

San Jacinto County Emergency Services District No 2
81 Waterwood
Huntsville TX 77320
MINUTES OF EMERGENCY SERVICES DISTRICT 2
SPECIAL MEETING MINUTES FEBRUARY 25, 2025

Call to order – At 5:00pm, President Riley called the meeting to order.

Commissioners present: Lisa Hayman, Patrick Marshall, Marie Murphey, Greg Riley and James Schwebach were present in person and Attorney Ken Campbell present via Teams.

Pledge of Allegiance, Texas Pledge and Opening Prayer:

The pledge of allegiance and Texas pledge were recited and opening prayer was given by Commissioner Schwebach and guest were welcomed.

President's Comments:

Recap of progress to establish

San Jacinto County Emergency Services District 2

Report by Gregory Riley, Commissioner/Board President

February 25, 2025

Pct. 1 position 1 – Lisa Hayman - 2025

Pct. 2 position 2 – Greg Riley – 2025/2026

Pct. 3 position 3 – James Schwebach – 2025

Pct. 4 position 4 – Marie Murphy – 2025/2026

At large position - Patrick Marshall 2025/2026

Attorney of record – Ken Campbell of BURNS ANDERSON JURY & BRENNER, L.L.P.

Good afternoon,

I thought it might be helpful to share some facts regarding our new district as I understand them. The thoughts are solely mine and I certainly welcome any corrections. This is by **no means** a legal interpretation, just simply my contemporaneous thoughts.

The board as shown above was duly sworn in. After swearing-in the board of ESD2 voted to retain Ken Campbell of BURNS ANDERSON JURY & BRENNER, L.L.P. as attorney of record.

San Jacinto County Emergency Services District 2 was created under the auspices of the Waterwood Improvement Association (“WIA”). WIA has been in the unusual position of providing fire and emergency services. It is generally unusual for a homeowner’s association to provide such services.

We believe the boundaries for ESD 2 are contiguous with Waterwood Mud District #1. The board will review supporting data at tonight’s meeting with the goal of certifying the boundaries and accounts to the Chief Appraiser of San Jacinto County Troy Carlson.

Meetings of the ESD have been held in the meeting room of the Waterwood Improvement Association. Some commissioners mentioned that they would prefer the meeting be held at a different location. The board ultimately decided to table anything regarding the move of meeting place for 90 days. Waterwood Improvement Association has stated that their funding was contingent upon meetings continuing in the current location.

I agree that this is a central location known to most members of the community. However, state law states that the district board can meet in a location at a date and time of its choosing subject to notification requirements and ADA compliance. The board will take into account where its meetings will be held in the future at its discretion.

Subsequent to the last ESD 2 meeting on February 18, 2025 both Mr. Campbell and myself were contacted by multiple members of the community alleging listening devices within the meeting room and that the executive session of the ESD board was eavesdropped upon. No evidence has

been presented to support this allegation. Members of the WIA board have stated in the strongest possible terms that this is untrue. I understand their discomfort at having this issue raised, but I believe we would be derelict in our duties not to clear this up. I now consider this matter closed.

The Waterwood Improvement Association has committed to providing funding for ESD2 in the base amount of \$150,000 annually which they believe is sufficient to fund the district for services equal to the current levels. It is my understanding that they are prepared to provide funding for additional unspecified contingencies.

The funding from WIA will sunset over time as tax revenue to the district grows. WIA expects significant revenue growth due to the anticipated construction of several hundred new homes within the district.

The board has obtained a legal mailing address, EIN #, district bank account, and attended to many smaller details. A few more details need to be attended, as shown in the past and current board agendas. Our attorney Ken Campbell has recommended moving deliberately to ensure we don't miss any critical details.

New information has shown that there are four existing entities relevant in the creation of ESD 2. However, two of these entities exist in a sort of legal limbo due to issues specific to each entity.

1. Waterwood Improvement Association has been the supervisory and funding entity for fire and rescue services in the greater Waterwood/Waterwood MUD #1 area for many years.
2. Waterwood Volunteer Fire Department (legal limbo)
3. Waterwood Volunteer Fire Department, Inc. (legal limbo)
4. Waterwood Fire and Rescue, Inc. (has met most of the statutory requirements for establishing a volunteer fire department.)

San Jacinto County Emergency Services District #2 was created to assume the responsibility for operation of and payment for fire, and ambulance services within the district as defined as contiguous to Waterwood MUD #1. This is not a legal definition, but rather my general understanding of the task at hand.

Ambulance Service

Ambulance services in Waterwood MUD #1 are provided by Allegiance Ambulance Services on a contract basis. These services are paid for on a proportionate basis and shared with ESD #1. In general, an ambulance is to be within the district 12 hours per day, with the understanding that the ambulance will respond to an emergency call anywhere within ESD #1 or #2 if needed. This is an oversimplification, but we will have a discussion with Allegiance at an upcoming board meeting where the specifics of the existing contract will be discussed, and a new contract terms negotiated and voted upon.

Waterwood Fire Station

The fire house is a wooden structure that would be unlikely to meet modern codes for construction of a fire department building. I have been told anecdotally that the building needs certain unspecified minor repairs. I was informed today that immediate repairs are needed to the HVAC system. Mr. Campbell has advised the district may only pay for repairs to the building itself under

very specific circumstances. This is governed by the laws of the state of Texas subject to any lease agreement, or ownership in the building. The ESD board is bound by state law and may not deviate. Mr. Campbell can provide the legal specifics of this.

After hearing from members of the community, Waterwood Fire and Rescue, and speaking to personal acquaintances with expertise in this area, I believe the current building to be functionally obsolete. This is not to say that the building is in unusable condition. In other words, it is not sufficient to meet the needs of a modern VFD and modern fire apparatus. An example was fire apparatus that were previously purchased according to the size of the building, and not the needs of the firefighters or the community. It is apparent that a new fire station will need to be built at some unspecified point in the future.

I am paraphrasing, but WIA has requested lease payments on the building equal to the annual property taxes. It was further stated that this property is deeded as part of the overall WIA complex encompassing the administrative offices, security offices, and pavilion and pool. As such they asked that the property taxes be calculated on a proportional basis. A conversation with chief Appraiser Troy Carlson seems to confirm that this property is specifically deeded separately as a fire station and as such is tax exempt. I suggest having Mr. Campbell look at the appropriate documents to confirm what is correct.

Fire apparatus

The fire department building has numerous articles of miscellaneous equipment. WIA has stipulated their desire to donate miscellaneous equipment to the district. There are two main fire fighting apparatus.

1. 2010 Dodge Brush Vehicle VIN # 3D6WH4EL2AG128440
2. 2010 Kenworth Pumper VIN # 2NKHH8X8AM269957

I am a bit foggy as to whether this apparatus was purchased by Waterwood Improvement Association or by Waterwood MUD #1. I have been given conflicting information on this point. A letter from WIA to Waterwood MUD #1 dated August 27, 2010 states the purchase documents such as the Certificate of Origin, bills of sale, Texas motor

vehicle application were attached. The document states, "This vehicle was purchased by Waterwood Improvement Association for the Volunteer Fire Department." Signed by Joe Moore.

Title documents show the registered owner of both vehicles as "Waterwood VFD." Insurance documents reflect "Waterwood Volunteer Fire Department, Inc." The difference between Waterwood VFD, and Waterwood Volunteer Fire Department, Inc. may be a very important legal distinction. There seems little doubt that the equipment was purchased for the benefit of fire services within Waterwood. It is also factual that the Waterwood Improvement Association is not the titled owner.

Research will have to be done to determine for certain which entity is the legal owner able to transfer the title. This will have to be discussed by our board in detail as a future agenda item. Mr. Campbell can provide additional information on how to proceed with sorting the title and which entity is legally entitled to transfer the titles. It is my understanding that both Waterwood VFD and Waterwood Volunteer Fire Department, Inc. will need to make specific legal filings to be "revived." I believe Mr. Campbell has suggested researching and possibly temporarily reviving both entities for purposes of sorting a variety of issues.

Commissioner Marshall has questioned whether there are maintenance records for the main apparatus. Apparently, no such records exist. Best practice dictates that fire apparatus be maintained on a regular basis, with meticulous records kept. It is my further understanding that fire equipment should be tested for flow rates, etc.

WIA has asserted that the equipment has been very lightly used, and the life expectancy of 20 years should be extended to 25 years. I would take some issue with this. My personal experience is that vehicles and equipment left unused for long periods of time are likely to develop maintenance issues specific to that circumstance. It is my opinion that both pieces of equipment should be taken to a reputable maintenance facility for a full inspection and service. Upon return, a rigorous maintenance schedule should be established. Perhaps they can give an unbiased opinion as to the life expectancy.

Insurance

I find this item to be particularly vexing. As previously stated, there are multiple entities involved in the operation of the fire department. Titling documents show the two main vehicles titled to reflect the owners as "Waterwood VFD," and "Waterwood Fire." Vehicle insurance documents reflect "Waterwood Volunteer Fire Department, Inc." This may seem like a very minor point but is a very important legal distinction. Both organizations apparently existed at different times with no legal consolidation. Now both exist in a state of legal limbo. Not meeting all the legal requirements, but also not legally consolidated or dissolved. The concern is that our fire service is operating without proper insurance at great personal liability risk to our volunteers. If so, this is a very serious situation that must be addressed immediately.

None of the vehicle insurance documents reflect the current operating entity, "Waterwood Fire & Rescue, Inc." This means that when current members of the Waterwood Fire and Rescue, operate the equipment are likely uninsured.

I am unsure about the operating liability insurance as I have not seen any of those documents. I suspect there are similar issues here as well. I have also heard it mentioned

that we need to provide Workman's Comp Insurance for our volunteers. Again, I'm unsure if we have this coverage, or if WIA took that cost into account. I think the bills for insurance came due they were paid without thought to the legal entities involved.

My understanding is that ESD enjoys certain protections from liability. Again, I defer to Mr. Campbell regarding these specifics. It would seem to me that the best way to handle insurance is for all physical assets to be held by San Jacinto County Emergency Services District #2. Waterwood Fire & Rescue, Inc. would be a named or additional insured. This seems to provide the most liability protection for all involved. I suggest we request copies of all the existing insurance policies from WIA to conduct a review and obtain coverage whether in the name of WIA, ESD2, or WWF&R. It is crucial that the insurance issues be addressed immediately.

Assertions Made by Waterwood Improvement Association.

Petition from Waterwood Improvement Association to Judge Fritz Falkner, apparently undated but attached is a resolution dated April 22, 2024.

"we are well aware of the budgeting and operational requirements for providing these vital services. WIA has committed by binding resolution (attached) to augment the budget of the proposed ESD#2 district to maintain services at the currently provided level until tax revenues exceed basic requirements"

"Beyond the basic operating budget, WIA has committed to building an \$800,000 community complex that will include a full apartment with office, two bunk rooms, kitchen and common area shared with our 24 hour security services for EMS/Ambulance crews to use into the foreseeable future. If we need trucks, equipment, buildings, or other items necessary to provide these services, we provide them as needed outside the basic operational budget from our considerable reserves."

Also attached to the above mentioned document is a resolution from the WIA board of directors concerning the formation of ESD2 dated April 22nd, 2024. The WIA board makes 9 resolutions. I won't reference them all, but item 1 is pertinent to annual funding from WIA.

"1. WIA shall issue payment in the amount of the difference between an approved SJCESD#2 annual budget up to a maximum of \$150,000...."

There are several other important points made, but my main point is that there is no mention of how the funds are to be paid to the district; monthly, quarterly, annually.

Summation

1. SJCESD2 has been moving expeditiously to establish the district according to all applicable statues of the State of Texas. Commissioners have been duly sworn, officers elected, required notices of meetings given, an EIN # obtained, and a district bank account established.

2. The board will soon act to establish the official district boundaries, and the taxable properties within which are believed to be contiguous to Waterwood MUD #1. We expect this will be done and submitted to the Appraisal District prior to the early March deadline. My apologies as I do not have the exact due date at hand as I write this.

3. ESD 2 has retained the services of Ken Campbell of BURNS ANDERSON JURY & BRENNER, L.L.P. Mr. Campbell has already provided invaluable advice regarding the formation of the district.

4. ESD 2 can meet at a time and place of its choosing according to all applicable statutes. 5. An outcry was made from SJESD2 constituents alleging recording devices in the current meeting location on the property of WIA. This was shared with members of the board of WIA who emphatically deny such recording is happening. I personally now consider this matter closed.

6. There is a confusing tangle of entities relevant to the SJCESD2 that must be untangled. a. Waterwood Improvement Association

b. Waterwood VFD

c. Waterwood Volunteer Fire Department, Inc.

d. Waterwood Fire & Rescue.

7. WIA has committed to annual funding of \$150,000 with contingencies and offsets as outlined in other documents. I can find no filings that specify how this to be paid. 8. WIA believes that over the next few years several hundred new homes will be constructed substantially growing the tax base and revenue to ESD2.

9. Ambulance service is provided on a contractual basis with Allegiance Ambulance Service. This is currently paid for by WIA, but in the future by ESD 2. WIA has made a promise to provide a new facility for the use of ambulance crews.

10. The current fire station appears to be ill suited to the current and future needs of a VFD. At some point in the future the district will need to consider construction of a new facility. 11. The original lease proposal concerning the fire station is now unworkable. A new agreement will need to be negotiated. I suggest that WIA consider donation of the fire station to ESD for the use of fire services within the district.

12. WIA has expressed reservation about the long-term continuation of the district, and a possible forced merger with ESD 1. Given the ESD and fire services, a permanent home should provide a long-term home base within the district.

13. No maintenance records exist for the main fire apparatus. I suggest that the apparatus be inspected and repaired as needed by a recognized facility who should also be required to provide an opinion on the expected life of service.

14. Title to the apparatus is now in a sort of legal limbo. Research will have to be done, and filings made to revive the owner of record who can then determine who should be the successor owner.

15. I believe all physical assets should be held by San Jacinto County Emergency Services District 2 due to liability considerations, and the long-term continuation and continuity of fire and ambulance services within the district.

I would like to take a moment to compliment the newly formed Waterwood Fire & Rescue, Inc. Administrator Carol Magee, and Chief Ed Kyle along with their board and volunteers are in my opinion doing an exemplary job.

Respectfully submitted,

Gregory S. Riley

Commissioner Pct. 2 position 2, Board President

Cc: Commissioner – Lisa Hayman - 2025

Commissioner – James Schwebach – 2025

Commissioner – Marie Murphy – 2025/2026

Commissioner - Patrick Marshall 2025/2026

Attorney– Ken Campbell

Public Comments: Carol Magee said that she had spoke with VFIS and the fire fighters for Waterwood Fire & Rescue were not covered.

Minutes Prior Meeting – Commissioner Schwebach made a motion to approve the February 11, 2025 minutes with corrections. Motion seconded by Commissioner Murphey and passed unanimously.

Treasurers Report – Commissioner Schwebach, Treasurer, informed the board that a \$1,000.00 check from Waterwood Improvement Association, Inc. was deposited into the new account at First National Bank of Huntsville and he had received a check from Waterwood MUD and would be making that deposit. A bill to Sam Houston Electric Cooperative was presented to be paid. President Riley made a motion to approve, seconded by Commissioner Murphey and passed.

Review, discuss, and take action regarding certifying tax rolls and boundaries:

Commissioner Murphey briefed the Commissioners on her meeting with Troy Carlson, Chief Appraiser from San Jacinto Appraisal District and both Commissioner Riley and Mr. Carlson agree that the maps presented are the official boundaries for Waterwood. President Riley made a motion to accept the maps that were presented as the official map of the district. Motion seconded by Commissioner Schwebach and passed. Commissioner Murphey will deliver to Mr. Carlson.

Commissioner Murphey presented the list of 2,116 accounts (properties) within the Waterwood district. These properties were also verified with Troy Carlson, Chief Appraiser from San Jacinto Appraisal District. President Riley made a motion to approve the list of accounts as presented. Motion seconded by Commissioner Marshall and passed.

Commissioner Murphey briefed the Commissioners on the Statement of Fact. President Riley made a motion to approve the Statement of Fact that the Emergency Services District No. 2 has fulfilled all state requirements and is authorized to levy taxes to parties under their jurisdiction. Motion seconded by Commissioner Murphey and passed.

Review, discuss & take action regarding budget for Waterwood Fire & Rescue:

President Riley made a motion to revisit this topic at the next meeting. Motion seconded by Director Schwebach and passed.

Review, discuss & take action regarding contract between SJC ESD No 2 and Allegiance Ambulance service:

President Riley made a motion to table. Motion seconded by Director Marshall and passed.

Review, discuss & take action regarding contract between SJC ESD No 2 and SJC ESD No 1:

President Riley made a motion to table. Seconded by Commissioner Marshall and passed.

Review, discuss & take action regarding contract between SJC ESD No 2 and Waterwood Improvement Association, Inc.:

President Riley made a motion to table. Seconded by Commissioner Schwebach. Voting FOR were President Riley, Commissioner Marshall, Commissioner Murphey and Commissioner Schwebach. Commissioner Hayman abstained.

After some discussion President Riley made a motion to set another meeting with Waterwood Improvement Association, Inc. to present a list of counter proposals. Seconded by Commissioner Marshall. Voting FOR were President Riley, Commissioner Marshall, Commissioner Murphey and Commissioner Schwebach. Commissioner Hayman abstained.

Review, discuss & take action regarding hiring a website builder to create and maintain the SJC ESD No. 2 website as required by the state:

President Riley made a motion to table, seconded by Director Schwebach and passed.

Review, discuss & take action regarding paying bills:

This was partially discussed during the Treasurers report. Further discussion concerning Push To Talk telephones used by the Waterwood Volunteer Fire Department was held. President Riley made a motion to cancel the PTT phones. Motion seconded by Commissioner Marshall and passed.

Commissioner Schwebach ask if duplicate checks could be used and not business checks for the First National Bank of Huntsville checking account. A motion was made by Commissioner Schwebach to use duplicate and not business, seconded by Commissioner Marshall and passed.

President Riley made a motion to enter into executive session at 6:21pm. The Commissioners closed the Notice of Special meeting agenda for February 25, 2025, under 551.071, Consultation with Attorney. Motion seconded by Commissioner Schwebach and passed.

At 7:00pm the Special meeting for February 25, 2025 was called back to order.

Commissioner Murphey made a motion to adjourn the meeting. Motion seconded by Commissioner Schwebach. Meeting adjourned at 7:02pm.