



Minutes
BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT
Public Permit Hearing and Regular Board Meeting
Wednesday, July 20, 2022 at 2:00 p.m.

Stephen Cast, President called the meeting to order at 2:00 p.m.

Directors present:	Stephen Cast	President
	Pete Brien	Vice-President
	Jayson Barfknecht	Secretary
	Mark Carrabba	Director
	Linda Pecina	Director
Directors absent:	Gary Mechler	Director
	Chris Zeig	Director
	David Stratta	Director
Staff present:	Alan M. Day	General Manager
	Cynthia Lopez	Office Manager
	Monique Norman	Attorney
	John Seifert	Hydrologist

Call meeting to order

Pledge of Allegiance

Declare quorum present

Public Comment

a) Non-agenda items

b) Agenda items

1. Discussion and possible action on the Minutes of the June 9, 2022 Permit Hearing & Regular Board Meeting. **A motion was made by Jayson Barfknecht, second by Pete Brien to approve the Minutes for the June 9, 2022 as presented to the Board. The motion passed unanimously.**
2. Review, discussion, and ratification of invoices paid for services rendered for the month of June 2022. **A motion was made by Mark Carrabba, second by Jayson Barfknecht to approve the ratification of invoices paid for the month of June 2022 as presented to the Board. The motion passed unanimously.**
3. Financial Report – June 2022. **A motion was made by Pete Brien, second by Linda Pecina to approve the Financial reports for the month of June 2022 as presented to the Board. The motion passed unanimously.**
4. Presentation of the 2021 District Financial Audit by Russell Armagost CPA from Milberger, Nesbitt, and Ask, LLP. **Russell Armagost gave the Board a brief report on the 2021 District Financial Audit.**

5. Discussion and possible action on the adoption of the 2021 District Financial Audit. **A motion was made by Jayson Barfknecht, second by Mark Carrabba to approve the adoption of the 2021 District Financial Audit as presented to the Board. The motion passed unanimously.**

6. Discussion and possible action on creating an information sheet regarding the disposition of Case No. 6:18-CV-114; *David Stratta and Anthony Fazzino v. Jan A Roe, et al.* **A motion was made by Jayson Barfknecht, second by Stephen Cast, authorizing the General Manager to use information related to the disposition of the lawsuit and agreed upon by the Board to be distributed to both Commissioners courts. The motion passed with Pete Brien opposing (final wording attached to the minutes).**

7. Discussion and possible action on District mitigation/well assistance. **Stephen Cast, President assigned a sub-committee for the mitigation/well assistance. Stephen Cast, Chris Zeig and Jayson Barfknecht.**

8. Discussion and possible action on setting a permit hearing date for the UW Brazos Valley Farm, LLC administratively complete permit application for thirteen (13) new wells to produce from the Simsboro Aquifer in Robertson County. The new wells are located near FM 1644 north of the intersection of FM 485 and FM 1644. **A motion was made by Mark Carrabba, second by Jayson Barfknecht to set the permit hearing for UW Brazos Valley Farm, LLC to be held on Thursday, October 13, 2022. The motion passed unanimously.**

9. General Manager's Report. **Alan Day, General Manager gave an update to the Board on the reports listed below.**
 - a) Drought Monitor Report
 - b) Wells permitted pursuant to District Rule 8.3(j)
 - c) GMA 12 DFC Update
 - d) District Business & Activities
 - e) Management Plan Update

10. Discussion and possible future agenda items.

11. Adjourn @ 3:10 p.m.

Signed this 10th day of August 2022

Jayson Barfknecht, Secretary

The Board of Directors may meet in closed session, pursuant to the Texas Open Meetings Act, Texas Government Code §§ 551.071-551.076, to:

- (1) consult with attorney ;
- (2) deliberate regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (3) deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (4) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a Board member or District employee;
- (5) to receive information from employees or question employees, but not deliberate public business or agency policy that affects public business; and
- (6) to deliberate the deployment or specific occasions for implementation of security personnel or devices.

The Board may also meet in open session on these matters as required by the Texas Open Meetings Act, Texas Government Code § 551.102.

**** Agenda items may be taken out of order at the discretion of the Board Chairman**



BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

P.O. Box 528 · HEARNE, TX 77859 · (979) 279-9350

[HTTPS://BRAZOSVALLEYGCD.ORG](https://BRAZOSVALLEYGCD.ORG)

July 27, 2022

Dear Robertson County Judge & Commissioners,

The Brazos Valley Groundwater Conservation District Board of Directors approved language and instructed me to send you the final disposition of the lawsuit brought against the District by David Stratta and Anthony Fazzino.

Final Disposition of Stratta/Fazzino v. Roe et al Lawsuit

1. Rules of the Groundwater District remain unchanged
2. No Permits changed as a result of the lawsuit
3. Fazzino can still apply for a permit to produce water based on the applicable rules at the time of the application. This is unchanged from 2017 when Fazzino sued the Groundwater District
4. Texas Municipal League Risk Pool (TMLRP) was in control of litigation with Fazzino and not the Groundwater District
5. TMLRP and the Groundwater District were prepared and ready for trial when Fazzino initiated settle discussions
6. The Groundwater District never initiated a settlement of the case.
7. The Groundwater District did not pay any funds to settle the case. TMLRP made the decision to settle and paid the \$100,000 to settle the case.
8. The settlement included no admission of liability on the part of the Groundwater District.
9. Federal Western District Court and the 5th Circuit Court of Appeals ruled there was no breach of Director David Stratta's 1st Amendment Rights to free speech. Claim was dismissed.
10. Federal Western District Court found the Groundwater District's rules were rationally based (2004 rules establishing existing and new well classifications) and there was no 14th Amendment Equal Protection Violation. Claim was dismissed. Fazzino did not appeal the ruling.

If you have any questions, do not hesitate to give me a call.

Best regards,

Alan M. Day
General Manager

BOARD OF DIRECTORS:
JAYSON BARFKNECHT, SECRETARY
GARY MECHLER

STEPHEN CAST, PRESIDENT
DAVID STRATTA, TREASURER
LINDA PECINA

PETE BRIEN, VICE PRESIDENT
MARK CARRABBA
CHRIS ZEIG



BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

P.O. Box 528 · HEARNE, TX 77859 · (979) 279-9350

[HTTPS://BRAZOSVALLEYGCD.ORG](https://BRAZOSVALLEYGCD.ORG)

July 27, 2022

Dear Brazos County Judge & Commissioners,

The Brazos Valley Groundwater Conservation District Board of Directors approved language and instructed me to send you the final disposition of the lawsuit brought against the District by David Stratta and Anthony Fazzino.

Final Disposition of Stratta/Fazzino v. Roe et al Lawsuit

1. Rules of the Groundwater District remain unchanged
2. No Permits changed as a result of the lawsuit
3. Fazzino can still apply for a permit to produce water based on the applicable rules at the time of the application. This is unchanged from 2017 when Fazzino sued the Groundwater District
4. Texas Municipal League Risk Pool (TMLRP) was in control of litigation with Fazzino and not the Groundwater District
5. TMLRP and the Groundwater District were prepared and ready for trial when Fazzino initiated settle discussions
6. The Groundwater District never initiated a settlement of the case.
7. The Groundwater District did not pay any funds to settle the case. TMLRP made the decision to settle and paid the \$100,000 to settle the case.
8. The settlement included no admission of liability on the part of the Groundwater District.
9. Federal Western District Court and the 5th Circuit Court of Appeals ruled there was no breach of Director David Stratta's 1st Amendment Rights to free speech. Claim was dismissed.
10. Federal Western District Court found the Groundwater District's rules were rationally based (2004 rules establishing existing and new well classifications) and there was no 14th Amendment Equal Protection Violation. Claim was dismissed. Fazzino did not appeal the ruling.

If you have any questions, do not hesitate to give me a call.

Best regards,

A handwritten signature in black ink, appearing to read 'Alan M. Day', written over a white background.

Alan M. Day
General Manager

BOARD OF DIRECTORS:
JAYSON BARFKNECHT, SECRETARY
GARY MECHLER

STEPHEN CAST, PRESIDENT
DAVID STRATTA, TREASURER
LINDA PECINA

PETE BRIEN, VICE PRESIDENT
MARK CARRABBA
CHRIS ZEIG