

MINUTES

CAPITAL AREA GROUND WATER CONSERVATION COMMISSION

September 25, 2019

I. Call to Order

The Capital Area Ground Water Conservation Commission met for a regular meeting at 9:30 a.m. on September 25, 2019 in the U.S. Geological Survey's auditorium at 3535 South Sherwood Forest, Suite 120, Baton Rouge, Louisiana. The meeting was called to order by the Chairman, Nelson Morvant.

II. Roll Call

The following members were present: Ronnie Albritton, William Daniel, Mark Frey, Barry Huggins, Dennis McGehee, Nelson Morvant, Joey Normand, Thomas Perkins, Matthew Reonas, "J.A." Rummler, Ryan Scardina, Tom Stephens, Todd Talbot, Hays Town and Mark Walton. The following members were absent: Kenneth Dawson, John Jennings & Julius Metz.

Others attending the meeting were: Anthony Duplechin and Shawn Scallan, Capital Area Ground Water Conservation District; Harry Vorhoff, Louisiana Attorney General's Office; David Mitchell, The Advocate; John Hashagen, former Commissioner; Lindsay Gouedy, Sparta Ground Water Commission; Johan Forsman, Louisiana Department of Health & Hospitals; Jason Shackelford, Freese & Nichols; John Lovelace, U.S. Geological Survey; Michael Layne & Trey Savoie, Baton Rouge Water Company; Adrian McGinnis, The Water Institute of the Gulf; Hunter Odom, Kyle Marionneaux and Kara Kantrow, Marionneaux Kantrow, LLC; and Tyler McCloud & Su King, Louisiana House of Representatives.

III. Minutes

Mr. Daniel made a motion that the minutes of the June 18, 2019 be approved. Mr. Huggins seconded this motion. Mr. Reonas made a motion to amend the minutes on page 1, item V, fourth bullet point where it stated, "When asked if he had worked up a budget, Mr. Reonas said that it would probably take more like \$20,000, but offered no details." Mr. Reonas requested that the sentence be reworded to state, "When asked if he had worked up a budget, Mr. Reonas said that it would probably take more like \$20,000, and offered to send research on estimated costs." After discussion, Mr. Daniel suggested it state the following "When asked if he had worked up a budget, Mr. Reonas said it would probably take more like \$20,000. He offered no details but did offer to send over research." Mr. Daniel then made a substitute motion to amend the minutes with his suggested correction. Mr. Huggins seconded the motion and it passed unanimously.

IV. Consideration to Amend the Agenda

Mr. Normand made a motion to amend the agenda on item VIII b 1, 2 & 3 requesting that action be required on those items. Mr. Reonas seconded the motion. However prior to a vote of the board, Mr. Normand was then asked to clarify his motion again. The motion was as follows: Mr. Normand made a motion to amend the agenda on item VIII b 1, 2 & 3 requesting that action be required on those items and to remove the wording "on agenda items" on item XIII. This was not Mr. Normand's original motion. Mr. Reonas did not withdraw his second from Mr. Normand's original motion. The board voted as follows: yeas: Albritton, Daniel, Frey, McGehee, Normand, Perkins, Reonas, Rummler, Scardina, Stephens, Town & Walton; nays: Huggins & Morvant; abstain: Talbot; absent: Dawson, Jennings & Metz. The motion failed.

Mr. Reonas then made a motion to amend the agenda to add that the staff digitally record committee and board meetings and upload to the website and authorize the Executive Director to purchase suitable recording equipment not to exceed \$2,500. Mr. Town seconded the motion. After discussion, Mr. Reonas withdrew his motion due to the item already being on the agenda and it could be amended for that item at the time of discussion.

V. Report from the Administrative Committee

Due to the absence of Administrative Committee Chairman, John Jennings, Chairman Morvant reported on the meeting that was held September 19, 2019 at 8:30 a.m. Following is a summary of items discussed at the meeting and further discussion and action at the regular Commission meeting on September 25, 2019 at 9:30 a.m.

- Financial conditions as of August 31, 2019 were provided to the board.
- The Administrative Committee discussed the need for a policy as to who can make a request from the Attorney General's office that will result in a fee charged to the Commission. The committee directed whoever is hired by the Commission to develop the Commission's policies and procedures to write a resolution to clarify authorization to engage the Attorney General's Office or any other legal firm for services that result in a fee along with a procedure for members to get questions answered.
- A proposal for scope of services from Marionneaux Kantrow, LLC for an amount not to exceed \$12,500 was presented. Mr. Town made a motion that the proposal be accepted. Mr. Morvant seconded the motion. Mr. Reonas then made a substitute motion to table the motion. Mr. McGehee seconded the motion. Mr. Normand then made a substitute motion to delete the following wording from the proposal:
 - a) on page 1 under Introduction, delete the following sentence: "Additionally, it was requested that the Firm serve as outside legal counsel to the Commission on other legal issues as they might arise from time to time."
 - b) on page 1 under Qualifications, second paragraph, first sentence, delete the wording, "...as well as serve as Outside General Counsel on an as needed basis as requested by the Commission."

Mr. Normand then was informed that he was reading from an incorrect proposal dated August 2019. Mr. Normand then continued his motion.

- c) on page 2 under Plan of Action for the Project/Scope of Project, number 3, delete "(As needed or required throughout the process)"
- d) on page 2 under Plan of Action for the Project/Scope of Project, delete numbers 7 & 8
- e) on page 2, under Proposed Budget, delete the sentence, "Any other services including representation of the Commission in any related litigation in any state or federal courts, in any other state or federal administrative agencies, or in any appeals or other hearings or proceedings related to this project may be performed by Marionneaux Kantrow at the hourly rates listed below, and the Commission will only be billed for the actual time and expense incurred."

Mr. Reonas seconded the motion.

Mr. Normand then made the following substitute motion:

Resolution Ordering the Executive Director, with the assistance of the staff attorney, to enter into a Cooperative Endeavor with the State of Louisiana for the Natural Resources Committee's Legislative Analyst to draft by-laws and Operating Procedures. Said drafts are to be completed for review at the next Administrative Committee meeting.

Whereas, at the December 2015 regular meeting of the Capital Area Ground Water Conservation Commission (CAGWCC), a sub-committee was formed to draft Commission By-laws and

Whereas, that effort has born no fruit and

Whereas, the audit provided by the Legislative Auditor identified many deficiencies and

Whereas, having documented procedures may have prevented many of these deficiencies and

Whereas, by-laws and procedures would greatly assist in the operations of the CAGWCC and

Whereas, at the June 13, 2019 Administrative Committee a legislative analyst with the Natural Resources Committee attended the meeting and offered their services at no cost to the CAGWCC .

Now, therefore may it be resolved that the Executive Director, with the assistance of the staff attorney, enter into a Cooperative Endeavor with the State of Louisiana for the Natural Resources Committee's Legislative Analyst to draft by-laws and Operating Procedures. Said drafts are to be completed for review at the next Administrative Committee meeting.

Ms. King stated that she was unsure that she wanted the resolution as formal as a cooperative endeavor. Mr. Reonas then clarified Mr. Normand's amended motion to strike the words, "cooperative endeavor" to "agreement" from the resolution and change the date to March 2020. Mr. Normand confirmed that was his motion. Mr. Reonas seconded the motion. Following is the amended resolution read by Harry Vorhoff:

Resolution Ordering the Executive Director, with the assistance of the staff attorney, to enter into an Agreement with the State of Louisiana for the Natural Resources Committee's Legislative Analyst to draft by-laws and Operating Procedures. Said drafts are to be completed for review by March 2020.

Whereas, at the December 2015 regular meeting of the Capital Area Ground Water Conservation Commission (CAGWCC), a sub-committee was formed to draft Commission By-laws and

Whereas, that effort has born no fruit and

Whereas, the audit provided by the Legislative Auditor identified many deficiencies and
Whereas, having documented procedures may have prevented many of these deficiencies and

Whereas, by-laws and procedures would greatly assist in the operations of the CAGWCC and

Whereas, at the June 13, 2019 Administrative Committee a legislative analyst with the Natural Resources Committee attended the meeting and offered their services at no cost to the CAGWCC .

Now, therefore may it be resolved that the Executive Director, with the assistance of the staff attorney, enter into an Agreement with the State of Louisiana for the Natural Resources Committee's Legislative Analyst to draft by-laws and Operating Procedures. Said drafts are to be completed for review at the next Administrative Committee meeting.

A roll call vote was taken. Yeas: Albritton, Daniel, Frey, Huggins, McGehee, Morvant, Normand, Perkins, Reonas, Rummmler, Scardina, Stephens, Talbot, Town & Walton; Nays: None; Absent: Dawson, Jennings & Metz. The motion passed unanimously.

The board then addressed Mr. Normand's substitute motion to strike certain wording from Marionneaux Kantrow's proposal. Mr. Vorhoff stated that in the proposal the hourly rates for the attorneys would need to be changed to reflect the maximum hourly rate allowed by the Attorney General's office. Ms. Kantrow stated that the language in the proposal is there if the Commission chooses to use those services. She also stated that the hourly rates will be changed accordingly. Ms. Kantrow stated that the firm is more than willing to work with the legislature. Mr. Normand withdrew his substitute motion. Mr. Daniel questioned Ms. Kantrow as to what she foresees as her role. Ms. Kantrow stated that Ms. King will initially come up with the Commission's by-laws and policies and procedures. Marionneaux Kantrow would then begin to look at the policies and procedures and by-laws and want to hear from the board on operating procedures that they would like to see or any other issues. Mr. Reonas then asked Ms. Kantrow if any legal or litigation issues were discussed with her prior to the July 2018 meeting. Ms. Kantrow stated no. Mr. Reonas then asked Ms. Kantrow if she was asked to represent individual Commissioners concerning the Louisiana Board of Ethics. Ms. Kantrow stated no.

The board then addressed Mr. Reonas' substitute motion to table the motion of hiring Marionneaux Kantrow. Mr. McGehee withdrew his second. There was no second.

The board then addressed Mr. Town's motion to hire Marionneaux Kantrow. Mr. Daniel then amended the motion to hire Marionneaux Kantrow with amending the proposal to reflect the allowed hourly rates for attorneys to comply with the Attorney General's office. Ms. Stephens seconded the motion. A roll call vote was taken: Yeas: Albritton, Daniel, Frey, Huggins, McGehee, Morvant, Normand, Perkins, Rummler, Scardina, Stephens, Talbot, Town & Walton; Nays: Reonas; Absent: Dawson, Jennings & Metz. The motion passed.

- Mr. Reonas made a motion to amend the agenda to add audio recordings of meetings and place on the website. Mr. Huggins seconded the motion. The motion passed unanimously. Mr. Vorhoff stated that a recording of a meeting is a public record. He stated that meetings do not have to be recorded but if they are recorded they must be kept in accordance to the Commission's retention schedule. Mr. Vorhoff also stated that it is not required to put the recording on the Commission's website. Mr. Reonas made a motion that the staff digitally record committee and board meetings and upload to the website and authorize the Executive Director to purchase suitable recording equipment. Mr. Huggins seconded the motion. The motion passed unanimously.
- The discussion item of meeting frequency was discussed. Mr. Normand stated that he would like the Commission to meet six times a year at 6:00 p.m. with the committee meetings a month prior to the board meetings. Mr. Normand made a motion to amend the agenda to add action required on meeting frequency. Mr. Town seconded the motion. The motion passed unanimously. Mr. Normand made a motion that the Commission board meetings be held every other month beginning January 2020. Mr. Town seconded the motion. The roll call vote was as follows: Yeas: Albritton, Daniel, Frey, Huggins, Normand, Perkins, Reonas, Rummler, Scardina, Town & Walton; Nays: McGehee, Morvant, Stephens, Town & Walton; Absent: Dawson, Jennings & Metz. The motion passed.

Mr. Normand then made a motion to change the meeting time to 6:00 p.m. Mr. Reonas seconded the motion. Mr. Town made a substitute motion for the meeting time to be 5:00 p.m. Mr. Normand seconded the motion. Mr. Daniel commented that with his prior commitments he would not be able to make evening meetings. Mr. Town and Mr. Normand withdrew their motions.

- The discussion item of monthly detail reports was discussed. Mr. Normand stated that John Paul Funes was the executive director of Our Lady of the Lake Children's Hospital and well liked. Mr. Normand stated that he stole \$800,000 from the hospital and he was able to do that because the people who worked for him were afraid to come forward. Mr. Normand then mentioned Carlisa Askins who stole \$80,000 from the Town of Brusly. Mr. Normand stated that the Town of Brusly puts out an expense report monthly. The Brusly council members review it. Mr. Morvant stated that the Commission's CPA looks at every single expenditure. Mr. Normand made a motion to amend the agenda for action required on a monthly detail report. Mr. Talbot seconded the motion. A roll call vote was taken: Yeas: Albritton, Daniel, Frey, Huggins, McGehee, Morvant, Normand, Perkins, Reonas, Rummler, Scardina, Stephens, Talbot, Town & Walton; Nays: None; Absent: Dawson, Jennings & Metz. The motion passed unanimously. Mr. Daniel made a motion that a simple form be created with expenditures with the exclusion of salaries and personnel related information and be placed on the website bi-monthly. Mr. Walton seconded the motion. Mr. Morvant made a substitute motion that the form be done every two months instead of monthly. Mr. Talbot seconded the motion. The motion passed unanimously. Mr. Daniel withdrew his motion.
- Mr. Huggins made a motion that the Executive Director ask for an Attorney General's formal opinion on how do the previous court decisions on the rule of capture and the Commission's Enabling Act effect the Capital Area Ground Water Conservation Commission's authority on regulating limits of withdrawal of groundwater in the District. Mr. Morvant seconded the motion. The motion passed unanimously. Mr. Vorhoff stated that he has already circulated his legal opinion on this issue. He then stated that the board has the right to ask for a formal legal opinion and the Attorney General's office reserves

the right to accept or deny the request. Mr. Daniel made a substitute motion to request an opinion from Marionneaux Kantrow on how the previous court decisions on the rule of capture and the Commission's Enabling Act effect the Capital Area Ground Water Conservation Commission's authority on regulating limits of withdrawal of groundwater in the District. Mr. Huggins seconded the motion. Mr. Normand disagreed with asking Marionneaux Kantrow for an opinion. Mr. Daniel withdrew his motion. The motion passed unanimously.

- Mr. Walton's term expires December 1, 2019. He is the current board nominee for Capital Area Ground Water Conservation Commission. Mr. Normand made a motion to defer voting of a board nominee until the next board meeting. Mr. Town seconded the motion. The motion passed unanimously.

VI. Report from the Technical Committee

The report of the Technical Committee was made by Barry Huggins. Following is a summary of topics discussed at the meeting on September 19, 2019 at 1:30 p.m. and further discussion and action at the regular Commission meeting on September 25, 2019.

- Adrian McGinnis of The Water Institute of the Gulf gave an update on their project.
- John Lovelace of the USGS gave a progress report on the Baton Rouge model.
- Dr. Tsai gave a report on the Board of Regents ITRS Projects.
- Commissioner Walton presented an overview of the most recent pumping rates from the "1,500-foot" and "2,000-foot" sands to monitor compliance with agreed on reductions and/or commitments.
- Todd Talbot reported on the Planning & Specifications Subcommittee meeting. Griner Drilling reached the target depth (2,300') and the hole was logged. There was approximately 80' of sand. It was moved that the hole be completed as a 4' observation well at the depth drilled. The cost will be an additional \$148,750.
- Mr. Huggins made a motion to approve a procedure requiring board approval before any future water well permits are issued. Mr. Walton seconded the motion. Mr. Huggins asked Mr. Vorhoff for guidance from the Attorney General's office on the rule making process to enforce this procedure. Mr. Vorhoff agreed to come up with a draft for the board. The motion passed unanimously.
- The Technical Committee discussed the following: 1) list of wells for 250 mg/liter chloride content and estimated timeline and 2) water chemistry and other reporting requirement.
- Mr. Huggins made a motion to adopt a policy that any pumping limits that are in place will be subject to annual review and re-adoption at the last Commission meeting each calendar year being the December after the policy is in place. Mr. Walton seconded the motion. The motion passed unanimously. Mr. Huggins added that the pumping limits need to be legally enforceable and should be included in the Commission's policies and procedures. He also stated that a rule making process needs to be in place for this.
- Mr. Huggins stated that Commissioner Normand asked what the Enabling Statue means when it refers to "research data" and "after detailed research, considering both recharge and withdrawal data". Mr. Normand would like to see the Technical Committee come up with an official definition for these two terms. Mr. Huggins stated that he would like to have input from The Water Institute of the Gulf and the Attorney General's office on this. Mr. Huggins stated that once the definitions are completed that this should be included in the Commission's policies and procedures.

VII. Executive Committee Report

Mr. Daniel made a motion to increase the salary of the Assistant Executive Director of 4.76% for a total of \$77,000 for fiscal year 2019-2020. Mr. Morvant seconded the motion. The vote was as follows: Yeas: Albritton, Daniel, Frey, Huggins, McGehee, Morvant, Normand, Perkins, Rummler, Scardina, Stephens, Talbot, Town & Walton; Nays: None; Abstain: Reonas; Absent: Dawson, Jennings & Metz. The motion passed.

VIII. Executive Director's Report

Executive Director Duplechin reported that he held a preconstruction meeting with Griner Drilling. The total for the well will be \$475,560. Mr. Duplechin coordinated committee and subcommittee meetings. He met with The Water Institute of the Gulf, U.S. Geological Survey regional staff and some of the new well owners that were identified in the auditor's report who had not registered their wells with the District. Mr. Duplechin attended the Louisiana Water Resources Commission meeting. He reported that he participated in all three Water Institute workshops. The Executive Director stated that he has been working since July to get the proposed rule change for the pumpage fee increase. A public hearing for the fee increase was held September 24, 2019. One comment was received from the Louisiana Office of Conservation. The final rule will be published in the November 2019 Louisiana Register.

VIII. Chairman's Report

Chairman Morvant reported that the Executive Committee met on September 25, 2019 at 8:30 a.m. They discussed the hiring of a full time Executive Director. They decided to create a new position of Special Advisor to the Executive Director and move Anthony Duplechin to that position with the same salary that he is presently earning. The Executive Committee discussed the hiring of a full-time director. He stated that the Commission's policies and procedures states that the Executive Committee may recommend candidates for the position of Executive Director to the full board, but the full board shall have sole authority to hire and terminate the Executive Director. The goal of the Executive Committee is to develop a scope of work and job description and begin the search for a full time Executive Director with the goal of having the Executive Director hired by the beginning of next fiscal year. The scope of work and job description will be brought before the full board. Mr. Daniel made a motion to create a new position of Special Advisor to the Executive Director and move Anthony Duplechin into that position. Mr. Huggins seconded the motion. The motion passed unanimously. The need for raising pumpage fees was brought up as a possibility for the funding for a full time Executive Director.

IX. Commission Member Comments

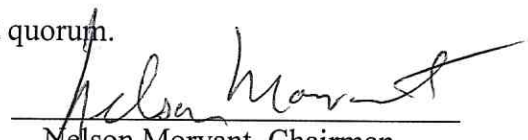
Mr. Normand asked how a board member gets an item on the agenda for a board meeting that requires action. Mr. Morvant requested that the board members submit their items to committee meetings to be considered for a board meeting.

X. Adjournment

Mr. Vorhoff stated at 12:21 p.m. that there was no longer a quorum.



Mark Frey, Treasurer



Nelson Morvant, Chairman