

Hays Trinity Groundwater Conservation District, Hays County, Texas

CenterLake Business Park: 14101 Hwy 290 W. Bldg.100, Ste. #212,
Austin, Texas 78737
Mail: P. O. Box 1648; Dripping Springs, TX 78620
E-mail: manager@haysgroundwater.com
Phone: 512-858-9253
Fax: 512-858-2384 website: haysgroundwater.com

Minutes of Open Meeting of the Hays Trinity Groundwater Conservation District

A meeting of the Hays Trinity Groundwater Conservation District was held:
Thursday, February 19, 2008; Time: 8:30am
Place: Woodcreek City Hall
Located at: 41 Champions Circle, Wimberley, TX 78676

09:30am: Regular Meeting / Hearing Quorum Achieved. Jack Hollon had been held up at a Wimberley Water Supply Corp. meeting.

Present: Andrew H. Backus (President), Mark P. Hemingway (Secretary/Treasurer), Jack A. Hollon

Absent: Douglas A. Wieman (Vice President), Joe C. Day

The following subjects were considered for discussion and/or action at said meeting:

- **Consider approval of prior meeting Minutes:** Not discussed
- **General Manager's Report of Activities:** provided but Not discussed
- **Report from District Geologist, Alex S. Broun , P.G. 4845:** Not in attendance
- **Board & Staff Announcements:** MPH announced that he presented HTGCD Drought Information to DS City Hall on 2/10/09. DS Council Members inquired about status of Keller's property and the status of the lake and ponds.
- **Public Comments:** No comment
- **Report on GMA #9 Efforts towards establishing a "desired future condition" of the Trinity Aquifer:** Not discussed

09:30 a.m.: Board Hearing Opens and was digitally recorded. Listen to file for details.

10:00 a.m.: Board Hearing Closes

Following their Hearings, the Board considered and acted on the following non-exempt well production permits, with the following allocations and motion:

Hays Water Control & Improvement District #1 (Belterra)	75	Rooster Springs L.P. (4 Golf Course Wells @ Polo Club)	0
Howard Ranch (posted and postponed until April)	postponed	Cielo Azul Ranch	6
R. B. Hall's Dripping Springs Driving Range	2.7	Headwater of Barton Creek West	2.3
Wimberley Springs Partners	postponed	The Salt Lick	17
Whit Hanks - Creek Road Ranch	7.5	El Rancho Cima – Boy Scouts Ranch (2 yr permit/waived reporting)	2

10:03 Board Meeting Opens:

JAH makes a motion to: accept staff recommendation on permit allocations and conditions for eight permits above that were not 'postponed'. **MPH seconds the motion. MPH offers a friendly amendment to the motion following discussion:** To place a condition of permit for Rooster Springs, L.P. requiring: collection of WL data , water chemistry data, and well construction evaluation to identify any construction that may allow for comingling that would be addressed with an agreement to make corrective actions if comingling is identified. **JAH restates his motion with MPH's amendment, MPH seconds the revised motion. All in favor**

The Board will consider and act on the following:

- 1) **Adoption of Drought Management, Trigger, and Contingency Plan(s), following Hearing on February 19, 2009: MPH makes a motion to:** Adopt the Drought Plan presented on 12/16/08 and the secondary triggers as listed on the document. **JAH seconds the motion. All in favor.**
- 2) **Proposed legislation to be introduced in the 81st Legislature, Regular Session so that the HTGCD may at least achieve the full authority of Chapter 36 of the Texas Water Code:** Not discussed

3) **Review of pond and lake filling complaints received at HTGCD office:**

- MPH announced he presented to DS City Council HTGCD's position on Drought at the 2/10/09 City Council Meeting. DS City Council inquired about the status of the Keller Property and the lakes and ponds there.
- JAH read the definition of "Waste" under the HTGCD Rules putting particular emphasis on paragraph "E": Willfully or negligently ... allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, ... unless such discharge is authorized by permit, rule, or order issued by the Commission under Texas Water Code, Chapter 26, "Water Quality Control."
- JAH also pointed out HTGCD Rule 9: PROHIBITION AGAINST WASTE: Groundwater shall not be produced within the District in such a manner as to constitute waste. In the event of a conflict between "Beneficial Use" or "Beneficial Purpose" and "Waste," "Beneficial Use" or "Beneficial Purpose" shall be subordinate to "Waste."
- AHB stated that some developers are using water quality wet-ponds as a way to create an amenity feature in their development. By designing wet-ponds as water quality features they believe they are able to say they are "required" to keep the pond filled with water in order for it to perform its TCEQ approved water quality function. AHB made the point that their requirement to keep water in a pond does not obligate the HTGCD to grant them a permit for all or part of the water they may need, especially during times of drought. The ponds may be filled with surface water other forms of imported water and alternative water-quality technologies may be adopted.
- Winton Porterfield spoke on behalf of Sec. 1 Wimberley Springs regarding TCEQ and the Water Quality Pond and Hays County's involvement, he stated that his pond had been pre-approved as a wet-pond. AHB said the HTGCD needs to gather information on dry-impoundments that can perform the same water quality function as wet-ponds.
- AHB gave an overview of his and John L. Anderson's tour of the Keller property (former Browning Ranch now owned by Alfred Albert, LLC) and the Wildlife Tax Assessment they are applying for. AHB & JLA were escorted on the tour by Gary Keller, Dan Wheelus, attorney, and Mike Wilatt, water attorney. AHB and JLA were shown pumping equipment for lifting 200-acre feet per year of surface water from Onion Creek into the largest pond. Dan Wheelus acknowledge that Trinity wells located near the barn were used to fill the ponds around the main house. AHB said he handed a punch list of possible rule violations to Mr. Keller's attorney's and pointed out that so much water was not necessary to achieve a wildlife tax assessment.
- DRC handed out and read the definition of "Wildlife Management" from Tax Code – Section 23.51.
- AHB recommends sending a Notice of Violation to Keller on the basis of the prohibition of waste in the rules related to the use of groundwater to fill oversized ponds.
- MPH recommends inviting Keller to a Board Meeting to talk with the Board about his Wildlife Exemption status prior to issuing an NOV.
- AHB will have copies made of Gary Keller (Alfred Albert, LLC.) Wild Life Tax Assessment Application filed with the Hays County Central Appraisal District by to the rest of the Board and Staff.
- DRC will invite County and TX Parks and Wildlife Dept. personnel to speak at our 3/12/09 Board Meeting, regarding Wildlife Exemptions.
- MPH recommended developing a letter with boiler plate language to spearhead Water Quality Pond issues prior to construction and recommending preferred technology for dry water quality impoundments.
- AHB recommends sending a letter to TCEQ regional office to let them know that the HTGCD prefers the use of dry impoundment water quality technology.
- Winton Porterfield recommended we address the Water Quality Pond issue at the County level first since they are generally the first point of contact for developers. plans have already been drawn by the time they get to TCEQ.

MPH made a motion: to send a letter of alleged violations to the:

Dunworth, Pickwell, and Leal pond owners, whom we have received complaints on.

JAH seconded the motion, All in favor.

4) **Review and processing of TCEQ notifications received at HTGCD office:**

- MPH recommended developing a letter with Boiler Plate Language to spearhead Water Quality Pond issues prior to construction.
- DRC will follow up with TCEQ and the City of Austin regarding speaking at our 3/12/09 Board Meeting.

Continuation of Hay Trinity GCD Minutes from February 19, 2009 Board Hearing/Meeting

5) **Review of Wildlife Exemption Requirements:**

- DRC handed out and read the "Wildlife Management Tax Code – Section 23.51. Definition
- AHB will provide a copy of Keller's Wild Life Exemption plan to the rest of the Board and to HTGCD management.

6) **May 9, 2009 HTGCD Election Date for Single Member District Position 2 and Single Member District Position 4:** Not discussed

11:35am Adjourn

Approved:



Andrew H. Backus, President

Attested:

Douglas A. Wierman, Vice President

Date:
