

**POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT
Public Hearings & Board of Directors Meeting
POSGCD District Offices
310 East Avenue C
Milano, TX 76556
March 8, 2022 – 5:30 p.m.**

MINUTES

POSGCD Board Members Present

Sidney Youngblood
Steven Wise
Becky Goetsch
Ward Roddam
Bob Wilson
Tommy Tietjen
Ed Savage

Board Members Absent

Lee Alford
Jay Wilder
Dana McClaren

POSGCD Staff Present

Gary Westbrook
Doug Box
Courtney Gentry
Bobby Bazan (online)
Craig Andrews (online)
Jeff Fisher (online)

POSGCD Consultants

Barbara Boulware-Wells
Steve Young

The Knight Law Firm
Intera

Public Attendance

Dan Fischer
Robert Mace
Nathan Ausley
Shan Rutherford

Land Owner
The Meadows Center
Land Owner
Terrill & Waldrop

Public Attendance via online

Amy Jurica

Blaire Parker

Stefan Schuster

SAWS

EPCOR

Board Meeting

1. Pledge of Allegiance

Ward Roddam led the pledges to the flags of the United States and Texas

2. Invocation

Steven Wise gave the invocation.

3. Call to Order and establish quorum

Board President Sidney Youngblood called the meeting to order at 5:37 p.m. and noted that seven directors were present in person.

4. Public Comment

No public comments offered by anyone attending in person or online.

5. Public Hearings on Rules: Section 7.1, General Permit and Registration Provisions; Section 15, Investigations and Enforcement

The Board welcomed Shan Rutherford to make comment on agenda item #5. Mr. Rutherford wanted to offer comment on the new 15.3 amendment proposal on behalf of permittees Blue Water Vista Ridge and Blue Water 130 Project. He stated that the proposal does not specify what circumstances would cause a hearing to be convened. He is concerned about additional amendments where the Board can elect on its own without parameters specified in the Rules to potentially modify, suspend, or revoke a permit. Mr. Rutherford is concerned the Board will have too much discretion and states that the Rule is vague as written. He expressed concerns that this Rule amendment will ultimately violate private property rights. He does not feel like the rule clarifies what circumstances might be, when a hearing might be called and what actions might be taken. He is concerned about process in which this amendment was handled. Mr. Rutherford states he did not see a draft of the proposed Rule posted until a week ago. Chapter 36 requires posting of a proposed Rule at least 20 days before a Hearing and to be posted at the same time as posting of the Public Notice. Mr. Rutherford urges the Board to consider issues that could be raised.

GM Westbrook states these amendments to these Rules have been covered in previous committee meetings. GM Westbrook confirms that Mr. Rutherford is

correct in his statement that the actual Rules amendment proposal was not posted in same spot as the Public Notice. GM Westbrook asked Barbara Boulware-Wells if she has a recommendation. This will be discussed further when at the Regular Agenda item. Mrs. Boulware-Wells stated she did not have any comments for the Public Hearing.

GM Westbrook states that section 7.1 was pulled and there is no draft language for section 7.1 at this time.

Steve Young has no comment.

Board President Youngblood asks if there are any questions by Board Members during the Public Hearing section of the Board Meeting. No further discussion or comments were made. Mr. Youngblood closed the Public Hearing at 5:46 pm.

6. Consent Agenda

All of the following items on the Consent Agenda are considered to be self-explanatory by the Board and will be enacted with one motion. There will be no separate discussion of these items unless a Board Member requests.

- a) Minutes of February 15, 2022 Board Meeting**
- b) Bills received, current financial status, Investment Officer Report**
- c) Review of Recent Education Efforts and Activities**
- d) Water Well Monitoring Update: Number of wells and frequency of measurements**
- e) Receive report from General Manager on recent District activities and take appropriate actions**
 - 1. Permit applications files with the District and Hearing Dates; Emergency Permits Granted**
 - 2. Well Drilling activities: registrations, applications, completions, plugging, inspections**
 - 3. Groundwater Well Assistance Program (GWAP) Update: investigations and corrective actions taken**
 - 4. Recent and future District presentations and activities**
 - a. Participation on Groundwater Panel at Texas Land Trust Council of March 2-4, 2022**
 - b. Texas Water Conservation Association meeting of March 9-11, 2022**
 - c. 2022 Groundwater Conservation Grants published and due March 5, 2022**

After brief discussion, Tommy Tietjen moved to accept the consent agenda. The motion was seconded by Bob Wilson. The motion passed unanimously.

7. Regular Agenda

a) Discussion and possible action on Amending the Rules: Section 7.1, General Permit and Registration Provisions; Section 15, Investigations and Enforcement

GM Westbrook states a table was added to section 15.4 to include maximum amounts to each item in the table. 15.3 has additional language added that allows the District to have a Public Hearing and consider permits in question with violations.

Mrs. Boulware-Wells confirms the purpose of the amendments. She stated these amendments have been previously discussed before in committee meetings but final language was not posted a full 20 days before the Board Meeting and recommends that as a result, the Board puts this item on the next Board Meeting agenda. She recommends no voting during this meeting and tabling this item for the next Board Meeting. She does not want anyone to feel like they missed the opportunity to speak about these amendments.

Regarding Section 15.4.3, Steven Wise asks if minimum penalties shall be assessed in first and second violations. GM Westbrook clarifies the Rules are set up so that when he finds a violation, he will send an assessment of the violation. The permittee then has a right to appeal and ask the Board to waive any penalty. If the Board decides to have a Hearing, they can take actions. The first two penalties are administrative. The penalties for the first two offenses are per violation, and not per day. The Board has the opportunity to assess fines after the second violation.

Regarding Rule 15.4.1, Ward Roddam asks if timing is required for notices given. GM Westbrook states it is up to staff to discern and the general manager to carry out. The violation notice is to be sent by both regular mail and certified mail.

Mr. Youngblood asks Mrs. Boulware-Wells if the penalties are in any other location in the Rules. Mrs. Boulware-Wells states she has searched the Rules and did not find anything. She believes the Chairman of the Rules committee has been very diligent.

Mr. Youngblood asks for a motion to table action on amendments to the Rules until the next Board Meeting. Ward Roddam moves to accept and is seconded by Mr. Savage. The motion passed unanimously.

Mr. Rutherford asks to make one more comment. He asks if a permittee feels like the violation was not correctly assessed and they appeal the permit, is that the hearing at which the permit can potentially be opened up? He is concerned that this will cause a chilling effect on a permittee's exercising of rights to express concerns with the District's decision.

b) Discussion of recommendations from DFC Committee

Mr. Wise asked GM Westbrook to cover the items discussed in the DFC Committee Meeting. Last fall, the DFC committee charged staff and consultants to flush out four of the issues raised in the Management Strategies Report. A full report on these items was brought back to the March 8, 2022, DFC Committee meeting. The items included in the report were DFCs and Compliance Based on Revised Analysis Methods, Boundaries for Management Zones associated with DFCs, Maximum Production Volumes based on permitted acreage, Comparison of compatibilities between DFCs and PDLs. Staff and consultants have been charged by Committee to continue evaluations and come back for a DFC workshop to further discuss reports and then a DFC Committee meeting will be scheduled to bring recommendations back to the Board.

The DFC Committee invited Dr. Robert Mace to address the Board with a brief summary of what he addressed the DFC Committee with regarding GMA 12 and joint planning in light of POSGCD and Brazos Valley GCD's differing views regarding known pumping being accounted for. Mr. Youngblood asks Dr. Mace what he believes is an achievable path to focus on as GMA 12 components in terms of the misunderstanding between Post Oak Savannah and Brazos Valley? Dr. Mace states he would recommend bringing attorneys together as it is a legal issue.

c) Update on Aquifer Conservancy Program enrollments and amendments to terms

Doug Box provided an update regarding the new terms added for the ACP program. 58 properties have upgraded to 50 years. This is 3,790 acres and 25 different property owners.

d) Interlocal Agreements with Milam and Burleson Counties

GM Westbrook states the Board approved the Interlocal Agreements. Milam County's has been executed and returned. The Burleson County Judge and Auditor asked for a few clarifications. GM Westbrook believes the clarifications are very minor but the Agreement will be returned to the Board if major changes are needed.

e) Texas Groundwater Summit of August 30 – September 1, 2022

GM Westbrook gives the dates and the location of San Antonio for the Texas Groundwater Summit. GM Westbrook encourages the Board Members to attend the Texas Groundwater Summit.

8. Executive Session – *Closed session in accordance with Texas Government Code, Section 551.071 (Advice of Counsel) and Section 551.072 (Real Estate), and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:*

a) Discussion concerning future needs of the District's property and/or buildings

GM Westbrook requested the Board table the Executive Session until the next Board Meeting on April 12.

9. Reconvene – *Reconvene into regular open session and consider action, if any, on items discussed in executive session*

The Board did not go into Executive Session.

10. Dates, locations, and times of future meetings

The next Board Meeting will be held on April 12, 2022.

11. Adjourn Board Meeting

The Board meeting was adjourned at 6:24 pm.

THE ABOVE MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF THE POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT HELD ON MARCH 8, 2022 WERE APPROVED AND ADOPTED BY THAT BOARD ON APRIL 12, 2022

Sidney Youngblood, President

Attest:

Gary Westbrook, Assistant Board Secretary
Date _____

DRAFT