

**Hays Trinity Groundwater  
Conservation District,  
Hays County, Texas**

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**Minutes of Open Meeting of the Hays Trinity Groundwater Conservation District**

Thursday, April 23, 2009

Time: 8:30am

Place: Woodcreek City Hall

Located at: 41 Champions Circle, Wimberley, TX 78676

**8:53am: Regular Meeting Opens, a quorum was achieved.**

**Board Members in Attendance:** Andrew H. Backus (President), Jack A. Hollon, Joe C. Day

**Absent:** Douglas A. Wiernan (Vice President), Mark P. Hemingway (Secretary/Treasurer)

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

- **Consider approval of prior meeting Minutes:** None considered
- **General Manager's Report of Activities:** Not Given (See hand outs to include: Manager's report, budget, map info map.
- **Report from Staff Geologist, Wes Schumacher:** None given
- **Board & Staff Announcements:** No Announcements
- **Public Comments:**
  - **The following four speakers made statements encouraging the District to strive for full Chapter 36 authority and to not accept HB 4796 as written while complimenting the HTGCD on the tremendous amount of significant volunteer work that board members and supporters have accomplished despite inadequate funding.**
  - David Glenn, P.G., Wimberley, HTGCD Volunteer Advisory Group founder;
  - Charles O'Dell, Ph.D. economist, Dripping Springs ETJ, community activist;
  - Rob Baxter, Dripping Springs ETJ, President of the Friendship Alliance;
  - David Baker, Executive Director of the Wimberley Valley Watershed Association.
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- **Report on GMA #9 Efforts towards establishing a "desired future condition" of the Trinity Aquifer:** No Report

**Workshop Presentations and Discussions:**

- 9:00 a.m.** Chad Norris, Texas Parks & Wildlife, the "wild life property tax certification" approval process from the TP&W's perspective; Bottom line is that supplemental water is one of several considerations for Wildlife Property Tax Certification but we need to work with the Central Appraisal District to determine what constitutes supplemental water.
- 9:30 a.m.** David Venhuizen, P.E., water & waste-water infrastructure strategies: integrated, distributed management & reuse is the future;
- 10:00 a.m.** Robert Ruggiero, P.G., the use of Mining Visualization System (MVS) Software for 3D modeling and presentation of the District's geologic data for purposes of public education and groundwater modeling. Great stuff but costs money we don't currently have. He will probably be doing this work for the Blanco district that we may be able to join with in the future.

**Following the workshops these subjects will be considered for discussion and/or action:**

- 1) **Review of 2009 Budget;** Proposed Budget Hand outs available. Agenda item not discussed.
- 2) **Immediate and post legislative session staffing:** Not discussed
- 3) **Drought status:** Drought Trigger hand outs available. Agenda item not discussed.
- 4) **Progress report on dialogue with District opponents and possible compromise legislative suggestions resulting from dialogue:**
  - Feedback and dialogue from public comment, Scott Rhodes representing DSWSC, shared information from emails, calls, and office visits regarding points of contention within the previously submitted Draft Legislation:
    - Scott Rhodes comments:

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- District should have Well Spacing Requirements
  - Questions why PWS Companies are singled out
  - Exempt Wells should be taken into consideration
  - "District needs money but this is not the way to go about getting it"
  - To accept the HB 4796 "goes without principles"
  - "Reasonable to reject this proposed legislation with an alternative resolution"
- Other Recommendations include reviewing the following areas of previously proposed legislation:
- Eminent Domain within Chapter 36
  - Metering Requirements
  - Grandfathering of Wells
  - Taxation Limits
  - Entering Property
  - Tax Base and minimum percentages
  - 4 year terms
  - Fees

**1:53 p.m. Andrew H. Backus called the Board into executive session as allowed according to Section 551.071 of the Texas Open Meetings Act, for Consultations with Attorney Greg Ellis, via conference call to:**

- (1) Seek the advice of its attorney about:
  - (A) Pending or contemplated litigation; or
  - (B) A settlement offer; or

(2) seek the advice of attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Section 551.071 of the Texas Open Meetings Act to discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

**2:49 p.m. Andrew H. Backus called the Board out of executive session and resumed the regular meeting.**

### **5) Resolution of support for HB 4796 and equivalent SB 2530 in the 81<sup>st</sup> Texas Legislature;**

Following Executive Session the board noted that the Hays Trinity Groundwater Conservation District works to conserve, preserve, recharge, and prevent the waste of groundwater within western Hays County. The district encompasses one of the fastest growing counties in the nation, sits on one of Texas' most depleted aquifers and the area has been designated as a Priority Groundwater Management Area by the Texas Commission of Environmental Quality. Current law does not adequately enable the district to carry out its mission.

The purpose of any legislation proposed on behalf of the HTGCD should be to update the enabling act for the District and provide the District with the full authority of Chapter 36 of the Texas Water Code so that the District may function like the majority of the other 90 groundwater conservation districts in the State. The current law places a number of limits on the District's authority that hinder their ability to achieve the purposes of the District. The funding is also inadequate to support necessary research and administrative functions for the District. To date the district has functioned largely on the voluntary efforts of licensed professional geoscientists and through non-recurring grant funding.

HB 4796 and equivalent SB 2530 do not facilitate the HTGCD in meeting the mandates for the District under State law. Legal counsel indicates that the flat fees proposed HB 4796 and SB 2530 are likely to be protested in court as taxation without voter approval and will not be collectable. Therefore, the HTGCD proposes a substitute bill identified as HTGCD Substitute Bill Version-11. The Version-11 bill would grant the District full Chapter 36 authority and also augment funding options.

Version-11 is the result of hours of Board deliberations, thousands of hours of volunteer time of professional experts on and off the board, meetings with stakeholders, county, regional and state officials and legal opinion. The HTGCD board has served the community with the highest degree of integrity, transparency and professionalism for more than 6-years. The Board believes version-11 is a good and necessary compromise that adequately addresses the objections to prior versions while still allowing the District to protect well owners and to meet the mandates established by State law.

The proposed bill authorizes the district to enter into contracts, collect information to participate in joint planning efforts with other groundwater conservations districts in the management area of the district, and prepare a budget, and conduct an audit in accordance with Chapter 36 of the Water Code. The bill revenue mechanisms will raise between \$250,000 to \$450,000 annually, the low- to mid-range of necessary revenue according to the TWDB and other GCDs in the Hill Country. The bill changes the length of terms to be served by the directors from two to four years, allows vacancies to be filled by appointment of the board, provides for the election date for directors to be the uniform election date prescribed by the Election Code, and authorizes the fees of the district to be used to pay administrative and other expenses of the district. Certain provisions which allow the Hays County Commissioners Court to call an election to either affirm or reverse a decision of the directors of the district and to request that the county auditor audit the performance of the district are removed.

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JCD made a motion to not accept HB 4796 and equivalent SB 2530 offered and sponsored by Rep. Rose and Sen. Wentworth, respectively, and instead for the HTGCD to offer substitute bill language to be identified as HTGCD Bill Version-11 that encompasses the necessary changes mentioned above (and are summarized Section by Section below). JAH seconds the motion.

Following JAH's second and Section by Section discussion, the HTGCD Version-11 Substitute Bill, as summarized below, was voted for approval by all present.

**Summary of HTGCD Substitute Version-11 Bill:**

SECTION 1 Prohibits the district from entering property to inspect exempt wells except to review a proposed well site or during well construction. Requires that the District must provide reasonable notice to property owners or property managers prior to accessing property on District business. With full authority of Chapter 36 the District will have the authority to permit and meter single family residential wells and livestock and poultry wells on less than 10 acres. In recognition that this provision of Chapter 36 will cause some existing well owners to be concerned about this bill, this Section exempts wells that are completed prior to June 1, 2009 from metering and permitting requirements but allows the District to remove that exemption when the well is transferred to a new owner. Prohibits the District from using eminent domain. Limits any property tax to be approved by the voters on behalf of the District to 5 cents per \$100 valuation.

SECTION 2 Inserts a new Section 3.03055 to require the district to issue withdrawal permits based on the managed available groundwater established under Section 36.1072, Water Code.

SECTION 3 Changes the Director's term of office from 2 years to 4 years and removes provisions that only applied during the first years of operation and the prohibition on Director's fees.

SECTION 4 Removes the requirement to adjust Director district boundaries after each decennial census, but allows the Directors to make such adjustments when necessary. If boundary revision places a sitting Director outside of their original single-member district they are entitled to serve the remainder of their term.

SECTION 5 Changes the elections to the uniform election date in May of each even-numbered year, and allows the Directors to make necessary adjustments to Board membership and single-member districts after adding or subtracting District territory.

SECTION 6 Provides for the transition to four-year Director terms of office.

SECTION 7 Allows the District to charge and collect a \$400 (up from \$300) well construction fee for all new wells drilled within the District, a \$400 (up from \$300) new service tap fee for water utility customers connecting to water utilities delivering any groundwater, a \$125 (up from \$0) well transfer registration fee for transferring an existing well to a new owner, and a \$125 (up from \$0) new customer fee for water utilities transferring service to a new customer. Removes the provision prohibiting the District from holding a property tax election and from collecting fees authorized by Chapter 36, Water Code. (SECTION 1 Caps any property tax to be approved by voters on behalf of the District to 5-cents per \$100 valuation.) The variety of fees are necessary because ad valorem taxation may not ever be approved by the voters but the HTGCD still needs to fund its operations.

SECTION 8 Adds Hays Trinity GCD to the list of district authorized to charge certain production fees in Section 36.205(d), Water Code, agricultural water production fees are capped at (\$1 / 325,851 gal or \$1 / 1-acre-foot); permitted or non-exempt water use fees capped at (\$0.17 / 1,000 gal).

SECTION 9 Repeals provisions of the District's enabling act that are inconsistent with Chapter 36, Water Code.

SECTION 10 Makes certain legislative findings.

SECTION 11 Sets an immediate effective date if the bill receives the constitutionally required votes; else the effective date will be September 1, 2009.

2:59pm Adjourn

Approved By:  Andrew H. Backus, Board President

Attested By: \_\_\_\_\_, Douglas A. Wierman, Vice President; Date: \_\_\_\_\_