

**MINUTES OF THE BOARD OF DIRECTORS' PUBLIC MEETING
NORTH TEXAS GROUNDWATER CONSERVATION DISTRICT**

TUESDAY, JANUARY 14, 2014

**CITY OF KRUM
CITY COUNCIL CHAMBERS
146 W. MCCART ST
KRUM, TX 76249**

Members Present: Thomas Smith, Philip Sanders, Ronny Young, Chris Boyd, Dan Collins, Eddy Daniel, Evan Groeschel, Kenny Klement, Ron Sellman

Members Absent: None

Staff: Jerry Chapman, Drew Satterwhite and Carmen Catterson

Visitors: Bob Fazen, Citizen
Zacariah Hildenbrand, Inform Environmental & UT Arlington
Keith King, The Weekly News of Cooke County
Barry McDonald, Citizen
Shawn McGlothlin, Texas Instruments
Mark McPherson, McPherson Law Firm
Neal Welch, City of Sanger

1. Pledge of Allegiance and Invocation

President Smith led the Pledge of Allegiance and Secretary/Treasurer Young led the invocation.

2. Call to order, establish quorum; declare meeting open to the public

President Smith called the public meeting to order at 9:36 AM. All Board members were present except Board Member Daniel and Vice President Sanders.

Vice President Sanders arrived at 9:37 AM.

3. Approval of Minutes from the November 12, 2013, public hearing and board meeting

Young motioned to approve the Minutes from the November 12, 2013 board meeting. The motion was seconded by Sellman and passed unanimously with Board Members Boyd and Groeschel abstaining and with Board Member Daniel absent.

Board Member Daniel arrived at 9:38 AM.

4. Public Comment

Bob Fazen addressed the Board and thanked them for providing the agendas to the public each month. He thanked the Board for including consideration of the UT Arlington groundwater study on the agenda for consideration. He expressed his belief that the study could provide additional information that would show that the oil and gas fracking are affecting groundwater quality. He also stated that he understood that the study could show that the groundwater is not affected. Mr. Fazen provided his support in the project and stated that the groundwater production fee might need to be raised to support the project, but it would be a worthwhile increase.

5. Consider and act upon approval of invoices and reimbursements.

Mr. Chapman provided information about the invoices, which are all routine. Board Member Groeschel inquired about the Lloyd Gosselink invoice and the services provided. The Board requested the staff email the Lloyd Gosselink invoice to the Board for review and possible discussion at the next meeting.

Board Member Daniel motioned to approve the invoices as presented for a total cost of \$55,889.08. The motion was seconded by Board Member Boyd and passed unanimously.

6. a. Budget and Finance Committee

1) Receive Monthly Financial Information

Mr. Satterwhite reviewed the monthly financial information. He explained that the report does not include the fourth quarter billing. The loan balance due will be reduced when the audit is complete to reflect the \$45,000 paid in September 2013. The expenses are approximately 5% below budget. The final revenue will be reflected in the audit. Board Member Boyd asked if there were any entities that had never paid. Mr. Chapman responded that there are no remaining entities that have never provided payment to the District. But there are nine entities that have not paid for the third quarter.

b. Investment Committee

No report received

c. Rules and Bylaws Committee

No report received

d. Groundwater Monitoring and Database Committee

No report received

e. Policy and Personnel Committee

No report received

f. Conservation and Public Awareness Committee

No report received

g. Management Plan Committee

No report received

7. Update and possible action on the Northern Trinity/Woodbine Aquifer GAM Overhaul Project and the development of proposed Desired Future Conditions (DFCs)

Board Member Daniel explained that the project is moving forward nicely on target. The GAM is now ready to be used for test runs. The Groundwater Management Area 8 (GMA 8) meeting will be held on January 21st. At that meeting, the committee plans to announce that the GAM will be used to run scenarios. The consultants plan to announce that the model is now ready to be used and will request information from the other groundwater conservation districts to see how the DFCs look across GMA 8. The completion of the GAM should coincide nicely with the new DFC process. Each groundwater district will adopt a DFC and then the GMA 8 must approve the DFCs before they are sent to the Texas Water Development Board (TWDB). The new Modeled Available Groundwater (MAG) information will be incorporated into the new regional water plan, which will then be incorporated into the new State Water Plan.

Board Member Klement commented on the state of aquifers around the country. He also discussed the Environmental Protection Agency's (EPA's) efforts to control groundwater nationally. He expressed a belief that if an area was determined to be in dire need of water, the EPA could issue requirements for water to be pumped to that area from a different state.

8. Update and possible action regarding the process for the development of Desired Future Conditions (DFCs) including the consideration and possible approval of consulting services

With the DFC process beginning, the Board has discussed hiring a representative for the District. Board Member Daniel has discussed hiring Mr. James Beech with LBG Guyton to represent the District in the DFC process. The first choice would have been INTERA, but they are already engaged by the Upper Trinity GCD. The second choice was LBG Guyton, who is currently working with the Clearwater UWCD and Prairielands GCD, but because of the geographic location of each district, there is no conflict. The contract with LBG Guyton would be funded by the North Texas GCD. If the DFCs are not backed up with good science, they will not be defensible.

Board Member Klement asked why the Upper Trinity GCD would be a conflict for INTERA. Board Member Daniel explained that because water generally flows from west to east, a conflict could be experienced. The Board discussed the benefits of hiring LBG Guyton. Board Member Collins stated that the first choice would have been INTERA, but the second choice was LBG Guyton.

Vice President Sanders motioned to authorize the president to execute the agreement with LBG Guyton subject to review by the District's legal counsel and to authorize the president to negotiate a longer contract for the entire project length. The motion was seconded by Board Member Klement and passed unanimously with President Smith abstaining. President Smith commented that his firm has been hired to consult on a project in South Texas and he felt that his vote would be a conflict of interest.

Board Member Daniel commented that Mr. Bill Mullican has provided a proposal to represent GMA 8 to help with the DFC process. The contract would be paid for by all the districts in GMA 8. Mr. Mullican is the current contract manager for the GAM update and is very familiar with the project. The Board agreed unanimously that a contract manager for the DFC process was necessary.

9. Consider and take action regarding hiring and/or terminating legal counsel

Mr. Satterwhite explained that this item was tabled at the November meeting pending a contract from Sledge Fancher, PLLC. In October, Brian Sledge alerted the District that he was leaving Lloyd Gosselink and starting a new firm. The same day a call was received from Lloyd Gosselink requesting the District to stay with their firm. A contract has been received from Mr. Sledge with the same rate for all principles and only a \$5 per hour increase for the paralegal.

Board Member Daniel commented that Ty Embry from Lloyd Gosselink called him and assured that Lloyd Gosselink has retained groundwater staff. Board Member Groeschel expressed that staying with Mr. Sledge and his team are familiar with the District. Mr. Satterwhite explained that the Red River GCD Board

Board Member Collins motioned to terminate the contract with Lloyd Gosselink Firm and to authorize the president to execute the contract with Sledge Fancher, PLLC pending legal review. The motion was seconded by Vice President Sanders. Board Member Boyd stated that he did not feel highly opinionated either way, but Lloyd Gosselink is a long-time well respected firm in Austin. He expressed concern in terminating a contract with a well-established firm. Vice President Sanders commented that the firm is made of people with individual talents. He stated that he believes more with people than the name of the firm on the letterhead. He expressed confidence in Mr. Sledge and his team. Board Member Collins stated that he agreed with Board Member Boyd in the faith in the firm. But, the groundwater team at Lloyd Gosselink was composed primarily of Mr. Sledge and his team. The Board continued to discuss the merits of each firm. The motion passed unanimously.

10. Consider and discuss information from Dr. Zac Hildenbrand on the UT-Arlington Barnett Shale study

Mr. Chapman explained that he and Mr. Satterwhite were at a meeting where Dr. Hildenbrand provided a presentation on his work in the Barnett Shale performing groundwater testing. Dr. Hildenbrand has been researching contamination in the aquifer from hydraulic fracturing and injection wells. However, there was very little research on this subject initially. In 2011, he and his partner purchased testing equipment and performed 100 samples. In their

sampling, they learned that the closer to hydraulic fracturing sites, the higher levels of arsenic, selenium, barium and other contaminants. Dr. Hildenbrand explained that the new study is in coordination between UT Arlington and UT Austin. His team is studying the chemicals contained in the samples, while UT Austin will be studying the dissolved solids and metals. His team has been requested to expand the study area by several groundwater districts. They are up to 550 samples at this time. He explained that the study is also hoping to develop methods of decontaminating any groundwater that does have a contamination event.

Board Member Klement asked if water that has been used for fracking could be cleaned and used as drinking water. Dr. Hildenbrand explained that carbon filtering is available to clean water of salinity. There is one firm that is working toward a goal of offering filters for free, but they would own the rights to anything filtered out of the water, including precious metals. Dr. Hildenbrand explained that his study is based on the effects on the environment from unconventional drilling. When he first started the study in 2011, he needed 100 samples and expected the process of finding volunteers to take 6-8 weeks. However, he received 1500 inquiries in the first 24 hours.

Secretary/Treasurer Young asked how the 100 sites would be selected. Dr. Hildenbrand explained that all requests for sampling would be plotted on Google Earth and then used to collect samples from across the entire area. Vice President Sanders asked if the study could be subject to criticism and if it could be considered opinionated one way or another. Dr. Hildenbrand stated that he and his team have worked very hard to maintain neutrality. Board Member Boyd stated that the fracking formulas are very proprietary and secret. Without having baseline samples before the fracking began, how could the study show that the contamination was caused by the fracking? Dr. Hildenbrand explained that the study will use forensic science to determine contaminants in the water. Certain chemicals are industry specific, which can provide an assumption that the chemicals came from fracking activities. His study will not provide the assumptions, only the science.

Board Member Boyd asked if Dr. Hildenbrand would be willing to uphold his position in support of the science. Dr. Hildenbrand explained that he has received death threats if he continues the study. His life has been dedicated to the study for the past three years and he is completely dedicated to the seeing the project reach its conclusion.

The test sites would be chosen to provide some locations near hydraulic fracturing and injection wells and some a certain distance away to provide a combination of reports on the quality of the groundwater. The study will only explain the science and what they find. They hope to be able to determine the relationship between drilling and water quality, but a perfect correlation will be unlikely due to the way that aquifers are structured.

Board Member Boyd asked if the study was being sponsored by the university or Dr. Hildenbrand's private company. Dr. Hildenbrand explained that the study was collaboration. While he is a collaborative scientist for the university, they only pay for the sampling and not his salary. The contract would be with his private company and the funds would be disseminated to the university. Vice President Sanders asked how the District's participation would affect the study. Dr. Hildenbrand explained that the study would be beneficial in that it would expand the study parameters and area explored, in addition to providing the District with analysis of the

groundwater from more than 100 wells. The final deliverable is expected to be complete September 1, 2014.

The Board continued to discuss the study in order to obtain water quality data. Vice President Sanders stated that he was not interested in being associated with a movement that has a specific agenda and that contests the leadership in the State. Board Member Collins stated that he is interested in the water quality and what the District can do with the water quality to improve any potential problems. He expressed that the District is charged with determining the amount of water available, but also to determine the quality of the water and what might be possible to improve the quality of the water for future generations.

It was the consensus of the Board for Dr. Hildenbrand to provide a proposal for consideration at the February Board meeting.

11. Consider and act upon nominations for Places 1, 2 and 3 of the Board of Trustees of the TWCA Risk Management Fund

The time for nominations has passed, but the request for elections has been received. Mr. Chapman recommended the Board vote for the recommended nominees.

Secretary/Treasurer Young motioned to authorize the president to submit the ballot for the nominees. The motion was seconded by Board Member Boyd and passed unanimously.

12. General Manager's Report

The staff is working to separate the registered wells by county and use. The Board requested that the staff include a breakout of wells that have been completed in the previous month for both exempt and non-exempt.

A letter was received from the Cross Timbers WSC about a well they drilled in 2013. This will be included for action in February.

Audit proposals have been solicited and two have been received to date. The staff is expecting to receive two or three more. The proposals will be provided to the Board in February for action to be taken to engage a firm.

Mr. Chapman and Mr. Satterwhite are scheduled to attend a water meeting in Austin on January 23 and 24.

Mr. Chapman again emphasized the need to focus on the development of DFCs. Two entities have already expressed differing opinions on the state of the aquifer.

Mr. Chapman's retirement is currently scheduled for March 31st. President Smith thanked Mr. Chapman for his service.

13. Open Forum / discussion of new business for future meeting agendas

Board Member Collins asked the Board if, in addition to the proposal to fund Dr. Hildenbrand's study, to request additional information on developing a comprehensive water quality monitoring program including a cost breakdown. Dr. Hildenbrand agreed to provide the proposal for consideration at an upcoming meeting.

The next meeting will be held on February 11, 2014 at 9:30 AM at Krum City Hall.

12. Adjourn public meeting

The public meeting adjourned at 11:30 AM.

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Recording Secretary



Secretary-Treasurer