



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

Date: Monday, August 27, 2012
Time: 7:00 pm
Place: Dripping Springs City Hall
Located: 511 Mercer Street, Dripping Springs, TX. 78620

7:02 pm: Regular Meeting Opens with special request by DSWSC Board members for a Joint Meeting

HTGCD

Board Present: Jimmy Skipton-President, Greg Nesbitt-Vice President & Ed Pope-Director

Board Absent: Mark Key-Secretary/Treasurer & Joan Jemigan-Director

Staff Present: Rick Broun-General Manager & Tressy Gumbert-Administrative Assistant

Legal Council: Greg Ellis

DSWSC

Board Present: Shawn Connolly-Vice President, Calvin Meyers-Secretary/Treasurer & Jon Cobb-Director

Board Absent: Ron Kelly-President

Staff Present: Greg Pemin-General Manager

Legal Council: Phil Haag

- **Board Roll Call:**
Rick Broun:
 - Roll Call was taken, a quorum present.
- **Review of Board Meeting Protocol:**
Jimmy Skipton:
 - Explained meeting protocol to audience.
- **General Comments from Board & Staff:**
None provided

Agenda Items:

Discuss and Possible Actions on:

1. **Board Order 157, Return to Alarm Stage.....Rick Broun**
 - Requires a Board motion

Motion:

Greg Nesbitt: The District move to Alarm Stage per Board Order #157.

Ed Pope: Seconded

Vote: 3-0 In Favor (Jimmy Skipton, Ed Pope & Greg Nesbitt).

2. **Joint Negotiation Settlement Meeting between DSWSC and HTGCD.....Jimmy Skipton**
 - Consider water utility connection fees and late fines
 - Consider pending permit contested case
 - Consider pending declaratory judgment lawsuit
 - \$10,000 offer from DSWSC to resolve June 21, 2012 Notice of Violation
 - DSWSC vs. HTGCD application contested case based on 700 acre foot permit
 - Presentation from HTGCD General Manager
 - The Board reserves the right to adjourn into Executive Session, Section 551.071, to consult with their attorney

Public Comments:

The following presented: Richard Sullivan, Garrett Allen and Bruce Turbow

Board, Staff & Legal:

Phil Haag:

- o DSWSC requested the joint meeting in hopes of resolving the outstanding issues of:
 - 2001-2011 unpaid connections
 - Application permit

Rick Broun:

- o Presented history of DSWSC's permit application and history of District Rules.

Greg Ellis:

- o Explained enforcement by injunction.

Phil Haag:

- o DSWSC is confident that they owe the District for 33 connections made between 2007-2011 in the amount of \$9,900.
- o The remaining 136 connections in the amount of \$40,800 are in question.

Motion:

Jon Cobb: To approve to pay HTGCD for 2007 to present unpaid connections in the amount of \$9,900

Calvin Meyers: Seconded

Vote: 3-0 In Favor (Jon Cobb, Calvin Meyers & Shawn Connoly)

Jon Cobb:

- o DSWSC is not solely responsible and feels 70% of \$40,800 is a fair offer

Motion:

Jon Cobb: To settle matter in its entirety by offering \$28,560 in addition to the \$9,900. Include an apology and a promise to move forward in good faith and report on a quarterly basis as Chapter 36 and District rules require.

Calvin Meyers: Seconded

Vote: 3-0 In Favor (Jon Cobb, Calvin Meyers & Shawn Connoly)

8:05 HTGCD Into Executive Session

8:30 HTGCD Out of Executive Session

No action taken in Executive Session

Motion:

Jimmy Skipton: To offer a settlement to DSWSC for fees and penalties of \$42,500

Greg Nesbitt: Seconded

Vote: 3-0 In Favor (Jimmy Skipton, Ed Pope & Greg Nesbitt).

8:35 DSWSC Into Executive Session

8:43 DSWSC Out of Executive Session

No action taken in Executive Session

Motion:

Jon Cobb: To settle the permit dispute in its entirety with HTGCD for \$42,500 in past due fees no fines or penalties associated.

Calvin Meyers: Seconded

Vote: 3-0 In Favor (Jon Cobb, Calvin Meyers & Shawn Connoly)

Greg Ellis:

- o Will draft an agreement send it to Phil Haag for review and comments, then to respective Boards for approval and signatures.
- o Agreement will be good if fees paid within 10 days of signing.

Motion:

Jimmy Skipton: To accept the counter offer of \$42,500 for past due fees from DSWSC to be paid within 10 days of signing the agreement.

Greg Nesbitt: Seconded

Vote: 3-0 In Favor (Jimmy Skipton, Ed Pope & Greg Nesbitt).

Board, Staff & Legal:

Rick Broun:

- o Presented history of groundwater pumpage amounts reported to the District by DSWSC
- o The highest amount reported by DSWSC was in 2009 for 381 AF
- o The average pumpage amount for 2005-2012 is 232 AF per year

Jimmy Skipton:

- o In July 2007 the District made a motion to authorize a permit to DSWSC in the amount of 300 Acre Feet.
- o DSWSC contested the permit and came back to the District with a request for 1600 AF

Greg Ellis:

- o Cautioned the Board that the contested case is on the original application of 700 AF which has already been through the public hearing process and is still in litigation. If the Board is considering a permit for more than 700 AF they would have to republish and have a new public hearing.
- o Current District rules do not establish a means of calculating the amount of a permit other than reasonable use during the permit term. Believes that the District will move away from pure historic use.
- o Advised that the permit needs to indicate a rate of withdrawal to meet TCEQ's .6 rule of capacity.
- o If TCEQ received a complaint and a filed petition that the District is not going to achieve the DFC and that actual production is going to exceed the MAG, TCEQ could take enforcement action against the District.

Phil Haag:

- o DSWSC needs 730 AF of groundwater in order to comply with TCEQ's .6 rule.
- o Has written correspondence from TCEQ that the .6 rule for twenty four (24) hours a day seven (7) days a week
- o DSWSC has a pending CCN Expansion request with TCEQ

Ed Pope:

- o The District will issue permits for reasonable use what DSWSC is asking for is not reasonable.
- o No other water providers have a problem with TCEQ's .6 rule.
- o The District's concern is management of groundwater not if development does or doesn't happen.

Greg Ellis:

- o DSWSC highest historic use is 381 AF. If you add an 11% growth predicted by DSWSC the total is 425 AF.
- o Advised the Board not to take action on something that would cause an issue with DSWSC's CCN expansion.
- o The Modeled Available Groundwater (MAG) is a tool to help districts regulate use, not permit amounts.

Motion:

Jimmy Skipton: To offer DSWSC a one year permit for 350 AF.
Not: Seconded

Motion:

Jon Cobb: To settle contested case for an annual permit in the amount of 425 AF with the understanding that DSWSC will request more water in the future.
Calvin Meyers: Seconded

9:50 DSWSC Into Executive Session

10:11 DSWSC Out of Executive Session

No action taken in Executive Session

Jon Cobb withdrew his previous motion
Calvin Meyers withdrew his second

Motion:

Jon Cobb: To request a 1 year permit for 400 AF, daily pumpage capacity of 2 AF not to exceed 400 AF a year..
Calvin Meyers: Seconded
Vote: 3-0 In Favor (Jon Cobb, Calvin Meyers & Shawn Connolly)

Motion:

Greg Nesbitt: To give DSWSC a 1 year permit for 400 AF and a 2 AF per day pumping capacity to satisfy TCEQ's regulatory requirements.
Not: Seconded

10:19 HTGCD Into Executive Session

10:30 HTGCD Out of Executive Session

No action taken in Executive Session

Motion:

Jimmy Skipton: To accept a 1 year permit for 400 AF with a 2 AF per day rate of withdrawal and dismiss the pending lawsuit and contested case against the District.

Greg Nesbitt: Seconded

Vote: 3-0 In Favor (Jimmy Skipton, Ed Pope & Greg Nesbitt).

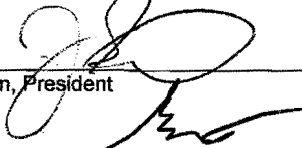
Motion:


Jon Cobb: To accept permit with stated terms.

Calvin Meyers: Seconded

Vote: 3-0 In Favor (Jon Cobb, Calvin Meyers & Shawn Connoly)

.....
10:34 p.m. Meeting Adjourned

Approved:  Date: 10-17, 2012
Jimmy Skipton, President

Approved:  Date: 10/17, 2012
Greg Nesbit, Vice President