

**MINUTES OF THE  
GRANT COUNTY SANITARY SEWER DISTRICT  
JANUARY 2024 MEETING**

The January 2024 Meeting of the Grant County Sanitary Sewer District was called to order on January 25, 2024, at 2:30 p.m. at the District Headquarters, One Farrell Drive, Crittenden, Kentucky. Present at the meeting were the following: Chairman Charles Givin, Vice-Chairman Robert Worthington and Commissioners Rodger Bingham, Greg Powell and Michael Duley. Also present were HR Director Ashley Dyer, Dianne Cook, Counsel Thomas R. Nienaber, and Superintendent Paul Harp. HMB Professional Engineers, Inc., Mr. Benton Hanson was not present.

The first order of business was a review of the December Minutes. After discussion, upon motion of Greg Powell and second by Robert Worthington, it was unanimously,

“RESOLVED: that the December 2023 Minutes be approved as attached.”

The next order of business was a review of the December 2023 Warrants, Maintenance and Operating Account and Profit and Loss Statement. Commissioner Bingham inquired as to why the District was in the red for December. Paul Harp and Dianne Cook noted that two loan payments were made in December, 2023. After discussion, upon motion of Rodger Bingham and second by Michael Duley, it was unanimously,

“RESOLVED: that the December 2023 Warrants, Maintenance and Operating Account and Profit and Loss Statements be and the same are hereby approved as attached.”

The next order of business was a report by Counsel Thomas R. Nienaber as follows:

1. Mr. Nienaber gave an update on the Garrison litigation. Mr. Nienaber reported that he had received earlier in the morning a set of proposed discovery requests to be submitted by the District to the City of Crittenden and the Plaintiff, Gregory Garrison. Mr. Nienaber reviewed briefly with the Commissioners the requested information and documentation contained in the discovery requests. He noted that the discovery request directed to the City of Crittenden specifically asks for municipal authorization for the filing of this lawsuit against the District and the basis for the facts upon which the City of Crittenden makes its claims against the District. Mr. Nienaber reminded everyone that Mayor Purcell has repeatedly commented that the City of Crittenden possessed engineering reports which laid blame upon the District for the deteriorating condition at the dam. Despite these claims, no such engineering reports have been disclosed to date. With the filing of the discovery requests, the City of Crittenden is now required to disclose any such information and to file that information with the Court. Mr. Nienaber requested that the Commissioners review the attached discovery requests and let him

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know if there are any additional requests that they would like to specifically make in the discovery requests.

Under the Kentucky Rules of Civil Procedure, the City of Crittenden and the Plaintiff are required to file Responses to these discovery requests within 30 days.

2. Mr. Nienaber inquired as to the status of the Wastewater Facilities Plan (“WWFP”). Paul Harp reported that it is his understanding that the DOW should approve the WWFP sometime in February, 2024.
  
3. Mr. Nienaber reported on the status of the recently announced Mastercard/Visa Class Action Settlement. Although the District has not received an official Claim Form, he reviewed with the Commissioners the Claim Form received by the Bullock Pen Water District. The basis of this Class Action is to compensate Visa/Mastercard customers for overcharges on interchange fees assessed to customers during the claim period. For example, the Bullock Pen Water District’s interchange fee transactions during the claim period was approximately \$1,500,000.00. The overcharge interchange fees for that period was approximately \$11,000.00. Comparing that to the number of interchange fee transactions with the District, the total amount of the claim would be far less than that proposed to be received by the District. Additionally, the amount that is actually awarded under the Class Action would be far less than the maximum amount that could be claimed. For example, the actual amount of money that the Bullock Pen Water District might receive from the litigation would be significantly less (in all likelihood) than the \$11,000.00. Comparing that to the District, the maximum amount of interchange fees to which the District may recover would be significantly less than \$11,000.00 since the District has far less customers. If the District were to qualify for a maximum payout of \$2,500.00, the amount of money actually received in the class action settlement would be significantly less. Mr. Nienaber also reported that the Bullock Pen Water District voted to not participate in the litigation due to the fact any interchange fees awarded in the settlement would have to be returned to individual customers. This would present an accounting nightmare. After discussion, upon motion of Robert Worthington and second by Michael Duley, it was unanimously,

“RESOLVED: that the District not participate in the Visa/Mastercard class action settlement.”

4. Mr. Nienaber reported on the PFAS litigation test status. Mr. Nienaber reported that Commissioner Powell has agreed to review PFAS test results that were received last week. Commissioner Powell noted that the EPA has not yet formulated official Regulations regarding PFAS maximum contaminant levels (MCLs). This will be sometime in the future. No one really knows when those regulations will be adopted. Commissioner Powell reported that the test results he reviewed indicated that the District showed no PFAS in the test samples. Commissioner Powell stated that this would be

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very unusual and highly unlikely given the fact that the Bullock Pen Water District test results showed a positive PFAS result. Commissioner Powell did indicate that the test results showed that the PFAS test for the Bullock Pen Water District was very low. Commissioner Powell opined as to why the District's test results showed no PFAS. After a considerable discussion, it was recommended that Superintendent Harp take additional test samples for the District and submit them to the laboratory for a second opinion. Mr. Nienaber explained at this time, the District is not under any pressure to file an official claim with the Multi District Litigation ("MDL"). The claim period extends 60 days and begins to run after the Court approves the MDL settlement with the existing two defendants. Mr. Nienaber reported that he had spoken with Mr. Sam Wade, PFAS contact with Napoli Shkolnik. Mr. Wade had requested that the District forward copies of the PFAS test results to him for review. It is counsel's opinion that a second PFAS test should be conducted before any test results are submitted to Mr. Wade. Once that second PFAS test is received, the Board can determine what course of action to take. Given the fact that the MDL Judge has not yet approved the proposed settlement, there should be adequate time to obtain a second PFAS test.

The next order of business was a report by Superintendent Harp as follows:

1. Superintendent Harp reviewed with the Commissioners his monthly report as attached.
2. Superintendent Harp reported that he will submit his Fourth Quarter Progress Report to DOW next week.

The next order of business was a report by Dianne Cook as follows:

1. Ms. Cook presented the Chamberlin & Owen Engagement Letter for the December 31, 2023, Annual Audit. The Annual Audit cost is \$7,800.00. After discussion, upon motion of Greg Powell and second by Michael Duley, it was unanimously,

"RESOLVED: that Paul Harp and Charles Givin be and the same are hereby authorized to execute the Chamberlin & Owen Engagement Letter for the December 31, 2023 Annual Audit not to exceed \$7,800.00."

2. Ms. Cook reported that the District has on deposit \$3,327.38 in excess funds which the District received from trash collection fees for the City of Crittenden. Mr. Nienaber reported that this money should be returned to the City of Crittenden. After discussion, upon of Robert Worthington, and second by Greg Powell, it was unanimously,

"RESOLVED: that Dianne Cook forward to the City of Crittenden \$3,327.38 representing overpayments of trash collection fees."

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- 3. Diane Cook reported that the next regular meeting is currently scheduled for February 22, 2024. There being no further business to conduct, upon motion and second, the meeting was adjourned.

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BY: Charles Given  
CHARLES GIVIN, CHAIRMAN

ATTEST:

Greg Powell  
GREG POWELL, SECRETARY