



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

Date: Thursday, May 17, 2012  
Time: 6:00 pm  
Place: Wimberley Community Center  
Located: 14068 RR 12, Wimberley, TX. 78676

**6:05 pm: Regular Meeting Opens**

**Board Present:** Jimmy Skipton-President, Greg Nesbitt-Vice President, Mark Key-Secretary/Treasurer, Joan Jernigan, & Ed 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
- **Review of Board Meeting Protocol:**  
Jimmy Skipton:
  - Explained meeting protocol to audience.
- **Consider approval of prior meeting Minutes:**  
Jimmy Skipton:
  - Prior Meeting Minutes approved by Jimmy Skipton and Mark Key.
- **Monthly Financial Report & Budget to Actual Report:**  
Rick Broun:
  - Mark Key reviewed and signed off on the Financial and Budget to Actual reports.
- **Acknowledgment of Bank Reconciliations and Monthly Invoices:**  
Rick Broun:
  - Mark Key has reviewed and signed off on bank statements and monthly invoices.
- **General Comments from Board & Staff:**  
Rick Broun:
  - Reminded Board to inform staff of attending any meetings, tours, events, or lectures concerning groundwater.
  - The District encourages the use of rainwater collection systems and promotes artificial recharge of the aquifer through such means as proper brush management and re-establishing deep rooted native grasses.
- **Public Comments: Non-Agenda Items**  
No public comments provided

**Agenda Items:**  
Discussion only:

1. **Item #13: Dripping Springs Water Supply Corp (DSWSC) Donations for Austin Film Society, Groundwater Film Project**
  - Correspondence and deliberations of donation between DSWSC and Austin Film Society / VCYES Films / Joan Jernigan

**Board & Staff:**

- Joan Jernigan
- Bob Curry collected extra film footage during the recording of the video for the District. Mr. Curry and Joan Jernigan decided to use the extra footage on a different film project.
  - Mr. Curry wanted to make a statewide film which would cover water, drought and solutions.
  - Mr. Kelly, the Board President for DSWSC showed interest in donating funds of \$2500 in the making of the film which would also cover the issue water supply companies' face with leaky pipes and infrastructure.
  - Once the 501C3 was approved Joan emailed Ron Kelly saying that his contribution could now be accepted.
  - A check from DSWSC in the amount of \$2500 was mailed and deposited with the Austin American Film Society sometime later a stop payment was made on the check.
  - Joan's role in the project was as grant writer and education consultant, she did not go before the DSWSC Board to make a presentation.

**DSWSC Comments:**

The following presented: Phil Haag, attorney with McGinnis, Lochridge & Kilgore, spoke on behalf of DSWSC – DSWSC is the second largest water supply corporation in the District. Water usage and conservation is an important issue to the corporation however felt making a contribution might be viewed as propriety, although not intended that way, due to Joan Jernigan's involvement. That is why the decision to stop payment on the check was made.

**Public Comments:**

No public comments provided

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Discussion and possible action on:

**2. Item #1: Dripping Springs Water Supply Corp (DSWSC) concerning District Rules**

- Connection fees, failure to pay connection fees, and suspension of processing permit applications, Rule 12.1 (b), 10.C (6) and 5.4 (d)
- Connection fee update: April 10, 2012- Meeting with DSWSC's General Manager and its Board President. Per DSWSC unpaid water utility connections fees are in the amount of \$60,000

**Board & Staff:**

Mark Key

- Met with Margaret Foster, the Secretary Treasurer for DSWSC on April Mrs. Foster stated during the meeting that DSWSC owes HTGCD \$7500 in connection fees.
- Has worked for DSWSC for the past decade as a contractor therefore feels he should recuse himself from any issues involving DSWSC for the remainder of his term.

Joan Jernigan

- Wishes to recuse from matters concerning DSWSC.

Jimmy Skipton

- The new Board for DSWSC is working on outstanding issues with the District.
- The District and DSWSC have been communicating back and forth in regards to unpaid connection fees.
- Greg Perrin and his staff have been very helpful in providing information to the District.
- Lists of accounts have been passed back and forth for reconciliation.
- The amount owed to the District keeps changing and has been anywhere from \$7,500 to \$60,000
- Greg Perrin came into the District office last week with a check for \$7,500 as a good faith down payment.
- Rick Broun did not accept the check, instead requested that Mr. Perrin present the check to the Board at the next Board Meeting.
- According to District Rule 10.C (6) DSWSC could be fined up to \$300 per unpaid connection fee.

Ed Pope

- Would like to have a full tally before agreeing on a dollar amount.
- Motive is to get an accurate accounting from 2001 to present.

Greg Nesbitt

- Not in support of fining DSWSC.

**DSWSC Comments:**

The following presented: Phil Haag, attorney with McGinnis, Lochridge & Kilgore, spoke on behalf of DSWSC – There is some confusion as to fees owed the District and DSWSC recognizes there is an issue and is committed to get to the District what it's owed. The \$7,500 was a good faith down payment. If the District accepts the check they can write on the back "partial payment". DSWSC is committed to getting issue resolved and suggests that they and Rick Broun continue to meet to work on a resolution to present to the HTGCD Board.

**Public Comments:**

The following presented: Linda Kay Rogers – New Board is acting in good faith and should not bear the burden of the previous Boards misdeeds. Bill Davis – Attended the DSWSC Board Meeting on May 7<sup>th</sup>, the Board did not make a decision to offer \$7500 to HTGCD. There was nothing constituting Board approval of \$7500.

**Board:**

Jimmy Skipton

- To Phil Haag: "Did the DSWSC Board approve \$7500"?

Phil Haag

- To Jimmy Skipton: "Yes"

Ed Pope

- Is there record of DSWSC's Board approving the \$7500?
- Do not want to accept a check until all is reconciled and a total tally has been agreed on.

Jimmy Skipton

- Authorized District staff to continue to work with DSWSC. Provide them any requested information but make no final decisions.
- Put item on June's meeting agenda for reviewing a proposal.

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**3. Item #2: Dripping Springs Water Supply Permit**

- DSWSC original 1-year permit application to the District requested 700 AF in 2007
- HTGCD Board approved 1-year permit for 300 AF in 2007. A contested case hearing was requested and a lawsuit was filed by DSWSC.
- In 2012 the DSWSC Board President made verbal request to the Board for a 1-year 1,600 AF permit
- Meetings between HTGCD and DSWSC to reach an agreement between 300 AF and 1,600 AF per year.
- The Board reserves the right to adjourn into Executive Session, Section 551.071, to consult with their attorney

**Board & Staff:**

Jimmy Skipton

- Have spoke with Ron Kelly, Greg Pemin and Jon Cobb in respect to the amount of water they are requesting.
- The amount of water DSWSC has talked about requesting has gone from 500 AF to 1600 AF.
- A contested case was filed back in 2007 as well as a lawsuit, however the District received a letter today from DSWSC's attorney stating they wish to contest.
- The District's attorney, Greg Ellis, sent a letter stating that the abated lawsuit needs to be addressed before addressing the contested case.
- Could not support a permit for 1600 AF as DSWSC has used an average of 352.9 AF per year over the past 5 years.

Ed Pope

- The Board needs updated information and numbers in order to act on an application that dates back to 2007.

**DSWSC Comments:**

The following presented: Phil Haag, attorney with McGinnis, Lochridge & Kilgore, spoke on behalf of DSWSC – Sent the contested case letter today as he was concerned that the original contested case may have gotten lost. DSWSC's intention is to settle without a contested case hearing. Water needs have increase due to growth. TCEQ rules are the driving force behind the amount of water being requested.

**Public Comments:**

The following presented: Bruce Turbow and Andrew Backus

**Motion**

Jimmy Skipton: To engage the District's attorney on the DSWSC contested case and lawsuit on permit.

Greg Nesbitt: Seconded motion

Vote: 3-0 in Favor (Jimmy Skipton, Greg Nesbitt, and Ed Pope)

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**7:15 Break**

**7:25 Reconvene**

**Mark Key and Joan Jernigan rejoined the meeting**

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**4. Item #10: Hiring of attorney Bill Davis**

- Aid in the interpretation of existing rules
- Review and advise the Board once the new District rules are presented

**Board & Staff:**

Mark Key

- Mr. Davis attends most of the Board meetings and is very knowledgeable on current District rules.
- Greg Ellis was not available during a previous Board Meeting where the Board needed to go into executive session to get legal advice.
- Would like to hire Bill Davis to review and advise the Board on current and new rules, and to make sure the Board is following correct process for the Open Meetings Act.

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- o Greg Ellis is not being replaced. Bill Davis would act as the local attorney for the District.
- Jimmy Skipton
  - o Would like for an Attorney to go over rule revisions with staff for any possible legal issues.
- Ed Pope
  - o Feels it is inappropriate to hire an attorney at tonight's meeting, the Board should be presented with a slate of candidates.
  - o There is no budget item for an additional attorney.
- Rick Broun
  - o The District received a phone call in regards to Bill Davis being in litigation with La Ventana and working with District rule revisions, the caller was concerned about Mr. Davis's ability to remain unbiased.
- Joan Jernigan
  - o Suggests tabling item until next meeting.

**Public Comments:**

The following presented: Bill Davis, Barbara Hobson, Andrew Backus, Clint Frankmann, and Susan Cook

**Motion**

Mark Key: Appoint Mr. Davis as District Attorney for an amount not to exceed \$3000

Jimmy Skipton: Would like to get a fee schedule from Mr. Davis.  
Motion Withdrawn

**Motion**

Jimmy Skipton: Make a motion to table item until the next Board Meeting. Rick Broun check to see if money is available to engage an attorney for up to \$3000. Put item on next meeting agenda  
Ed Pope: Seconded motion  
Vote: 5-0 in Favor (Jimmy Skipton, Greg Nesbitt, Mark Key, Joan Jernigan and Ed Pope)

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**7:53 Mark Key departed**  
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- 5. Item #9: District alternate representative for the GMA9**
  - Request that the General Manager, Rick Broun, be the alternate representative to GMA9

**Public Comments:**

No public comments provided

**Motion**

Ed Pope: Designate Rick Broun, General Manager, as the alternate representative to GMA9.  
Greg Nesbitt: Seconded motion  
Vote: 4-0 in Favor (Jimmy Skipton, Greg Nesbitt, Joanne Jernigan and Ed Pope)

- 6. Item #8: Lower Trinity Project**
  - Status of telemetry for W&L well
  - Update on planned Aqua Texas no. 24 well

**Board & Staff:**

- Al Broun
  - o Concept of the Lower Trinity Project is: 1) to see if the Lower Trinity reservoirs have the potential to relieve some of the strain on the Middle Trinity, and 2) get an understanding of the hydro geologic characteristics.
  - o Seeing dewatering of Middle Trinity wells during drought conditions.
  - o Project committee has met twice with Aqua Texas and reviewed their evaluation and testing plans for the Lower Trinity well they plan to drill.
  - o They are proposing to drill through the Middle Trinity down to the Hammett run a series of logs. Case it off then drill through the Hammett into the Lower Trinity to run tests and logs.
  - o The surrounding area is being monitored closely with transducers and the data is available on the District's website.
  - o There are 6 Lower Trinity wells in the area the plan is to approach the owner to get permission to install 2 or 3 transducers in those wells for monitoring.
  - o In the North Eastern part of the District the Middle Trinity is de-watered.

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- The Spoede well is a new Lower Trinity well in the Northern part of the District. Rock samples have been gathered, logs and water samples will also be collected. District plans to install a transducer and use the well as a monitoring well.

**Public Comments:**

The following presented: Andrew Backus

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**7. Item #6: Rainwater Revival in Boerne**

- Revival cost of \$100 for a booth
- Recommendation to support event or other local Hays County event

**Board & Staff**

Jimmy Skipton

- The Rainwater Revival is not being held in Hays County therefore doesn't agree that the District participate.

Ed Pope

- Agrees with Jimmy, however would like for the District to support a water related event.

**Public Comments:**

The following presented: Jack Hollon

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**8. Item #5: District Documents**

- No original paperwork to leave District office

**Board & Staff**

Jimmy Skipton

- This was added to the agenda by Mark Key. Suggests tabling the item due to Mark leaving the meeting.

Ed Pope

- This item is Administrative and doesn't feel it needs Board action.
- Rick can make it office procedure to give out copies only.

**Public Comments:**

No public comments provided

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**9. Item #7: Drought Stage Status**

- Monitoring run well levels: north and south of Camp Ben McCulloch
- Review trigger status, days of flow on the Pedernales and Blanco Rivers
- Recommend drought stage: Currently in Voluntary Conservation

**Board & Staff**

Rick Broun

- Staff gathered water level data in the South region this past Monday the 14th, and will be gathering data for the north part of the region tomorrow, Friday the 18<sup>th</sup>.
- The Pedernales River is 8 days above and the Blanco River is 60 days above alarm stage trigger.

**Public Comments:**

No public comments provided

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**10. Item #4: 2013 Request for Grant Funding from Hays County**

- Determine grant funding amount and review information packet for Hays County

**Board & Staff**

Jimmy Skipton

- The Board has received and reviewed the packet, supports a grant funding request of \$185,000
- Will try and schedule an appointment with Commissioner Whisenant next week to discuss future funding for the district.

**Public Comments:**

The following presented: Jon Cobb

**Motion**

Joan Jemigan: To request \$185,000 from the County.

Ed Pope: Seconded motion

Vote: 4-0 in Favor (Jimmy Skipton, Greg Nesbitt, Joanne Jemigan and Ed Pope)

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**11. Item #11: Operating Permit Application Five Month Moratorium**

- Moratorium to start on May 1 and end on September 30 each year
- No permit applications will be approved for the following: commercial or Public Water Supply

**Board & Staff**

Ed Pope

- Would like the District to have an ongoing moratorium for no large permits between May and September.

Jimmy Skipton

- Supports a moratorium when drought conditions exist.

Joan Jemigan

- Long term regional planning is needed.

**Public Comments:**

The following presented: Jon Cobb

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**12. Item #12: Groundwater Management Area**

- Discuss research possibilities to formulate a plan of action to create a GMA for the Jacob's Well and Cypress Creek area.

**Board & Staff**

Ed Pope

- Proposes to formulate a group to do research to see if creating a GMA would be feasible.

**Public Comments:**

No public comments provided

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**13. Item #3: Update on lawsuit: Plaintiffs vs. HTGCD**

- Wimberley Valley Water Shed Association
- Johanna L. Smith, H.K. Accord, Janet Accord, James R. McMeans and David Glenn

**Board & Staff**

Jimmy Skipton

- Lawsuit is ongoing.
- As of March 30, 2013 legal expenses were over \$17,000

Ed Pope

- Would like to see backup documentation on the lawsuit in chronological order

Joan Jemigan

- Long term regional planning is needed.

Jimmy Skipton

- Requests Rick Broun to look into putting lawsuit information on District website.

**Public Comments:**

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The following presented: Jon Cobb

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8:44 p.m. Meeting Adjourned

Approved:  Date: 7-18 .2012  
Jimmy Skipton, President

Approved:  Date: 7/18 .2012  
Mark Key, Secretary/Treasurer