

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

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Minutes of Open Meeting and Hearing of the Hays Trinity Groundwater Conservation District

**Thursday, September 17, 2009
Place: Dripping Springs City Hall
Located at: 511 Mercer Street Dripping Springs, TX 78620**

5:05pm: Meeting Opens

Present:

Board Members: Douglas A. Wierman (President) (DAW), Jack A. Hollon (Secretary/Treasurer) (JAH), Greg F. Nesbitt (GFN)
Staff: Dana R. Carmean (DRC), Rick D. Broun (RDB), Wesley Schumacher (WS)
Counsel: Greg Ellis
5:08pm: David G. Baker (Vice President) (DGB) arrives

Absent:

Board Members: Andrew H. Backus (AHB)
Staff: Cathy J. Balch (CJB)

Board Hearing Items:

Non Exempt Well Owner Permit Hearings for:

- 1) **Dr. Ron White**
Hwy 290 W
Dripping Springs, TX 78620

The applicant did not appear at the Hearing.
Public Comment:

DGB makes a motion to:

- o Approve Permit for:
Management Recommendation of:
Two Year Permit
50,000 gallons per year
Require Quarterly Reporting for: Monthly Pumping Data and Water Level Readings

GFN seconds the motion.

The motion passed unanimously.

- 2) **Erik Howard (Howard Ranch)**
23255 FM 150 W
Driftwood, TX 78619

The applicant did appear at the Hearing.

The following spoke on behalf of the permit application:

Helen Gilbert (Howard Ranch Attorney) Filed pleadings requesting a continuance or a contested case Hearing.
Dan Rauscher, P.E. (Engineer for Howard Ranch)
Mark Key (Participant in the Building of Howard Ranch Subdivision)
Alan McCadden (Resident of Howard Ranch)
Jimmy Skipton (Clarification on "historical use")
Roger Kew (In a time of plenty more is available, but when in Drought everyone must do their part in conserving)

DGB clarifies the number of homes (15) and the request for 403.25 acre feet (enough for a 1,200 resident home subdivision)
Questions how the water is being used?

DAW indicates District has not adopted "historic use" and is currently utilizing a "reasonable use" theory for issuing permits.

GFN makes a motion to:

- o Issue a Continuance and instructs the HTGCD Staff and Counsel to work with the applicant to: prepare a schedule to resolve this issue by the January 2010 Board Hearing and present that schedule to the Board at the October 2009 Board Meeting.

DAW Seconds the motion

All in favor

3) **(Quicksand Golf Course in Woodcreek)**

Wimberley Springs Partners

2500 FM 2325

Wimberley, TX 78676

The applicant did appear at the Hearing.

The following spoke on behalf of the permit application:

Dorothy Knight (Community Affiliations)

Jimmy Skipton (Inquired about Board member, Andrew Backus' absence from the Board Meeting)

Mark Key (Inquired about the Ron White permit application)

Winton Porterfield, applicant, spoke to the following points:

Staff/Mgmt Meeting

Request and Granting of a Continuance

Prepared a packet for the hearing

Speakers present to speak on behalf of the Golf Course

18 hole Golf Course approved in the 1970's

Russell Johnson, attorney for Wimberley Springs Partners, recommended:

HTGCD Recognize maximum historical use

Work with the golf course during heavy rain years for more water and less during times of drought

Eric Eskelund, Mayor of Woodcreek,

Recommends keeping the current quantity of water use for the approved permit

Linda Lang makes a public comment regarding water use and the support of conservation.

DGB makes a motion to:

- o Issue a Continuance and instructs the HTGCD Staff and Counsel to work with the applicant to prepare a schedule to resolve this issue by the January 2010 Board Hearing and present that schedule to the Board at the October 2009 Board Meeting.

JAH Seconds the Motion.

All in favor

4) **Potential Amendment to Rule 9, Prohibition Against Waste**

Garrett Allen of Wimberley Water Supply requested clarification of the Rule and what constitutes "Accounted for and Unaccounted for loss?" Additionally, he wanted to know if 15% is maximum allowable Accounted for and unaccounted for loss. Board confirmed yes.

Jon Cobb spoke on community and common values and shared goals along with clarification of "beneficial use"

Mark Key spoke to the water loss rule creating too much paperwork for the District to manage.

DGB makes a motion to:

- o Approve Rule 9 as posted.

GFN seconds the motion.

All in favor.

Board Meeting Agenda Items to follow hearing:

Announcements/Reports/Public Comments

- **Consider approval of prior meeting Minutes:** 8/20/09 Draft Minutes provided to Board for review and approval.

- **General Manager's Report of Activities:** DRC provided:

- August Budget for review.

- Recommended Budget Hearing for amendment and 2010 Budget Adoption

- Manager's Report to include August Income, Well and PWs Connection Numbers

- Reported on Upcoming Meeting/Workshop Dates

- **Report from Staff Scientist, Wesley Schumacher:**

- Gave an overview of Folio Status

- Discussed Well Decline Map

- Presented Drought Triggers and Relativity of 2009 Drought with Historic Droughts

- Based on Drought Triggers:

HTGCD Board Continues to Declare Critical Drought

- **Board & Staff Announcements;**

- **Review of Board Meeting Protocol:**

- DAW provided an overview of Board Meeting/Hearing protocol prior to the meeting/hearing

- **General Public Comments:**

- Roger Kew, of Radiance Water Supply, gave an overview of his findings on Bear Creek

- Public comments made for each Hearing and Agenda item, reflected in recording and written notes.

The following subjects will be considered for discussion and/or action. Public Comment will be accepted for each agenda item.

5) Frank Leal Notice of Violation Review

**2100 Creek Road
Dripping Springs, TX 78620**

The landowner did not appear at the hearing.

Public Comment:

Melanie Cambon discussed "water wasting in the area and her efforts to educate Mr. Leal on the climate of the area." She said two neighboring wells around him have gone dry and she directly attributes his pond filling with groundwater to be the problem.

Mark Key inquired as to the District's role in permitting Agricultural Wells and vineyards.

Jimmy Skipton indicated his neighbor in Voca has a pond for his vineyard for freeze purposes, but that it was not necessary or appropriate for this region.

Based on no response to two written NOD's and one written NOV,

DGB makes a motion to:

Refer the matter to the District's General Counsel for further action to either settle the violations or file a civil suit seeking an injunction against further violations and civil penalties for prior violations.

JAH Seconds the Motion

DAW, DGB, and JAH in favor

GFN opposed

Motion passes.

6) Alfred Albert LLC – Browning Ranch Notice of Violation Review

**1601 Brownson Lane
Dripping Springs, TX 78620**

DAW announced, at the beginning of the Board Meeting/Hearing, that a continuance is issued on this agenda item.

7) Jon Cobb Notice of Violation Review

**31300 Ranch Road 12
Dripping Springs, TX 78620**

The landowner did appear at the hearing.

The following spoke on behalf of the agenda item:

Andy Barrett (Attorney for Jon Cobb) spoke re:

"Waste of Water"

Permit being needed

Current moratorium resolution and District not issuing permits

Only 68,000 gallons a week being used—less than an exempt well

Linda Clayman spoke on her reliance for well water and the impact on her of Jon Cobb's pumping all day.

Barbara Manseur of Barton Creek Ranch indicated three weeks ago, her ag well began to go dry, and she was pulling dirt and mud. She would like to see the District promote an alternative supply of water to Mr. Cobb and recommended Mr. Cobb invest in rainwater versus attorney fees.

William F. Smith (Dubb) lives 200 linear feet from the baseball fields and they have not impacted him, he states this is a good use land versus a development.

David Zwiegel of Barton Creek Ranch spoke to the need for water as a community. He identified since Mr. Cobb's water use, his well is going dry. He encouraged the HTGCD Board not to be intimidated by Mr. Cobb but to stand up for the community.

Jimmy Skipton indicated the lawyer and the Board created the problem with the "resolution" on permitting wells.

GFN inquires about a time frame for the "Resolution" 04242008

Greg Ellis, attorney for HTGCD, gave an overview on the DFC process.

DGB indicated "this is clearly a violation."

JAH addresses pumping groundwater into ponds and effect of evaporation rates.

DAW makes a motion to:

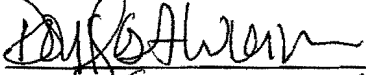
- o To Direct District Counsel and Staff to work with Mr. Cobb and Counsel, Andy Barrett, and to update the District Board at the October Board Meeting..

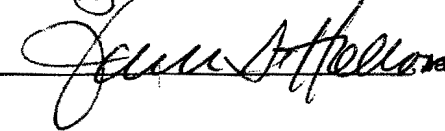
JAH seconds the motion.

All in favor.

9:12pm Adjourn

Recordings of this hearing are available at the Hays Trinity Groundwater Conservation District Office

Approved: , Douglas A. Wierman (President) 4/15, 2009

Attested: , Jack A. Hollon (Secretary/Treasurer) 4/15 2010, ~~2009~~