

**MINUTES OF THE BOARD OF DIRECTORS' MEETING
GREATER TEXOMA UTILITY AUTHORITY**

MONDAY, MARCH 17, 2008

**AT THE ADMINISTRATIVE OFFICES
5100 AIRPORT DRIVE
DENISON TX 75020**

Members Present: Donald Skelton, George Rowland, Everett Grantham, Duane Hayes, Joe Henderson, and Paul Kirley

Members Absent: Bill Johnson, Mark Kuneman, and Ray Nichols

Staff: Jerry Chapman, Debi Atkins, and Carmen Catterson

Visitors: Michael Wynne, Nall, Pelley & Wynne
Mark Gibson, City of Sherman
Tim Morris, Morris Engineering

I. Call to Order

President Skelton called the meeting to order at 12:32 p.m.

II. Consent Agenda

The items marked with an asterisk (*) are considered routine by the Board of Directors and will be enacted in one motion with the consent agenda. President Skelton asked the Board if there were any items they wished to have removed from the consent agenda for discussion. There were no items requested by the Board of Directors to be removed from the consent agenda for discussion. Board Member Henderson made a motion to approve the consent agenda. The motion was seconded by Board Member Kirley and passed unanimously.

III. * Consider and act upon approval of Minutes of February 18, 2008 Meeting

IV. * Consider and act upon approval of accrued liabilities for February 2008

V. Citizens to be Heard

No citizen comments were heard.

VI. Wastewater Activities

Receive reports on wastewater activities: General Manager Chapman reported that work has begun on the Pottsboro wastewater treatment plant improvements. The electrician arrived at the end of last week to begin the contracted work.

Consider and act upon award of contract for the Slater Creek sewer project for the City of Anna: This project bid on Monday, March 10th. Nine bids were received. Mr. Tim Morris, the consulting engineer, is present to discuss new information that has occurred since the agenda was mailed. Mr. Morris encountered an unusual circumstance when preparing the bid tabulation. Mr. Morris' assistant, Donna Jones, reviewed the calculations on the bids and discovered an error in the cost of a line extension. The construction company, Dickerson Construction Co., verified that the numbers on the bid were incorrect. Mr. Morris and Mr. Dickerson discussed various options and agreed on a bid price of \$737,981.00. This is an increase of \$5,400.00. General Manager Chapman verified that this instance was an honest error and the contractor has been very diligent in trying to correct the error.

Board Member Henderson motioned for approval of an award of contract to Dickerson Construction Co., Inc. for the Slater Creek sewer project for the City of Anna in the amount of \$737,981.00 contingent upon similar action being taken by the Anna City Council. The motion was seconded by Board Member Grantham and passed unanimously.

VII. Water Activities

Receive reports on water activities: The plans have been approved for the Anna ground storage tank by the Texas Water Development Board (TWDB). The project is currently being advertised. Mr. Morris, the consulting engineer, reported that two more projects for Anna are planned. The Argyle WSC easement is still pending before the Site Certificate can be issued for the waterline project. The City of Sherman is waiting for an easement to be signed for the FM 1417/Hwy 56 project. Plans were received this morning on the Pottsboro water system improvements project. This project should be ready for bid soon. The Lake Texoma Reallocation Study is still being pursued. Colonel Funkhouser, the district commander of the Tulsa District of the Corps of Engineers, has reported that he will proceed to complete his part of the study as soon as possible. After the report is sent to Washington, D.C. from the Tulsa District, the Washington, D.C. district will be responsible for the study. No response has been received from the Corps of Engineers to Congressman Hall's letter of inquiry several weeks past.

Consider and act upon groundwater strategy: General Manager Chapman met with the Fannin County water board on February 28th. Freese and Nichols, the consulting engineers for Region C, met with the group as well. The group was briefed on the activities of the next round of regional water planning activities and was requested to provide information on changed conditions or updated water use and needs. This information will be used to update the regional plan. The group was also briefed on the current Groundwater Conservation District (GCD) status. Chapman will meet tonight at 5:00 pm with Sherman City Council and on March 24th with the Cooke County water providers.

According to Chapman, Senator Kip Averett, the chairman of the Senate Natural Resource Committee, believes that groundwater is a resource that should be conserved and controlled. Chapman proposes to provide the same briefing to the Sherman City Council that was provided to the Fannin County Water Board. In addition to opposing the groundwater recommendation, Chapman encourages the development of a backup plan. Once the contested TCEQ hearing is complete in May, the Administrative Law Judge will provide a Proposal for Decision to the TCEQ Commissioners. The Commissioners decision on the Judge's Proposal for Decision is final, no appeal can be made. Some efforts are being made currently by surrounding counties. Fannin County has been approached by Collin County to determine if there is any interest in joining with Collin County. The TCEQ recommended that Cooke County be placed in the Upper Trinity District. Many water providers in Cooke County do not agree with this recommendation.

Chapman recommended that the Coalition begin preparing an alternate plan to establish a GCD with the specifications the impacted groundwater providers prefer. GCDs can be tax supported, fee supported, or both. An election is required to determine how the district will be funded. Confirmation of a district will be difficult. It will need to receive support from the public. Sherman is the largest groundwater provider in Cooke, Fannin, or Grayson Counties. If a \$0.01 fee is applied per 1,000 gallons, Sherman would need to fund more than \$16,000 per year (based on 2006 groundwater production). The legislature will need to be convinced that the groundwater providers agree on the organization before any of the local legislators will support the bill in the State Legislature. Chapman met with Jim Stover, a water attorney from Lufkin recently. Mr. Stover has written several pieces of legislation regarding GCDs and suggested that this is the future of groundwater in Texas. The Rule of Capture allows a landowner to withdraw as much water as the landowner can use with no restrictions. President Skelton inquired as to whether or not anyone in the State has been excluded from a GCD. General Manager Chapman remarked that the TCEQ has not administratively imposed a GCD on a County to date, to his knowledge.

The Administrative Law Judge may agree with the Coalition on May 12th, but the Commissioners may reject the Judge's recommendation. Board Member Henderson recommended that the Authority assist the groundwater providers in creating a unified front for the legal battle against the TCEQ. Chapman verified that the opposition will most likely only continue if the Cities of Gainesville and Sherman choose to pursue the opposition.

It was the consensus of the Board that General Manager Chapman continue to coordinate the opposition of a GCD with the groundwater providers of Cooke, Fannin, and Grayson Counties.

Consider and act upon request for financial support from the Texas Water Conservation Association for Amicus Curiae Briefs: A request was received from the Texas Water Conservation Association (TWCA) for financial assistance for Amicus Curiae Briefs (Friend of the Court Briefs). These briefs are usually broad reaching issues that will impact many different water districts. The first case does not have much application to the Authority. The second issue does impact to almost every public agency as it is related to permitting for regulatory agencies, like the TCEQ water rights program. The third issue is a right of way issue

that will impact the Authority in the future. A movement is occurring across the US seeking restrictions on the use of Imminent Domain. This issue would restrict the use of Imminent Domain. General Manager Chapman recommended that the Authority donate \$250.00 to the TWCA.

Board Member Henderson motioned for the Authority to provide financial support in the amount of \$250.00 to the Texas Water Conservation Association for Amicus Curiae Briefs. The motion was seconded by Board Member Grantham and passed unanimously.

VIII. General Activities

Consider and act upon revisions to the Board policy manual: The modifications to the Board policy manual include adding Anna to the member cities of the Board. Anna was added as a home-rule City in February 2006. However, the Board policy was not been updated at that time.

Secretary/Treasurer Rowland motioned for the approval of the revisions to the Board policy manual. The motion was seconded by Board Member Kirley and passed unanimously.

Consider and act upon Resolution relating to minimum insurance and bonding requirements: Mr. Mike Wynne, General Counsel, explained that this insurance provides another layer of protection for the Authority, the owner of the project. The insurance is preferred on smaller projects less than \$250,000, but not essential. An additional insurance clause is provided for all our projects. The contractor is responsible for paying the additional liability insurance. This policy is provided to the Authority and paid for by the contractor. The contractor's liability insurance provides coverage for the contractor. The additional insurance provides coverage for the Authority in case of a lawsuit so that not only the contractor is sued, but also the owner of the project. The Authority's liability insurance would not cover the Authority on projects where Authority staff is not present and the Authority does not own the property. The reason for the proposed Resolution is that several contractors for small projects have complained and asked the Authority to eliminate the additional coverage.

The additional insurance is currently required on all projects and provides an additional \$1 million in insurance coverage. Secretary/Treasurer Rowland expressed concern that in a lawsuit, all additional insurance would be appreciated because court fees can use \$1 million extremely quickly, regardless of the size of the project. President Skelton questioned the cost of the additional insurance. General Manager Chapman explained that for an exact cost, the insurance company would have to provide a quote, which would be based on the specific contract being undertaken. However, the complaints usually arise after the contractor is awarded the contract and reviews the contract requirements more carefully. If the contractor reviewed the documents before bidding on the project, the cost for the insurance could be added to the bid price. Board Member Grantham recommended bolding the requirement in the bid documents or adding a notice to the bid packet that the additional insurance requirements are included. General Manager Chapman verified that the Authority staff has already begun attempting to draw the contractors' attention to the requirement.

Board Member Henderson motioned for the approval of a Board policy relating to minimum insurance and bonding requirements, which sets the amount of \$250,000 and greater as the contract amount for which Owner's and Contractor's liability coverage is required. The motion was seconded by Board Member Grantham.

Consider and act upon Resolution relating to procurement of goods and services other than high technology procurement and procurement of professional services: In 2007, the Texas Senate amended the Texas Water Code to modify the minimum amount for which water districts are required to solicit bids along with the number of times notices for contracts over \$50,000 are to be published in local newspapers. The House passed a similar bill and these requirements became effective September 1, 2007. The amendments to the Texas Water Code modify the contract amounts for advertising requirements. For contracts over \$25,000 but less than \$50,000, the Authority will be required to solicit written competitive bids from at least three bidders. For contracts over \$50,000, the Authority must advertise the bid opening information in at least one newspaper circulated in each county the Authority is located. The advertisements must begin no less than twenty-one days before the scheduled bid opening.

Board Member Henderson motioned for the approval of a Resolution revising Board Policy 30.01 – Procurement of Goods and Services Other than High Technology Procurement and Procurement of Professional Services, pursuant to the amendments of the Texas Water Code made by the Texas Legislature, effective September 1, 2007. The motion was seconded by Board Member Kirley and passed unanimously.

At this time, General Manager Chapman brought an issue with an auditor for a member city related to the CGMA project to the Board's attention. The Authority records the bonds on the Authority's books, as the Authority is the owner of the project until the bonds issued to finance the asset are retired. The asset then becomes the asset of the City. The City's auditor wants to record the amounts on each of the City's books and to add a 25% ownership. For the last three days or so, General Manager Chapman has been working with the City Managers of each City involved trying to resolve the situation. A resolution is expected to be reached within the next few days.

IX. Adjourn

Upon motion by President Skelton, seconded by Board Member Joe Henderson and passed unanimously, the Board adjourned at 1:33 p.m.

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Recording Secretary

Secretary-Treasurer