

**Minutes of Special Meeting of the Board of Commissioners
East Sevier County Utility District
Thursday, August 13, 2026**

A special meeting of the Board of Commissioners of the East Sevier County Utility District ("the District"), was held at the Sevierville Civic Center, 200 Gary R. Wade Boulevard, Sevierville, Tennessee 37862 on Thursday, August 13, 2026, at 5:00 p.m., for the purpose of discussing the District's decentralized sewer systems and to consider a draft contract with Avail Environmental/Innovative Wastewater Solutions with respect to said decentralized sewer systems. Commissioners present were President Lisa Hawthorne, Secretary/Treasurer Louie Fromm, and Commissioner Dan Barnett. Others present were Tim Ham of Tennessee Utility Assistance, LLC ("TUA"), Karen Spence, District employee, and Gavin Smelcer of Owings, Wilson & Coleman, General Counsel for the District.

President Hawthorne called the meeting to order at 5:05 p.m.

Roll Call

President Hawthorne declared a quorum.

Announcements

General Manager Ham announced that Nathaniel Allsup and Adam Hale had taken new jobs/positions and would no longer be working with the District.

New Business

- Consideration of Contract with Avail Environmental/Innovative Wastewater Solutions re: the District's decentralized sewer systems.

General Manager Ham reported that the District does not have the capacity or funding necessary to operate and manage the District's twelve decentralized sewer systems; the aging systems require increasingly more attention and funds to manage, which prevents the District from focusing its resources and funds on English Mountain. Attempts to raise funds and apply for grants has not been fruitful.

General Manager Ham discussed who Avail Environmental/Innovative Wastewater Solutions is: a private utility company (Innovative Wastewater Solutions is wholly owned by Avail Environmental) which companies are owned by a UT professor (Dr. Buchanan) and fully licensed and permitted to operate and manage decentralized sewer systems.

General Manager Ham mentioned that the decentralized systems cannot simply be sold because Avail Environmental/Innovative Wastewater Solutions cannot buy the systems while violations exist with respect to the systems. General Manager Ham nevertheless has worked with Avail Environmental/Innovative Wastewater Solutions to come up with a deal for them to manage and operate the systems and

bring them into compliance, after which Avail Environmental/Innovative Wastewater Solutions will have the exclusive option to purchase the systems.

General Manager Ham advised that the For by Grace I, For by Grace II, Amazing Grace, and the Preserve decentralized systems should not be included in the contract for reasons discussed below.

The District's general counsel, Gavin Smelcer, reported that he had reviewed the contract and, although a few legal provisions were not ideal (indemnity, choice of venue, no termination for convenience provision), given the District's need for the contract, general counsel did not recommend any changes to the contract.

General Manager Ham also reported that TAUD's attorney, Don Scholes, had also reviewed the contract and did not recommend any changes to the contract, but noted a few important provisions of the contract which General Manager Ham read aloud to the Board:

- One of the purposes of the Agreement is to give the Manager and Contractor the ability to acquire the decentralized systems once they have been rehabilitated. This includes that ESCUD cannot elect to retain a system even if it wants to once a system has been rehabilitated if the Manager and Contractor want to own and operate it. Section 13.4
- Manager does not guarantee any system will operate without interruption or achieve regulatory compliance. The Agreement limits the Manager's role to performing the Management Services described in the Agreement and any additional work separately authorized by ESCUD. Section 4.3
- Except for Emergency Work as defined, all excluded services listed in Section 5.1 will require written Work Orders. Section 5.2
- An adjustment to the monthly management fee can be requested if there are material changes to any of the systems as described in Section 6.7.
- ESCUD cannot perform work on the systems or authorize work to be done without the Manager's approval unless such work requires immediate attention to prevent imminent harm. Sections 9.5 and 9.6
- ESCUD is obligated to provide all of the records it has on permits, ownership, and legal authority to operate the systems. The Agreement recognizes that currently ESCUD may have incomplete records but provides the Manager is not responsible for the inaccuracy or absence of such records. Sections 9.7 and 9.10
- Regulatory changes for the system or regulatory compliance which materially increases the cost or staffing of performance will require an equitable adjustment in the monthly management fee. Section 11.7

- ESCUD represents the systems or real property on which systems are used have no liens unless they are disclosed to Manager. Section 15.2
- ESCUD agrees to indemnify the Manager for the claims listed in Section 16.1.
- Manager and Contractor are only obligated to indemnify ESCUD for claims arising from their gross negligence or willful misconduct. No indemnity is provided for acts of simple negligence. Section 16.2
- The liability of the Manager and Contractor for breach of the agreement is limited to "the amounts actually paid to the applicable Party under this Agreement during the three (3) months preceding the event" giving rise to the claim. This cap does not apply to claims arising from their gross negligence or willful misconduct. Section 17.2
- Manager and Contractor are not liable for denial, delay, revocation of permits, regulatory approval, or other government authorizations. Section 17.3

The Board had significant discussion with general counsel and General Manager Ham regarding the provisions of the contract; Commissioner Barnett stated that he would prefer 17.2 regarding cap on liability to be revised to allow ESCUD recourse for damages, suggesting the provision be capped at Avail Environmental/Innovative Wastewater Solutions' insurance policy limits.

Commissioner Barnett made a motion to approve the contract with Avail Environmental/Innovative Wastewater Solutions subject to general counsel making an effort to revise Section 17.2 to cap Avail Environmental/Innovative Wastewater Solutions' liability in the amount of its insurance policy limits, and to authorize General Manager Ham to sign the contract on behalf of the District. Commissioner Fromm seconded the motion, and it was carried unanimously.

- The District's Other Decentralized Sewer Systems (For by Grace I, For by Grace II, and Amazing Grace)

General Manager Ham reported that he had consulted with the District's general counsel regarding the legality of whether the District could sell the facilities and systems it owns at the District's off-site decentralized systems outside of the District's boundaries, and that general counsel had opined that this was possible.

General Manager Ham noted that the District is having issues with these decentralized systems and the developer at these systems (*e.g.*, systems not being built according to plan, systems not reviewed by appropriate authorities, *etc.*).

General Manager Ham further noted that the District cannot afford to operate and manage these systems while also trying to fix issues within the District's boundaries.

General Manager Ham reported that Limestone Utility was interested in purchasing these decentralized systems from the District, and that Limestone Utility was drawing up a purchase and sales contract to purchase these systems from the District. General Manager Ham wanted to know the Board's thoughts and whether the ESCUD Board wanted him to negotiate a contract with Limestone Utility. General Manager Ham noted that the sales price the parties were considering was one year's worth of the systems' revenue stream.

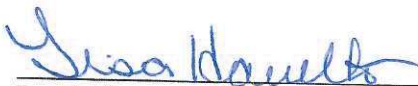
Commissioner Barnett moved to authorized General Manager Ham to negotiate a contract with Limestone Utility to sell the For by Grace I, For by Grace II, and Amazing Grace decentralized systems to Limestone Utility, subject to general counsel review and approval, and subject to a final agreement to be brought back before and approved by the Board.

Hearing from District Customers

There were no customers present to address the Board.

There being no further business, Commissioner Barnett moved to adjourn. The motion was seconded by Commissioner Fromm and carried. The meeting was adjourned at 6:45 p.m.

Respectfully submitted,



Louie Fromm, Secretary