

POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT
POSGCD District Offices
310 East Avenue C
Milano, TX 76556
October 3, 2017 – 5:30 p.m.

Minutes of Board Meeting

Directors Present

Sidney Youngblood
Steven Wise
Robert Ware
Durwood Tucker
Bob Wilson
Lee Alford
Jay Wilder
Nathan Ausley
Tommy Tietjen
Kerry Starnes

Directors Absent

None

Staff Present

Gary Westbrook
Bobby Bazan
Elaine Gerren
Megan Homeyer
Ralph Sifuentes

Others Present

Kodi Sawin
Steve Young
Barbara Boulware-Wells
Pat Reilly
Ross Cummings

Entity

Sawin Group
Intera
The Knight Law Firm
Blue Water Systems
Blue Water Systems

Shan Rutherford	Terrill & Waldrop
Dan Fisher	Self
James Bene	RW Harden
Majorie Turner	Burleson County Resident
A.J. Turner	Burleson County Resident
Pamela Neeley	Milam Co.
Judith McGearry	Farm & Ranch Freedom All.
Colleen Waring	Berry Hill Farm
Gabbo Goetsch	Land Owner
Becky Goetsch	Land Owner
Larry Faulkner	Milam County Resident
Bill Graham	Land Owner
Ronney Coleman	Land Owner
Larry Rose	Land Owner
David McLaren	Milam County
Bobby Walker, Jr.	Burleson County Land Owner
Calvin Whitely	Milam County Land Owner
Donna Lewis	Self
Joyce Conner	Milam County Land Owner
Mike Conner	Milam County Land Owner
Judy Martens	Snook Land Owner
Paul Terrill	Terrill & Waldrop
Amy Jurica Hinnant	Burleson County Land Owner
Linda Curtis	Independent Texans
Paul Fischer	Lee County
Fred Russell	
Mary Ann Russell	
Michelle Ganges	Simsboro Aquifer Defense

BOARD MEETING

1. Pledge of Allegiance

President Youngblood asked GM Westbrook to lead the meeting in the pledges to the flags of the United States and Texas, and he did so.

2. Invocation

President Youngblood asked GM Westbrook to offer an invocation, and he did so.

3. Call to Order and establish quorum

The meeting was called to order and a quorum established at 5:44 p.m. by Board President, Sidney Youngblood.

4. Public Comment

President Youngblood opened this item and stated that the Board would hear public comment from all parties that have signed up to speak. Public Comment was heard from John Giesenschlag, past Board Member, in support of the District stating that he still believes this District is the best avenue for protection of the groundwater in our counties. He thanked the Board Members for their service.

5. Minutes of September 5, 2017 Board Meeting

President Youngblood noted the meeting minutes were emailed to each Director. After discussion by the Board, a motion was made by Director Durwood Tucker to approve the meeting minutes. The motion was 2nd by Director Kerry Starnes. The motion passed unanimously.

6. Request for amendments to Groundwater Conservation Grant applications, awards, and contracts with the District

GM Gary Westbrook advised the Board that Cooks Point has stated they would be sending in an amendment for their grant. He stated he had not received it yet but expected by the end of the week. No action was taken

7. Board Policies

Barbara Boulware gave an overview of the Board Policy changes and stated that some of the changes made were so that the District could be more transparent. GM Gary Westbrook stated that if they are approved we would post them to the Website by Friday. A motion was made by Director Bob Wilson to approve the Board Policy changes. The motion was 2nd by Director Tommy Tietjen. The motion carried unanimously.

8. Board Investment Policies

After discussion by the board a motion was made by Tommy Tietjen to make the Board Investment Policy a stand-alone document. The motion was 2nd by director Jay wilder. The motion passed unanimously.

9. Amend 2017 Budget

GM Gary Westbrook presented proposed budget amendments, including a brief description of each. After discussion by the Board a motion was made by Director Nathan Ausley to Amend the 2017 Budget as presented. The motion was 2nd by director Kerry Starnes. The motion carried unanimously.

10. 2018 Budget Draft

GM Gary Westbrook presented the proposed 2018 Budget and advised the Board this proposed budget had been reviewed and discussed by the Advisory Committee. He noted that in order to comply with Board Policies, the 2018 proposed Budget would need to be posted for Hearing at the November 7, 2017 Board meeting. Mr. Westbrook discussed each line item of the proposed budget, and answered questions from the Board. After discussion by the board a motion was made by Director Lee Alford to post the 2018 proposed budget as presented to be set for hearing at the next board meeting. The motion was 2nd by Director Nathan Ausley. The motion carried unanimously.

11. Interlocal agreement with Milam County for District Monitoring Wells

The Interlocal Agreement with Milam County for potential monitoring well sites was presented to the Board. After discussion by the Board a motion was made by Tommy Teitjen to enter into the agreement for the potential monitoring well sites. The motion was 2nd by Director Bob Ware. The motion carried unanimously.

12. Advisory Committee Report

A. Board Member Dashboard

Megan Homeyer gave an overview of the Board Member Dashboard, as well as the new calendar feature which could be used by the public and is designed to make the District more transparent. After discussion and compliments to Miss Homeyer on her efforts, no action was taken

B. District Employee Health Insurance

GM Gary Westbrook advised the Board that Ralph Sifuentes had asked about obtaining insurance through the District. GM Gary Westbrook asked our Legal Counsel for clarification on this request. She stated that a call had been made to TML and she was waiting on a response. GM Gary Westbrook advised the Board if necessary this would be brought back at the next meeting. No action was taken.

13. Report from DFC Committee

President Youngblood reminded all in attendance of the importance of attending and being part of the meetings. He then asked Director Wise, chair of the DFC Committee, to give this report. Director Wise gave a summary of the earlier DFC Committee Meeting pertaining to the below items:

A. Draft Groundwater Well Assistance Program

Director Steven Wise stated more modifications were made at today's meeting, and the committee recommends to post the Draft GWAP for 90 day public comment, to be followed by a public hearing to adopt. A motion was made by Steven Wise to post the Draft GWAP for 90 day public comment and public hearing. The motion was 2nd by director Nathan Ausley. The motion passed unanimously.

B. Updates and Improvements to Well Monitoring Network

Bobby Bazan, Water Resource Manager reported that we now have 47 new wells, 2 new transducers have been added and he is working with a landowner to possibly re-enter some abandoned and plugged oil/gas wells to convert them into monitoring wells.

C. Protocols for collection of water level measurements.

GM Westbrook explained the process of considering protocols from different sources and providing comments to the Board. The intent is to have consistent protocols for water level collection across all GCDs in GMA 12.

D. Aquifer Recharge Projects in the District

Director Wise stated that Dan Tucker, a landowner in Burleson County presented to the committee information on his work of rainwater harvesting projects, as well as his interest in beginning aquifer recharge at his farm. He is looking to the District for technical assistance in navigating this with TCEQ.

E. Research topics relative to establishing and managing Desired Future Conditions

Director Wise briefly described the presentation given to the committee by Dr. Steve Young with Intera concerning this item.

14. Request by Vista Ridge for extension of Transport Permit POS-T-0001d as non-substantial change

President Sidney Youngblood opened this item with an explanation on how the Board would discuss this item during the meeting. He then gave a personal statement which he reminded should not be seen as guiding the Board in any way. He stated it was important to hear public interest and concerns on a permit of this magnitude and significance to constituents of Burleson and Milam Counties. He reminded everyone of the importance of following Board Policies and Rules, and there is a platform and protocol in place to provide processes which consistently drive the governance with which the Board has been tasked. He also reminded all in attendance of the importance of attendance at committee meetings where many issues are fully vetted, which includes an opportunity for the committees and Board to listen to everyone.

President Youngblood then stated that for him, this item begs the question of whether this is a substantive amendment in which a formal application should be filed, followed by a public hearing set by the Board prior to review by the Board at the next Board meeting scheduled for November 7, or is this a non-substantive amendment that can be administered by the General Manager? He then stated that everyone has the right to comment on this item, so do so.

He stated that we would have a brief timeline presented by GM Gary Westbrook, followed by comment from the District's Legal Counsel, and then comment from the Vista Ridge/Blue Water Counsel, followed by public comment.

A history of the Vista Ridge permit in question was presented by GM Westbrook. He discussed the timeline from the inception of the District until the present time, including all amendments to the existing permits. He noted the permit in question was issued in September, 2004. He also discussed the reason for the 30 year term of the transport permit and the 40 year term of the production permit. Mr. Westbrook then addressed the reason for the agenda item. He noted discussions with the applicant concerning this request, and stated he did not see this as a non-substantive request. He further stated in discussions with District General Counsel Barney Knight concerning this topic, Mr. Knight was in agreement with him. Mr. Westbrook also stated this agenda item was added after discussions with Board President Youngblood, consistent with any handling of a request from any other property rights holder in the District. The original agenda was posted Tuesday, September 26, with the amended agenda posted Thursday morning, September 28, and the amount of time provided was far in excess of the 72 hours prior to the October 3 meeting, as required by law. Therefore this request was brought to the Board by request of the applicant.

President Youngblood thanked GM Westbrook and asked for any public comment or correction. Michelle Ganges asked that the previous Board action from September 2014 of a tie vote on extension be added to the timeline. No further comment was offered.

Barbara Boulware-Wells, legal counsel for the District then gave a brief overview of the letter which had been forwarded to the District, and then outlined the 3 options for action by the Board.

1) Determine the letter request as non-substantial which allows the General Manager to make the decision without a hearing; 2) Determine the letter request as being substantial which would require a

formal application to be filed by the applicant, which would then require the subject to be set for public hearing; or 3) Dispose of the item as having no merit, and take no action until an actual application has been submitted. She then reviewed the opinion previously written by District General Counsel Barney Knight. She also reviewed requirements of Chapter 36, Texas Water Code dealing with permits for transport of water.

Director Wise asked what would be substantive, and Ms. Boulware-Wells gave examples of substantive in this context.

Paul Terrill, legal counsel for Vista Ridge/Blue Water Systems then explained the request. Mr. Terrill stated that they are only asking for the transport permit to match the existing term limit set for their production permit which is 40 years. The current transport permit is for 30 years and it makes no sense to not allow them to increase the transport permit since they already have the 40 years on the production permit, and as previously stated, Chapter 36 prevents a District from discriminating against transport of groundwater outside of the boundaries of the District. He believes this is non-substantial and should be approved without a hearing. Mr. Terrill then pointed out the legislators who had signed the letter to the District concerning this item had all voted for the bill dealing with this issue during session.

President Youngblood inviting those who had signed up for Public comment on item 14 to give those comments at this time.

Andy Hovorak suggested that instead of increasing the transport permit length by 10 years the production permit should be reduced by 10 years to match the transport permit that they already have. He sees no reason to extend the permit length until we see what the water levels are when they start transporting the water.

Ronnie Coleman stated that he could not see the district increasing their transport permit by 33% at this time. He said he feels this is a substantial increase and that this is not a good decision for the landowners in the county. He stated that this should not be approved and to have a hearing, or that the decision should be held off until they get closer to their transport permit expiring. He also asked who would be protecting the aquifers in 17 years, and stated the water level in his 700 foot deep well had dropped to the point he had to have the pump dropped 60 feet.

Paul Fisher, Lee County Judge, stated he appreciated the work of the Board, and he believed we have to share the water. He that he felt it was good to let the people have a voice and to be heard. He suggested that a public hearing is the best way to be fully transparent and let the landowners have time to prepare. He also referenced letters from our State Representatives and stated that the 17 years remaining on their current permit is a long time off to be extending this now.

Judith McGeary said that she felt this is something that should be looked at closer to time for their current permit to expire. 17 years prior to expiration is too far ahead to grant this request. She quoted our Rule #'s 8.3 and 8.7 stating that non-substantial does not apply to transport permits. She said that Section 14.1 of the Rules requires a hearing. She discussed HB 2378 of this year's legislative session, and stated that transport permits will not automatically renew and she feels that this would require a hearing. She also stated, your duty is about conservation and orderly development of groundwater.

Michelle Gagnes, stated she is a Lee County landowner and Executive Director of the Simsboro Defense Fund. She also states that this item was added at the last minute after the agenda had already

been posted. She feels that they were not allowed enough time to prepare and feels that this should be posted for a hearing so that the public has a chance to comment. What this District is here for is to follow the process in place. The governor said in his veto that he does not want to hinder the public, but also does not want to hinder the Board's ability to monitor the aquifer and see changes.

Gabbo Goetsch stated that the expiration of this permit is 17 years away and thinks the District should wait until closer to expiration to look at this. He suggested to wait another 5 years and then look at it. He said we need the facts after the transport starts to make a decision.

Fred Russell stated that his topic was covered by Judith McGearry

Jeff Fraiser, Chief of Staff for Representative Terry Wilson's office conveyed that at the time the vote on the original bill was made transparency had not been discussed. He said the Governor in his Veto addressed transparency, and the legislature could have overturned the veto in special session, but it did not. He states the law should be honored as it is and the Governor's Veto should be respected.

Rebuttal from Paul Terrill with Vista Ridge/Blue Water Systems provided history on the timeline of events. He stated that this was brought to the Board in 2014 when the District was in their other office and it failed with a 5 to 5 vote. He does not understand what basis the District has to not grant this request. Mr. Terrill addressed comments from public, and added this is not a substantial amendment because it simply makes the project more cohesive. He noted this does not extend the period of time the groundwater is permitted to be produced, but simply to match the terms of the two permits. He further stated no one making comment had disputed any of the facts presented by the applicant. He also noted many landowners not present had also voiced their opinions by committing to the lease of their water rights. He then referenced the 2 letters that had been distributed at the board meeting from the Representatives and stated that Governor Abbott's Veto was the reason we were here tonight. He also noted a similar bill had been filed and passed through the House during special session but was not taken up in the Senate.

Comment was heard from the District's legal counsel reminding that there were three options the Board could consider for this item: 1.) Consider that the letter request is non-substantial and allow the General Manager to make the decision on this request. 2.) Consider the letter request substantial which would require a public hearing for this request, or 3.) Take no action as there is really no formal permit request to consider and until there is no action is required

President Youngblood asked the Board for discussion.

Director Nathan Ausley reminded President Youngblood he is abstaining from all comment, participation, and voting of item # 14.

A motion was made by Director Durwod Tucker to table this request indefinitely. The motion was 2nd by Director Lee Alford. President Youngblood stated he would accept this motion after the Board has a chance to discuss. The item was then opened for discussion. Director Wilder commented and asked about District Rule 8.7. Ms. Boulware-Wells answered with explanation of applicability of that Rule. Director Wise noted he believed this request to be substantive, and added with 17 years remaining on the existing permit he did not see extension necessary. After further discussion, Ms. Boulware-Wells stated that she did not recommend voting on this item as moved.

President Youngblood stated this discussion and opportunity for public comment was important, and all input was appreciated, including that from legislators and a county judge, but with all due respect to all, make no mistake, it would be the 10 members of the Board who will make this decision.

After further discussion by the board Director Tucker amended his motion to state that this item not be considered at this time, the amendment to the motion was 2nd by Director Lee Alford. The item was opened for discussion. Director Steven Wise stated that he felt the item was still not presented as it should be and addressed Director Tucker suggesting that this item does not need to be tabled and suggested that the Board consider this item and decide at this meeting whether the request is substantive or non-substantive. Director Tucker withdrew his amended motion and Director Lee Alford withdrew his 2nd of the amended motion. After further discussion, a motion was made by Director Steven Wise to deem this letter request to be substantial. The motion was 2nd by Director Jay Wilder. President Youngblood asked for discussion of this motion.

Director Tommy Tietjen stated that the only thing we are trying to decide is whether the letter request is substantive or non-substantive and he thinks we should not consider this request at this time and we should wait till closer to the termination of the current transport permit. Director Robert Ware stated that Mr. Coleman brought up an interesting point when he stated that we should wait to see what the impacts on the aquifer are when the pumping actually starts. Director Bob Wilson ask the District legal counsel for clarification stating this is not a legal request? Ms. Boulware-Wells makes clarification of Director Wilson's question stating, no this is not a legal request, it is just a letter. No actual permit application has been filed. Director Jay Wilder states that according to our Rule 8.7 this request does not follow our Rules. Director Steven Wise agrees and states that this is an administrative issue and would need an application and a hearing to be considered. President Sidney Youngblood asked for a call on the Vote. The vote is as follows:

Nathan Ausley – Abstaining from vote

Director Durwood Tucker – Yea

Director Kerry Starnes – Yea

Director Robert Ware – Yea

Director Steven Wise – Yea

Director Sidney Youngblood – Yea

Director Tommy Tietjen – Yea

Director Bob Wilson – Yea

Director Lee Alford – Yea

Director Jay Wilder – Yea

The motion passed 9-0 with Director Nathan Ausley abstaining to vote

President Sidney Youngblood gave a 10 minute break at 8:13

The Board meeting reconvened at 8:23

15. Report from Rules Committee-Draft District Management Plan

GM Gary Westbrook provided an update on the draft management plan. He noted the plan had been submitted to the Texas Water Development Board, and they had not responded with any comments to date. He asked the Board to allow staff and consultants to allow any non-substantive changes that need to be made to the plan to be able to set the plan for Hearing. A motion was made by Director Nathan Ausley to allow for any non-substantive changes which might need to be made. Director Jay Wilder 2nd the motion. The motion carried unanimously.

16. Report from Building Committee-Compliance with Architectural Barriers Inspection

GM Gary Westbrook reported that he hoped to have all issues addressed by the end of October so that he could sign off on all issues and file a completed report. The water fountain is on order and will be installed as soon as it is received. The counter tops have been lowered as well as the thermostats, signage, and the mirrors in the bathrooms.

17. Megan's Minute – Report from Education Coordinator

Megan Homeyer gave the Board a review of projects that she is currently working on and an overview of the Social Media progress.

A. Local Water Utilities Workshop of September 26, 2017

Megan advised the board that this was a success with more than 30 representatives of our local water utilities in participation, and we received very good feedback from all.

B. Rainwater Harvesting Education Classes of October 10, 2017

Megan advised the Board that we currently have 41 people signed up and the class has been set for a maximum of 40 participants. She stated that the response was so great that another class has been scheduled for December 2nd, 2017.

C. Earthkind Water Conservation Workshop of November 6, 2017

Megan advised the board that this will be at the District Offices and that we have 15 participants registered at this time.

D. District newsletter

Megan advised the Board that the quarterly newsletter had been mailed out.

E. Future Public Education Outreach

Megan advised the Board that she and Gary will be doing a presentation at the annual Texas Farm Bureau meeting for Burleson County on October 10th.

Megan also gave a summary of recent social media success of the District.

18. Joint Planning process and Desired Future Conditions (DFC's), groundwater resources in the District, and future process for evaluating District DFC's for Groundwater Management Area 12 (GMA 12) and Groundwater Management Area 8 (GMA8)

GM Gary Westbrook reported no new update for GMA 8, and GMA 12 had re-submitted its DFCs and Explanatory Report after comments received from TWDB on the first submission.

19. Receive report from District Manager on recent District activities and take appropriate actions.

A. Permit applications filed with the District and Hearing Dates; Emergency Permits Granted

No permit received that required hearings.

B. Well Drilling activities: registrations, applications, completions, plugging, inspections

11 Wells registered, 1 new well applications, 10 Completed Wells, 1 wells plugged, 3 well inspections

C. Recent and future District presentations and activities

1. Groundwater Conservation Districts Leadership Training hosted by the Texas Alliance of Groundwater Districts

GM Westbrook reported on these training sessions TAGD would be holding around the state in October and November.

2. Asset Retirement

GM Westbrook reported gray cloth chairs from the conference room and an aged computer desk were donated to Milano ISD and therefore were retired.

3. Texas Water Conservation Association meeting of October 18-20, 2017

GM Westbrook stated that he would attend this meeting.

20. Bills received, current financial status, Investment Officer Report.

After discussion, a motion was made by Director Jay Wilder to pay the list of bills. The motion was 2nd by Direct Director Nathan Ausley. The motion carried unanimously.

21. Dates, locations, and times of future meetings.

President Youngblood stated the next regular Board Meeting would be November 7, 2017 at the District Office at 5:30

22. Adjourn Board Meeting

The meeting was adjourned at 8:41 pm

THE ABOVE MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF THE POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT HELD ON OCTOBER 3, 2017 WERE APPROVED AND ADOPTED BY THAT BOARD ON NOVEMBER 7, 2017.

Sidney Youngblood, President

Attest:

Tommy Tietjen, Secretary/Treasurer

Date_____