM.

The above minutes of the called meeting of the Board of Directors of the Bluebonnet Groundwater Conservation District held on February 6, 2013, were approved and adopted by that Board on April 17, 2013.

J Jared Patout, President

ATTEST:

James Morrison, Secretary