



Minutes for Meeting/Hearing of the Hays Trinity Groundwater Conservation District

Date: Thursday, June 23, 2011
Time: 3:00 pm
Place: Dripping Springs City Hall
Located: 511 Mercer Street, Dripping Springs, Texas 78620

3:00 pm: Regular Meeting Opens

Board Present: Jimmy Skipton-President, Greg Nesbitt-Vice President, Mark Key-Secretary/Treasurer, Joan Jemigan, & Edward Pope

Staff Present: Rick Broun-General Manager, Tressy Gumbert-Administrative Assistant, and Alex Broun-District Geologist, P.G. 4845

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

- **Board Roll Call:**
Rick Broun:
 - Roll Call was taken, a quorum was present
- **General Comments from Board & Staff:**
Mark Key:
 - Redistricting Committee met with Marty Munoz with the Hays County GIS department.
 - Committee is in process of re-drawing district lines to balance out population to approximately 7300 people per precinct.
- **Public Comments: Non-Agenda Items**
None provided

Agenda Items:

Discuss and possible action on:

4. **Well Registration Application for Jerry Fields – Joan Jemigan**
 - Application for Agricultural Well
 - Property is within Wimberley WSC's CCN

Joan Jemigan:

- Joan spoke with Mr. Fields who has agreed to lower production to 17gpm
- District received map and \$300 fee and the registration has been approved.

Al Broun

- There is nothing in the District Rules that prevent those within a CCN from drilling a well.

Public Comments: Non-Agenda Items
None provided

1. **Hiring a local attorney – Mark Key**

Mark Key:

- Hiring a local attorney will save on costs for attending meetings.
- Advised two potential candidates to submit their professional information to the district office.

Jimmy Skipton:

- Suggested that the District solicit bids from attorneys.

Motion

Mark Key: Allow Rick to start the RFP (Request for Proposal) process for hiring a local attorney.
Greg Nesbitt: Seconded motion

Public Comments:

Polly Johnson: Recommends sending out a RFQ (Request for Qualifications) instead of RFP

Motion

Mark Key: Retract 1st motion and make a motion to allow Rick to start the RFQ (Request for Qualifications) process for hiring a local attorney.

Greg Nesbitt: Seconded motion

Vote: 5-0 in Favor (Jimmy Skipton, Mark Key, Greg Nesbitt, Joan Jernigan, & Ed Pope)

2. Western Hays County Drought Conditions – Jimmy Skipton

- Stage 3 Reductions, 30%

Rick Broun:

- Prior to last week's rain fall we were 16 days away from next trigger.
- Recent rain put us a day above the trigger.
- Not going into stage 3 at this time.

Public Comments:

The following presented: Garrett Allen and John Cobb.

5. Education Video Budget – Joan Jernigan

- Joan presented proposed Video Budget and Agreement between the District and Gary Zupancic for Video creation.
- Length of video has been reduced from 30 minutes to 7 minutes.
- Cost for video production is \$12,875 less in-kind donation of \$2,000 for a total of \$10,875

Board:

Jimmy Skipton

- Figures submitted on handout are not consistent with amount being requested.

Mark Key

- Concerned why cost went from \$8000 to \$9500 and now \$10,875

Motion

Ed Pope: Table item until next board meeting.

Jimmy Skipton: Seconded motion

Vote: 5-0 in Favor (Jimmy Skipton, Mark Key, Greg Nesbitt, Joan Jernigan, and Ed Pope)

Public Comments:

None provided

3. Reviewing Notices of Violation – Mark Key

- Notice of Violation (NOV) issued to Browning Ranch and Jon Cobb have been on District's book since 2009.
- Feels that information presented at the hearing in September 2009 for these two cases proved they were not in violation.
- Mark recommends submitting apologies to Mr. Cobb and Browning Ranch and close book on the NOV's issued in 2009

Board:

Ed Pope

- Commented on providing material and history of agenda items to Board Members for review prior to meeting

Joan Jernigan

- Was not on the Board during the time the NOV's were issued does not feel she needs to extend an apology.

Motion

Greg Nesbit: To rescind legal action against Jon Cobb and Browning Ranch for NOVs.
Mark Key: Seconded motion

Public Comments:

The following presented: Jon Cobb and Andrew Backus

Motion

Jimmy Skipton: Amend Greg's motion to add "send letter of apology".
Greg Nesbitt: Amendment to Jimmy's amendment to add "issue public apology in news paper".
Greg Nesbitt: Rescind legal action for Cobb & Browning NOVs and place a public apology in same format as originally presented.
Mark Key: Seconded motion
Vote: 3-2 In favor (Jimmy Skipton, Greg Nesbitt, and Mark Key) Opposed (Joan Jemigan and Ed Pope)

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4:00 pm: Break

4:10 pm: Reconvene
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Public Comments prior to Pre-hearing Conference:

The following presented: Bill Davis and Andrew Backus

4:15 pm: Pre-Hearing Conference opens

Board to hear contested case submittals concerning renewal permit for:

A. Radiance WSC

- Contesting permit: Roberta Schoemaker-Beal, Lila McCall, Dorothy Knight, Jim McMeans, and Andrew Backus

Board:

Jimmy Skipton
o Called Roberta Schoemaker-Beal to front for swearing in. Roberta Shoemaker-Beal not present

Motion

Jimmy Skipton: Deny Roberta Schoemaker-Beal standing in the case against permit for Radiance.
Mark Key: Seconded motion
Vote: 5-0 All in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Board:

Jimmy Skipton
o Called Lila McCall to front for swearing in. Lila McCall not present

Motion

Jimmy Skipton: Deny Lila McCall standing in the case against permit for Radiance.
Greg Nesbitt: Seconded motion
Vote: 5-0 All in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Board:

Jimmy Skipton
o Called Dorothy Knight to front for swearing in. Dorothy Knight not present

Motion

Jimmy Skipton: Deny Dorothy Knight standing in the case against permit for Radiance.
Mark Key: Seconded motion
Vote: 5-0 All in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Board:

Jimmy Skipton
o Called Jim McMeans to front for swearing in. Jim McMeans not present

Motion

Jimmy Skipton: Deny Jim McMeans standing in the case against permit for Radiance.
Greg Nesbitt: Seconded motion
Vote: 5-0 All in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Board:

- Jimmy Skipton
- o Called Andrew Backus to front for swearing in.

Comments from Contested Case requestor Andrew Backus:

Andrew lives in the Goldenwood subdivision on Hidden Springs Lane. His well is approximately 950 feet from the Radiance well. He feels the water level of his well can potentially be affected by the Radiance well. Suggested that the District request Radiance to install a transducer in the Radiance well and pay to have a transducer installed in a neighboring well.

Board:

- Jimmy Skipton
- o Called Roger Kew (Radiance) to front for swearing in.
 - o Asked Roger if he objects to Andrew Backus having standing against the Radiance permit.

Comments from Roger Kew (Radiance Water Supply):

If the Radiance well was going to negatively impact Mr. Backus' well it would have already done so. Has no objections in allowing Mr. Backus standing. Will support any decision the Board makes.

Board:

- Greg Nesbitt
- o His understanding of District Rule 5.5F is, in order for someone to have a standing they must be affected differently than the general public.
- Mark Key
- o Radiance practices an ecologically friendly mind set.
 - o Presented the history of Radiance permits.
 - o The plat for Radiance existed when Mr. Backus purchased his property.
 - o If Mr. Backus felt his well was going to be affected why did he vote on previous permits instead of recusing himself?
- Ed Pope
- o Feels the Board needs more information to decide if someone has standing.
- Jimmy Skipton
- o Swore in Al Broun and asked him if he believes the Radiance well will have an adverse affect on Mr. Backus' well.

Comments from Al Broun (District Geologist):

Andrew's well is in the cone of depression however the other contested case requestors do not have technical standing.

Motion

Ed Pope: Allow Andrew Backus standing in the Radiance case.
Joan Jemigan: Seconded motion
Vote: 3-2 In-Favor (Jimmy Skipton, Joan Jemigan, and Ed Pope) Opposed (Greg Nesbitt and Mark Key)

Motion

Mark Key: Grant Radiance a temporary permit for 15 A.F. for the duration of the contested case.
Greg Nesbitt: Seconded motion
Vote: 4-1 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, and Joan Jemigan) Opposed (Ed Pope)

Board:

- Jimmy Skipton
- o If standing is granted and it does go to a contested case the cost would be split between the applicant, Radiance and the contested case requestor, Andrew Backus.
 - o The District is not funding the contested case.
 - o Presented a list of six hearing examiners: Kenneth Ramirez, Thomas Collins, Samuel Graham, Dean Kilgore, Patrick Keel, and Joseph Hart.

Motion

Jimmy Skipton: Roger Kew and Andrew Backus decide which one of the six hearing examiners to use.
Mark Key: Seconded motion
Vote: 5-0 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Motion

Jimmy Skipton: Roger Kew and Andrew Backus schedule meeting with one of the six hearing examiners within the next month or come back to the District Board with extension request.
Mark Key: Seconded motion

- Roger Kew
- o Requested that the time be extended to 60 days as he will be out of town from June 30 – August 1, 2011.

Motion

Ed Pope: Parties notify Board of scheduled hearing within next 60 days.
Mark Key: Seconded motion
Vote: 5-0 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Motion

Jimmy Skipton: The cost for hearing examiner and court cost associated with the hearing examiner be split equally between the applicant and contested case requestor.
Ed Pope: Seconded motion
Vote: 5-0 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

B. Goldenwood West WSC
Contesting permit: Jim McMeans

Board:

Jimmy Skipton
o Called Jim McMeans to front. Jim McMeans not present

Motion

Jimmy Skipton: Deny Jim McMeans standing in the case against permit for Goldenwood West.
Greg Nesbitt: Seconded motion
Vote: 5-0 All in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Motion

Jimmy Skipton: Approve Goldenwood West WSC permit for 3 years and 60 A.F.
Greg Nesbitt: Seconded motion
Vote: 4-1 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, and Ed Pope) Opposed (Joan Jemigan)

C. Interim-La Ventana LLC Renewal Permit
Contesting permit: Roberta Schoemaker-Beal, Jim McMeans, and Bill Davis

Board:

Jimmy Skipton
o Called Roberta Shoemaker-Beal to front. Roberta not present

Motion

Jimmy Skipton: Deny Roberta Shoemaker-Beal standing in the case against permit for La Ventana.
Greg Nesbitt: Seconded motion
Vote: 5-0 All in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Board:

Jimmy Skipton
o Called Jim McMeans to front. Jim McMeans not present

Motion

Jimmy Skipton: Deny Jim McMeans standing in the case against permit for La Ventana.
Ed Pope: Seconded motion
Vote: 5-0 All in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Board:

Jimmy Skipton
o Called Bill Davis to front and swore him in.

Comments from Contested Case requestor Bill Davis:

La Ventana LLC is the CCN not Interim La Ventana his concern is in giving incorrect party the permit. Currently a contested case in regards to the CCN is before TCEQ. Bill does not oppose giving the permit to the water company. Urges the board to investigate who the actual permit holder should be.

Board:

- Jimmy Skipton
 - o Called Patrick King to front and swore him in.

Comments from Patrick King (PGMS)

PGMS manages and operates the water system for Interim La Ventana. Patrick has a court document stating that Interim La Ventana is the legal owner of the water system. His only interest is in obtaining an operating permit. He suggested keeping the permit in abatement until the litigation before TCEQ is resolved.

Motion:

Ed Pope: Allow Bill Davis standing.
 Greg Nesbitt: Seconded
 Vote: 5-0 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Motion:

Mark Key: To Grant Interim La Ventana a temporary permit for the duration of the contested case.
 Greg Nesbitt: Seconded
 Vote 5-0 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)


Motion:

Jimmy Skipton: Parties are to schedule with one of the six previously listed hearing examiners within 60 days, or work issue out amongst themselves, or request extension from Board.
 Mark Key: Seconded
 Vote 5-0 In-Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jemigan, and Ed Pope)

Board:

- Joan Jemigan and Ed Pope
 - o Request a Special Meeting to be held on the Educational Video
- Jimmy Skipton
 - o Advised Joan and Ed to get with Rick Broun to schedule meeting.

5:15 p.m. Meeting Adjourned

Approved:  _____, President: 7-21-11 2011

Approved:  _____, Secretary/Treasurer 7-21 2011