



# Windermere Oaks Water Supply Corporation

424 Coventry Rd  
Spicewood, Texas 78669

**2022 - 2023 Board of Directors:**  
Joe Gimenez, President  
Mike Nelson Vice President  
Richard Schaefer, Secretary/Treasurer  
Dorothy Taylor, Director

**Windermere Oaks Water Supply Corporation (WOWSC) Board meeting held:  
Friday February 10, 2023**

## Meeting Minutes

1. Call to Order.

**Meeting started promptly at 6:00 PM**

2. Roll call.

**Joe Gimenez, Mike Nelson, and Rich Schaefer were present, establishing a quorum of the board. Dorothy Taylor was absent.**

3. PUBLIC COMMENT—Comments from citizens and members who wish to speak on agenda or non-agenda items (3-minute limit per person).<sup>1</sup>

**No attendance sheet for this meeting. Members were invited to provide comments.**

**Ken Epic - Commented on lack of answering questions. Are the legal bills reviewed by board members? Have any been challenged?**

**Joe responded that we review each invoice. Mike indicated we are proactive so there is no duplication of efforts.**

**Marvin Lewis – Considered running for board, but decided not to because of liability. Refuted being manipulated by the board as a misrepresentation in emails circulating around the community. board. Lewis commented on the outstanding character of Mike Madden, Pat Mulligan and Dorothy Taylor as people he had worked with in the past, all of whom were named in the 48292 case. [All were cleared of false allegations in Take Nothing order of May 3, 2021]**

**Jeff Walker – Running for the board. Need new direction for the board. Concerned about plan to address legal issues. Asserted that board should stop wasting its time on zebra mussels.**

**Patti Flunker – 3Yrs pushing the rate payer’s case. Challenges the integrity of ALL board members. To paraphrase, said “Everything these people say is a lie” and based that on her work in the PUC case. Did not cite anything specifically.**

**Danny Flunker – Elections should be handled by a 3<sup>rd</sup> party.**

**Mark Carpenter – The board does not represent the members and should resign.**

**David Kerly – Requested financials after last meeting and received them.**

4. APPROVAL OF BOARD MEETING MINUTES –

- i. January 10, 2023

**Motion made, seconded, and unanimously approved to accept the Jan 10 meeting minutes.**

5. DISCUSS PREVIOUSLY MEMBERSHIP QUESTIONS – The Board will provide responses to questions previously asked at its January 10, 2023 meeting:

- a. The names of the insurance company and broker, costs of the insurance.

- b. Status of insurance case and pending amounts that would be available to pay legal fees.

- c. The amount of outstanding legal fees.

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<sup>1</sup> The Board is not allowed to take action on any subject presented that is not on the agenda, nor is the Board required to provide a response; any substantive consideration and action by the Board will be conducted under a specific item on a future agenda.

d. Board plan if Fifth Circuit overturns the current ruling that is favorable to WOWSC.

**Joe Gimenez distributed documents (below) providing answers to all of these question to the meeting attendees.**

**Provided a detailed discussion of strategy we have been pursuing for addressing legal bills for:**

- a) Insurance Case**
- b) Rate Case**
- c) Other legal fees.**

**Jeff Walker indicated he would personally pay to have attorney present to address questions about this strategy.**

**6. DISCUSS AND POSSIBLY ACT TO AMEND THE CORPORATION’S TARIFF TO AUTHORIZE THE BOARD OR THE PUBLIC UTILITY COMMISSION OF TEXAS TO ASSESS A SURCHARGE.**

**We anticipate that a likely outcome of the PUC rate case is that we will be mandated to add a surcharge to cover the legal expenses of the rate case.**

**Motion made, seconded, and unanimously approved to amend the Tariff to authorize the board or the Public Utility Commission of Texas to assess a surcharge. [Full modification, which was read to the members, is indicated in the content below.]**

**7. MANAGER’S REPORT**

**Joe read statement from George Burriss, system manager.**

- i. **CLARIFIER AND STORAGE TANK– Update on progress of plans related to clarifier and storage tank accommodating system growth.**

**The construction of the new storage tank is complete. After considerable delay, today we received the letter of approval from the Texas Commission on Environmental Quality. Many of the TCEQ engineers are still working from home under the Pandemic protocols, which has added to the delay. However, we now have permission to put our new tank in service. All of the controls are in place and the instruments which monitor the water level in the tank, as well as water quality, are tied into the computer which controls the operation of the plant. We can now start the process of changing over from the old tank to the new one. Also, the conversion of the old tank to a clarifier can begin.**

- ii. **ZEBRA MUSSEL MITIGATION. – Update on filtration system installation.**

**The zebra mussel project is moving forward. The machine which will remove the zebra mussels from the lake water has been placed on the barge and the piping which connects the strainer to the pump manifold has been completed. Now that the exact position of the strainer has been established, a galvanized steel pedestal is being constructed which will become the permanent support. The final step will be for the electrician to provide the power and control circuits. The timeline is dependent on the weather and the dock service man who provides crane, and welding service as well as transportation to the barge.**

- iii. **REPAIRS AND MAINTENANCE – Update on growing R&M activities, how WOWSC is handling.**

**We are developing a plan to accommodate new regulatory requirements as our water system expands to meet the accelerating growth to our community.**

8. TREASURER'S REPORT

- i. Review of January Financial Reports.

**The January financial report was not available.**

- ii. Review, discussion, and consideration of approval of 2023 Budget.

**Discussion about when we might exceed the 59 acre/ft. of raw water purchase from LCRA. No need to purchase until close to using it because there are costs involved for not using the water.**

**Motion made, seconded, and unanimously approved to accept the 2023 budget.**

- iii. Review, discussion and consideration of independent audit of 2022 financials.

**Motion made, seconded, and unanimously approved to perform an independent audit that at a minimum covers last year (2022).**

9. NEW BUSINESS – Discussion and appropriate action on agenda for next meeting.

**Discussion of committees to assist the board.**

10. NEXT MEETING – Set date, time and place for next meeting.

**Plan to have meeting in early March as required by our election procedures.**

11. Adjourn.

**Meeting adjourned at 7:53 PM**

Submitted by: Richard Schaefer

APPROVED BY WOWSC Board on \_\_\_\_ March 6, 2023 \_\_\_\_\_





# Windermere Oaks Water Supply Corporation

Committed to Providing Clean, Safe Water for All Our Residents

830-598-7511 or 855-400-0079

windmerewater@gmail.com

[Contact Us](#)

## WINDERMERE OAKS WATER SUPPLY CORPORATION

424 COVENTRY ROAD, SPICEWOOD, TX 78669

### NOTICE OF REGULAR BOARD MEETING

The Board of Directors of the Windermere Oaks Water Supply Corporation will meet

**Friday February 10, 2023 at 6:00 p.m.**

at the Spicewood Community Center, 7901 County Road 404, Spicewood, TX 78669

- 5) **DISCUSS PREVIOUSLY MEMBERSHIP QUESTIONS** – The Board will provide responses to questions previously asked at its January 10, 2023 meeting:
- a) The names of the insurance company and broker, costs of the insurance.
  - b) Status of insurance case and pending amounts that would be available to pay legal fees.
  - c) The amount of outstanding legal fees.
  - d) Board plan if Fifth Circuit overturns the current ruling that is favorable to WOWSC.

**Windermere Oaks WSC  
Summary of Income/Expense  
December 31, 2022**

Operating income	\$ 59,061.66
Repair and replacement reserve	(4,630.00)
Interest income	143.43
Expenses	<u>(60,937.42)</u>
Net Income/(Loss)	\$ (6,362.33)
Bank Account Balances	
Checking	\$ 37,092.65
MM+	68,718.23
- CoBank Loans Reserve	24,000.00
- Emergency Fund	75,000.00
Capital Expenditure Reserve	<u>41,982.58</u>
Total bank account balances	\$ 246,793.46
CoBank Loan	\$ 138,684.45
CoBank Loan - Refinance	177,207.98
CoBank Loan - Oct 2021	<u>288,758.04</u>
Total long-term debt	\$ 604,650.47
Amounts due to Attorneys:	
Lloyd Gosselink (RatePayers Protest)	\$ 306,296.76
Lloyd Gosselink (TOMA/48292 Litigation)	180,421.92
Lloyd Gosselink (General Counsel)	125,256.68
Enoch Kever (48292 Litigation)	30,807.53
Shidlofsky Law Firm (Insurance Filing)	-
	<u>\$ 642,782.89</u>

**INSURED:** Windermere Oaks Water Supply Corporation, The

**POLICY NUMBER:** 0100200805-0

<b>SURPLUS LINES AGENT:</b>	R-T Specialty, LLC Prudential Plaza, 180 N. Stetson Avenue, Suite 4600 Chicago, IL 60601 Surplus Lines Agent License ID 1624899
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**Guaranty Fund Nonparticipation Notice**

**“This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as surplus line coverage under the Texas insurance statutes. The Texas Department of Insurance does not audit the finances or review the solvency of the surplus lines insurer providing this coverage, and the insurer is not a member of the property and casualty insurance guaranty association created under Chapter 462, Insurance Code. Chapter 225, Insurance Code, requires payment of a 4.85% percent tax on gross premium.**

<b>Gross Premium:</b>	<b>\$</b>	6,250.00
<b>Inspection Fee:</b>	<b>\$</b>	N/A
<b>Policy Fee:</b>	<b>\$</b>	650.00
<b>Premium Tax:</b>	<b>\$</b>	334.65
<b>Stamping Fee:</b>	<b>\$</b>	5.18
<b>TOTAL:</b>	<b>\$</b>	7,239.83

This Face Page attaches to and becomes a part of the following policy:

Insured: Windermere Oaks Water Supply Corporation

Policy #: 0100204882-0

Effective Date: 8/31/2022

Date Policy/Endorsement Received:

Zip Code of Risk Location: 78669

THIS INSURANCE CONTRACT IS WITH AN INSURER NOT LICENSED TO TRANSACT INSURANCE IN THIS STATE AND IS ISSUED AND DELIVERED AS SURPLUS LINE COVERAGE UNDER THE TEXAS INSURANCE STATUTES. THE TEXAS DEPARTMENT OF INSURANCE DOES NOT AUDIT THE FINANCES OR REVIEW THE SOLVENCY OF THE SURPLUS LINES INSURER PROVIDING THIS COVERAGE, AND THE INSURER IS NOT A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION CREATED UNDER CHAPTER 462, INSURANCE CODE. CHAPTER 225, INSURANCE CODE, REQUIRES PAYMENT OF A 4.85 PERCENT TAX ON GROSS PREMIUM.

Rev. 4/1/09

Name and Address of Insurer:

Kinsale Insurance Company

Name and Address of Surplus Lines Agent:

RSG Specialty, LLC

180 N. Stetson Avenue, Suite 4600

Chicago, IL 60601

Premium:	\$7,500.00
TRIA Premium:	REJECTED
Fees:	Brokerage Fee \$500.00 Policy Fee - Carrier \$350.00
Surplus Lines Tax:	\$404.98
Stamping Fee:	\$6.26
Total:	\$8,761.24

**INSURED:** Windermere Oaks Water Supply Corporation, The

**POLICY NUMBER:** C-4LPY-048127-CYBER-2022

<b>SURPLUS LINES AGENT:</b>	R-T Specialty, LLC Prudential Plaza, 180 N. Stetson Avenue, Suite 4600 Chicago, IL 60601 Surplus Lines Agent License ID 1624899
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<b>Gross Premium:</b>	\$ 1,498.00
<b>Inspection Fee:</b>	\$ N/A
<b>Policy Fee:</b>	\$ 100.00
<b>Premium Tax:</b>	\$ 77.50
<b>Stamping Fee:</b>	\$ 1.20
<b>TOTAL:</b>	\$ 1,676.70



**PREMIUM NOTICE**

Insured: The Windermere Oaks Water Supply Corporation  
Date: 9/1/2022  
Producer: HIGGINBOTHAM INSURANCE AGENCY INC  
Company: Continental Casualty Company

**THIS NOTICE IS TO BE ATTACHED TO AND FORM A PART OF THE POLICY REFERENCED BELOW.**

Policy Number: 652459856  
**Policy Period:** From 08/31/2022 to 08/31/2025

<b>PRODUCT</b>	<b>EFFECTIVE DATE</b>	<b>PREMIUM</b>
Epack 3	08/31/2022	\$3,096.00

\* The amount displayed includes taxes and fees, and surcharges (if applicable).

<b>TOTAL POLICY PREMIUM</b>	\$3,096.00
<b>TOTAL INSTALLMENT PREMIUM</b>	\$1,032.00







3060 South Church Street, P.O. Box 286  
Burlington, North Carolina 27216  
(Local) 336-584-8892  
(Toll-Free) 800-334-5579  
(FAX) 336-584-8880  
(Claims FAX) 336-538-0094  
CA License# 0778135

Thursday, October 6, 2022

To: Marilyn Randazzo 4215750  
From: Mike Nguyen TWFG- BR058 - Randazzo Insurance  
Extension 8543 1201 Lake Woodlands Drive  
mnguyen@gotapco.com Ste 4020  
The Woodlands, TX 77380  
Applicant: The Windermere Oaks Water Supply Company Quote ID: **TKCYK**

We are pleased to offer the following quote through: Scottsdale Insurance Company

**Property:**

**Location 1: 424 Coventry Rd, Spicewood, TX 78669**

\$ 74,623 Building Valuation: RCV

\$ 5,000 Contents Valuation: RCV

Coverage Form: Special Excluding Theft

Coinsurance: 80%

Wind & Hail Coverage: Included

Wind & Hail Deductible: 1% subject to a minimum of \$5,000; whichever is greater.

All Other Perils Deductible: \$1,000

\$ 1,038,495 Building Valuation: RCV

\$ 5,000 Contents Valuation: RCV

Coverage Form: Special Excluding Theft

Coinsurance: 80%

Wind & Hail Coverage: Included

Wind & Hail Deductible: 1% subject to a minimum of \$10,435; whichever is greater.

All Other Perils Deductible: \$1,000

\$ 252,683 Building Valuation: RCV

Coverage Form: Special Excluding Theft



Document ID: 8RE1KRN8XLA9PM0PYJ83MSAVEDEEMM63WAKD4XSRJB0

Coinsurance: 80%

Wind & Hail Coverage: Included

Wind & Hail Deductible: 1% subject to a minimum of \$5,000; whichever is greater.

All Other Perils Deductible: \$1,000

Property: \$27,165.08  
\*\*\*Agency Fee: \$2,400  
Downpayment: \$10,000 (Agency Fee Included)  
Monthly Payment: \$2,057.42

*Joe Jimenez*

Oct 20 2022 18:14 CDT

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

WINDERMERE OAKS WATER	§	
SUPPLY CORPORATION, DANA	§	
MARTIN, WILLIAM EARNEST,	§	
THOMAS MICHAEL MADDEN,	§	No. A-21-CV-00258-RP
ROBERT MEBANE, PATRICK	§	
MULLIGAN, JOE GIMENEZ,	§	
DAVID BERTINO, MIKE	§	
NELSON, DOROTHY TAYLOR,	§	
NORMAN MORSE,	§	
<i>Plaintiffs</i>	§	
	§	
v.	§	
	§	
ALLIED WORLD SPECIALTY	§	
INSURANCE COMPANY,	§	
<i>Defendant</i>	§	

**REPORT AND RECOMMENDATION**  
**OF THE UNITED STATES MAGISTRATE JUDGE**

TO: THE HONORABLE ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE

#### D. Prompt Payment of Claims Act Violation

Plaintiffs move for summary judgment under the Prompt Payment of Claims Act, arguing that Allied's wrongful denial of coverage entitles them to "an 18% penalty on defense fees and expenses, as well as attorneys' fees incurred in prosecuting this claim." Dkt. 11, at 28-29. Under the Prompt Payment of Claims Act contained in Chapter 542 of the Texas Insurance Code, an insurer who improperly denies payment for a claim under an insurance policy is "liable to pay the holder of the policy or the beneficiary making the claim under the policy, in addition to the amount of the claim, interest on the amount of the claim at the rate of 18 percent a year as damages, together with reasonable and necessary attorney's fees." Tex. Ins. Code § 542.060; *see also Pine Oak Builders, Inc. v. Great Am. Lloyds Ins. Co.*, 279 S.W.3d 650, 652 (Tex. 2009) (Prompt Payment of Claims Act applies to "insurer's breach of its duty to defend under a liability policy").

Allied maintains that the Prompt Payment of Claims Act does not apply here because it "has no obligation to pay Plaintiffs' defense costs," but does not dispute that the statute would apply to its failure to offer a defense to Plaintiffs in the

Underlying Lawsuit where no exclusion under the policy bars coverage under the POML coverage provision. Dkt. 12, at 30-31. Because Allied owes Plaintiffs a defense in the Underlying Lawsuit, and has to date improperly evaded its duty to defend under the policy, Allied is liable under the Prompt Payment of Claims Act. The undersigned will recommend that the District Court grant Plaintiffs' motion for summary judgment on its Prompt Payment of Claims Act claim, and deny Allied's motion for summary judgment in this regard.

**PROMPT PAYMENT CLAIMS IMPACT YEARLY**

	amount paid	Interest		
January	\$ 10,000	\$ 1,800		
February	\$ 10,000	\$ 1,650		
March	\$ 10,000	\$ 1,500		
April	\$ 10,000	\$ 1,350		
May	\$ 10,000	\$ 1,200		
June	\$ 10,000	\$ 1,050		
July	\$ 10,000	\$ 900		
August	\$ 10,000	\$ 750		
September	\$ 10,000	\$ 600		
October	\$ 10,000	\$ 450		
November	\$ 10,000	\$ 300		
December	\$ 10,000	\$ 150		
	\$ 120,000	\$ 11,700	\$ 131,700	
			X 3 years	
			\$ 395,100	

**PLUS SHIDLOFSKY FEES**

~\$75,000

**~ \$470,000**

Amounts due to Attorneys:	
Lloyd Gosselink (RatePayers Protest)	\$ 306,296.76
Lloyd Gosselink (TOMA/48292 Litigation)	180,421.92
Lloyd Gosselink (General Counsel)	125,256.68
Enoch Kever (48292 Litigation)	30,807.53
Shidlofsky Law Firm (Insurance Filing)	-
	<u>\$ 642,782.89</u>

6) DISCUSS AND POSSIBLY ACT TO AMEND THE CORPORATION'S TARIFF TO AUTHORIZE THE BOARD OR THE PUBLIC UTILITY COMMISSION OF TEXAS TO ASSESS A SURCHARGE.

## PUC RATEPAYERS PROTEST SURCHARGE

Amounts due to Attorneys:	
Lloyd Gosselink (RatePayers Protest)	\$ 306,296.76
Lloyd Gosselink (TOMA/48292 Litigation)	180,421.92
Lloyd Gosselink (General Counsel)	125,256.68
Enoch Kever (48292 Litigation)	30,807.53
Shidlofsky Law Firm (Insurance Filing)	-
	<u>\$ 642,782.89</u>

<u>RatePayers protest</u>	\$306,296*
288 customers	\$1,063 per customer
42 months (3.5 Years)	\$25.32 per month
<u>Estimated RatePayers protest</u>	\$400,000*
288 customers	\$1,388 per customer
42 months (3.5 Years)	\$33.07 per month

# Resolution to Amend

Windermere Oaks Water Supply Corporation  
Tariff Amendment addressing surcharge authority

Section G. Rates and Service Fees

## 7. *Monthly Charges.*

a. **Base Rate** Also known as “Service Availability Charge”:

- (1) Water Service -The monthly charge for standard metered water service is for a 5/8” by 3/4” meter.

Water Service: Base Rate/Water Service Availability Charge: **\$90.39.**

- (2) Sewer Service - The monthly charge for standard sewer service on a per tap basis is as follows: Sewer Service: Base Rate/Sewer Service Availability Charge: **\$66.41.**

**(3) Surcharge: The Board may authorize a monthly Surcharge(s) to recover expenses not otherwise contemplated by this subsection. Any such Surcharge shall be assessed against every customer in an amount ordered by the Public Utility Commission of Texas or by Board action. No Surcharge shall be assessed until authorized by the Board, and incorporated into this Tariff.**