

ELM CREEK WATERSHED AUTHORITY

Regular Session Meeting

April 13, 2023

Notice is hereby given that a regular meeting of the Board of Directors of the Elm Creek Watershed Authority will be on April 13, 2023, beginning at 7:30 p.m. at the Elm Creek Watershed Authority Office, 19 S. 25th Street, Suite 500, Temple, Texas.

AGENDA

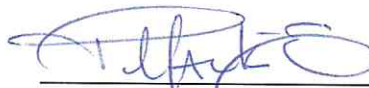
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2. Public Comment.
Citizens who desire to address the Board of Directors on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the Board of Directors.
3. Site 2 Informational Presentation by Don Wall.
4. Consideration and possible action to approve the consent agenda:
 - a. Minutes from the previous meetings
 - b. Income/Disbursements
 - c. Budget
 - d. Quarterly Report
5. Discuss, consider and take action, if necessary, to accept the watershed report as presented.
 - a. Site updates
 - b. NRCS programs
 - c. TSSWCB programs
6. Discuss, consider and take possible action on Site 39 land rights certification.
7. Consideration and possible action to advertise for construction on Site 39.
8. Consideration and possible action to approve Assignment and Assumption Agreement of Panda Temple Power II, LLC to CXA T2.
9. Adjourn.

The Elm Creek Watershed Authority Board of Directors may adjourn into Executive Session regarding any appropriate provision of the Open Meetings Act on any of the above topics.

PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, or BRAILLE ARE REQUESTED TO CONTACT ELM CREEK WATERSHED AT 254-778-1961 TWO WORKING DAYS PRIOR TO THE MEETING SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

Dated this 6th day of April, 2023

Daniel C. Lesikar, Chairman



By: Tricia Mackie

RECEIVED FOR POSTING

2023 APR -6 A 11:39

SHELLEY COSTON
CO. CLK. BELL CO. TX

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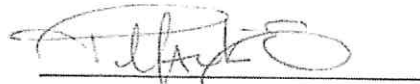
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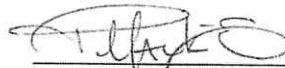
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Daniel C. Lesikar, Chairman



By: Tricia Mackie

CO. CLK. FALLS CO.

APR 6 2023

FILED 11:42 AM
V.D.

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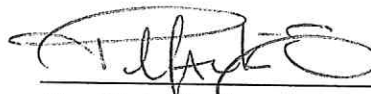
THE STATE OF TEXAS
COUNTY OF McLENNAN

This is to certify that the Notice of a Meeting, a copy of which is attached hereto, was posted on the official bulletin board at the Courthouse, as required by Article 62.52-17 V. T. C. S.

Executed on 4/10, 2023

J.A. "Andy" Harwell, County Clerk
McLennan County, Texas

By D. Dicote
Deputy



By: Tricia Mackie



RECEIVED
4/13/2023

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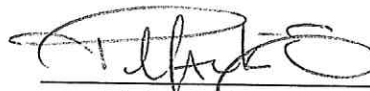
Filed 10th day of April
in 2023, At 11:08 A.M.
JODI MORGAN
County Clerk, Milam County, Texas
By Melinda Contreras
Deputy

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Daniel C. Lesikar, Chairman



By: Tricia Mackie



RECEIVED
4/13/2023



Tricia Mackie

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Open Meeting Submission

TRD: 2023001918
Date Posted: 04/06/2023
Status: Accepted
Agency Id: 1199
Date of Submission: 04/06/2023
Agency Name: Elm Creek Watershed Authority
Board: Elm Creek Watershed Authority
Committee: Board of Directors
Date of Meeting: 04/13/2023
Time of Meeting: 07:30 PM (##:## AM Local Time)
Street Location: 19 S. 25th Street
City: Temple
State: TX
Liaison Name: Tricia Mackie
Liaison Id: 1
Additional Information Obtained From: Tricia Mackie, Office Manager
Agenda: ELM CREEK WATERSHED AUTHORITY
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Dated this 6th day of April, 2023 Daniel C. Lesikar, Chairman

By: Tricia Mackie

New Submission

[HOME](#) | [TEXAS REGISTER](#) | [TEXAS ADMINISTRATIVE CODE](#) | [OPEN MEETINGS](#)

S.O.S. Acknowledgment of Receipt

From: texreg@sos.texas.gov

To: elmcreekwsa@sbcglobal.net

Date: Thursday, April 6, 2023 at 11:37 AM CDT

Acknowledgment of Receipt

Agency: Elm Creek Watershed Authority

Liaison: Tricia Mackie

The Office of the Secretary of State has posted
notice of the following meeting:

Board: Elm Creek Watershed Authority

Committee: Board of Directors

Date: 04/13/2023 07:30 PM "TRD# 2023001918"

Notice posted: 04/06/23 11:37 AM

Proofread your current open meeting notice at:

[http://texreg.sos.state.tx.us/public/pub_om_lookup\\$.startup?Z_TRD=2023001918](http://texreg.sos.state.tx.us/public/pub_om_lookup$.startup?Z_TRD=2023001918)

ELM CREEK WATERSHED AUTHORITY
INCOME AND DISBURSEMENTS
April 13, 2023

As of March 31, 2023

INCOME AND DISBURSEMENTS

INCOME

TAX

	PRESENT
BELL COUNTY	41,551.13
FALLS COUNTY	2,643.60
MCLENNAN COUNTY	1,020.34
MILAM COUNTY	<u>3,143.79</u>
TOTAL TAX INCOME	48,358.86

OTHER INCOME

TSSWCB	Reimbursement for Site 23 Upgrade	350,590.31
TOTAL OTHER INCOME		\$ 350,590.31
CHECKING ACCOUNT BALANCE		\$ 122,742.70

INVESTMENTS

ACCOUNT	MATURITY	AMOUNT	RATE	PRESENT
CITIZENS NATL BANK #91	12/3/23	600,000.00	3.250	1,477.48
CITIZENS NATL BANK #91	4/7/24	200,000.00	3.940	-
CLASSIC BANK #5551583	1/8/24	150,000.00	4.050	59.17
CLASSIC BANK #5687286	2/23/24	100,000.00	4.050	42.19
MEMBERS CHOICE #1936	Money Mark	248,067.56	0.950	569.90
INCOMMONS BANK #7946	7/15/23	250,000.00	1.000	191.78
HORIZON BANK #33068	7/5/23	250,000.00	1.500	287.83
CADENCE BANK #937000	1/24/24	250,000.00	2.500	-
CENTRAL NATL #2828686	2/18/24	250,000.00	4.000	-
BUCKHOLTS STATE BAN	1/21/24	250,000.00	4.000	-
TEXPOOL		1,170,294.41	4.611	3,804.07
FIRST NATL MOODY #102	5/11/2023	400,000.00	1.400	429.81
FIRST NATL MOODY #102	5/25/2023	250,000.00	1.500	287.83
<u>4,368,361.97</u>				<u>7,150.06</u>

OTHER DISBURSEMENTS

Patricia Mackie	168.34 mileage reimbursement	2,602.64
Calvin Sanders	488.63 mileage reimbursement	4,270.20
Extraco	payroll tax	2,000.82
Southern Infrastructure Grc	Payment #12	199,201.67
Card Services	March stmt	521.34
Texas Workforce Commiss	Unemployment tax	17.10
TOTAL OTHER DISBURSEMENTS		<u>208,613.77</u>

Elm Creek Watershed Authority
Disbursements
March 10 through April 13, 2023

	<u>Mar 10 - Apr 13, 23</u>
Ambit Energy	-37.81
Arvell Jungmann	-406.11
ATT	-200.89
Avast	-107.15
Bobby Henson	-741.48
Bowers Embankment Turfing	-13,108.50
City of Temple	-53,801.66
Daniel Lesikar	-370.74
Evelyn Sanderson	-100.00
Fairfield Inn	-221.48
John Perryman	-374.67
KFC	-11.90
Mike Maedgen	-366.81
Milam County Clerk	-1.00
National Watershed Coalition	-150.00
Patricia Mackie	-476.60
Ray Jungmann	-406.11
Relhom Properties LLC	-550.00
Robert Fleming	-358.95
Sanderford & Carroll, P.C.	-7,294.32
Secrest Law Firm	-69,975.00
Southern Infrastructure Group, LLC	-346,441.67
Subway	-10.15
Sweetie Pies	-62.42
	<hr/>
TOTAL	<u><u>-495,575.42</u></u>

ELM CREEK WATERSHED AUTHORITY
Monthly Report – 4/13/2023

Operation and Maintenance

Fertilization was completed on 11 dams on March 14-15. Reimbursement request was submitted to TSSSCB to recover 100% of the cost (\$13108.50).

Weed spraying is underway as of yesterday and is scheduled for the coming weeks at all dams in the watershed project, with the exception of Site 23. A tank mix to treat broadleaf weeds and johnsongrass has been applied at 12 sites, with six sites remaining. Broadleaf weeds will be sprayed over the next month at 15 sites.

Fence reconstruction at Site 30, where the fence had been removed by the Five Well Solar construction company Blattner Energy in September-October 2022, was completed this week. Bermudagrass seeding on damaged areas of the embankment and spillway is scheduled this month. These remedial actions were paid for by Blattner or Engie, the solar project owner.

National Watershed Coalition/Texas Association of Watershed Sponsors

Attended the workshop on Operation and Maintenance of dams in Decatur last month. Focus was on dam failure and measures incorporated into design and maintenance to avoid future problems.

Dam Safety

TCEQ Dam Safety staff are coming tomorrow to conduct dam inspections at Im Creek Watershed Sites 23, 26, and 31. I questioned why they wanted to visit Site 23 as it is currently under construction to upgrade to high hazard criteria, but they still want to do a site visit.

NRCS Programs

No activity on NRCS programs since March meeting.

TSSWCB Dam Repair/Upgrade Program

Site 23:

Southern Infrastructure Group is continuing with the dam upgrade at Site 23. Construction of the inlet structure tower is coming along. All excavation and placement of earth fill is completed and topsoil is being placed on the finished grade of the auxiliary spillway and embankment. Depending on weather, sprigging could start within the next few weeks. The ECWA board approval in the income and disbursements was for a payment request in the amount of \$199,201.02 for the period 3/1-3/31/2023. ECWA portion of the amount is \$3,486.03 (1.75%) and TSSWCB portion is \$195,715.64. ECWA will also receive administrative payment of \$5,976.05. With this payment 84% of the contract total amount has been paid.

Site 39:

The easement and agreement to purchase documents were signed by the property owner and ECWA on March 30. With this easement, all necessary land rights should be in place for the dam upgrade project and future operation of Site 39 (NOTE: Agenda Item 6 is certification of Land Rights). We are assembling documents to support a request for reimbursement for land rights costs, which would include appraisal, attorney fees, and payment to property owner. This amount would count against the total in the funding agreement between ECWA and TSSWCB. This should be in the range of \$75,000-\$80,000.

The design for the dam upgrade was reviewed by AECOM and the engineer's cost estimate was updated last week. The updated total for construction is \$4,245,538.

The funding agreement with TSSWCB has \$3,300,000 for construction and land rights, and if land rights cost is \$80,000, that leaves \$3,220,000.

On April 6 I met with the TSSWCB to discuss additional funding for construction. There are not any funds available through the end of FY 2023. Funding possibilities for FY 2024 that begins on September 1, 2023 are still undetermined as the legislature has not completed the budget for the next two years. ECWA has sent letters to state representatives and senators urging support of the budget increase requested by TSSWCB for the Dam Repair Program.

The options for ECWA in terms of advertising for the construction:

- 1) Wait until this fall for additional funding through the TSSWCB Dam Repair Program, keeping in mind there is no guarantee that there will be enough funds appropriated in this legislative session.
- 2) Move forward with advertisement now. A review of the engineer's cost estimate found that we could reasonably expect the total to be some \$400,000 less, bringing the total to about \$3.85 million. Actual credible bids could be lower than this, but ECWA would be responsible for the difference out of its own funds.
- 3) Move forward with advertisement now, and reject all bids if exceeds available funds. This is not preferable as future solicitations may not draw much competition from bidders that put time, effort and money into bidding when the advertiser knowingly did not have the funds committed in order to award a contract.
- 4) Turn back funds in the agreement to TSSWCB. Site 39 and one other dam are the remaining projects that have been funded through the Dam Repair Program, but fall short of having enough funds for construction. One of the sponsors could release the funds in their agreement so that money could be added to the other project so that construction could move forward.

**ELM CREEK WATERSHED AUTHORITY
OFFICIAL MINUTES**

April 13, 2023

Elm Creek Watershed Authority, Board of Directors, met in regular session on
April 13, 2023, at 19 South 25th Street, Suite 500, Temple, Texas

Directors present: Ray Jungmann, Arvell Jungmann, Bobby Henson, Mike Maedgen, John Perryman, Daniel C. Lesikar and Robert Fleming

Others present: Don Wall, Calvin Sanders and Tricia Mackie

The meeting was called to order by Daniel C. Lesikar, Chairman, at 7:30 p.m.

Public Comment: No comment.

Site 2 Presentation: Don Wall informed the board of the sell of property around Site 2 and the proposed development. Mr. Wall requested the board consider installing a road to assist with access. Mr. Sanders stated this information must be reviewed by the County Engineer, City Engineer and approval from NRCS and ECWA in order to cross the easement with a road. The board thanked Mr. Wall for the information.

Consent Agenda: Minutes: Bobby Henson made a motion to approve the previous meeting minutes as mailed. The motion was second by Ray Jungmann. Motion passed.

Income and Disbursements were read aloud by Tricia Mackie. A motion was made by Bobby Henson to receive, approve and file income and disbursements. Arvell Jungmann second the motion. Motion passed.

Budget: Tricia suggested the following budget amendments: Decrease Downstream Structures \$3801.66, Increase Tax Increment Zone \$3801.66, Add \$69,550.00 to Easements. Robert Fleming made a motion to amend the budget as suggested. Mike Maedgen second the motion. Motion passed.

Quarterly Report: A motion was made by Bobby Henson to accept and approve the Quarterly Report as presented. Ray Jungmann second the motion. Motion passed.

Watershed Report: The watershed report was presented by Calvin Sanders. O&M: Fertilizing on 11 sites has been completed. Weed control is in progress on 12 sites with 70% completion. Mr. Sanders asked the board to approve payment and to make payment upon completion. Site 30 fence replacement is complete with net wire, seeding is scheduled.

Mr. Sander attended the NWC/TAWS Workshop that included a focus on dam failure.

Dam Safety: TCEQ has requested inspections of Sites 23, 26 & 31, scheduled for tomorrow.

NRCS Pgm: No activity.

Dam Repairs/Upgrades: Site 23-All earth fill has been completed, topsoil is now being put down, still working on inlet tower. Site 39-All documents have been signed for land rights. Updated design and costs = \$4,245,538.00 with a funding agreement of \$3,300,000.00. At this time there is not enough funds to go beyond the agreement in the FY23 and the FY24 funding is undetermined. Mr. Sanders has sent letters to State Representatives and Senators urging support. The board decided to wait and see if additional funding will become available.

Robert Fleming made a motion to approve payment to Buster Crawson, Bowers Embankment, upon completion and approval by Calvin Sanders. The motion was second by Ray Jungmann. Motion passed.

A motion was made by Robert Fleming to approve the watershed report. Arvell Jungmann second the motion. Motion passed.


Site 39 Land Rights: Mike Maedgen made a motion to certify the land rights for Site 39. John Perryman second the motion. Motion passed.

Construction of Site 39: No action.

Panda Power Assignment & Assumption Agreement: No action.

Adjourn: Arvell Jungmann made a motion to adjourn. Mike Maedgen second the motion. Motion passed. Meeting adjourned at 8:46 p.m.

ATTEST:



Mike Maedgen
Vice-Chairman



Director