

BLUEBONNET GROUNDWATER CONSERVATION DISTRICT

Board of Directors Meeting

Wednesday, July 17, 2013
6:00 PM

Bluebonnet Groundwater Conservation District
Board Room, Suite B & C
303 East Washington Avenue
Navasota, Texas

Minutes of the Meeting

In attendance: Directors Beckendorff, Blezinger, Browne, Davis, Huebner, Minze, Patout, Reed, and Ward; General Manager Holland, Administrative Assistant Paben, and Permitting Assistant Abney; District General Counsel Dugat and District Hydrogeologist Consultant Dr. Hutchison; Visitors Bart Fletcher, John Maresh, Tom Sherman, and Butch Gaitley.

1. Call to order.
There being a quorum present, the meeting was called to order at 6:19 PM.
2. Discussion and possible action to accept resignation of Director Sharon Brandes representing industrial interests from Austin County.
After review, Director Beckendorff moved that the Board accept the resignation of Director Sharon Brandes representing industrial interests from Austin County. Director Ward seconded and added that Director Brandes would be greatly missed. **Motion carried.**
3. Introduction of Austin County Director Appointee Robert Browne.
President Patout introduced and welcomed Director Robert Browne to the Board.
4. Discussion and possible action to approve bond for Director Robert Browne representing industrial interests from Austin County for the remainder of an unexpired term ending in January 2016.
Director Ward moved that the Board approve the bond for Director Robert Browne representing industrial interests from Austin County for the remainder of the unexpired term ending in January 2016. Director Minze seconded. **Motion carried.**
5. Administer Sworn Statement and Oath of Office to Director Robert Browne.
No action taken.
6. Public Comment.
(Public comment is limited to a maximum of 3 minutes per speaker and/or 30 minutes total time for all speakers).
Tom Sherman of New Ulm, TX representing Concerned Citizens for Texas Water Resources spoke about his opposition to the Electro Purification applications.
Butch Gaitley of Sealy, TX representing Concerned Citizens for Texas Water Resources commented on the Electro Purification applications and how they should be permitted.
7. Discussion and possible action to approve minutes of April 17, 2013 Board Meeting.
Upon review, Director Reed moved that the Board approve the minutes from the April 17, 2013 Board Meeting. Director Davis seconded. **Motion carried.**
8. Discussion and possible action to approve quarterly Financial Report.
GM Holland explained that the Other Revenue is the SOAH deposit and not actual additional revenue. GM Holland also discussed the Engineering Fees and Legal Fees due to the process of the SOAH proceeding and contested applications. President Patout stated as a reminder that the end of the fiscal year is September 30th. Director Ward asked about the outstanding invoices of over 90 days and GM Holland responded that the majority of that money is from one entity that is experiencing a turnaround with the company they hire to fulfill this process for them. Director Ward moved that the Board approve the quarterly Financial Report. Director Blezinger seconded. **Motion carried.**

9. Discussion and possible action to approve quarterly Investment Report.

GM Holland pointed out that the average yields have not changed and that the biggest change is the \$44,000 in escrow which is the SOAH deposit and not the District's money. GM Holland also reminded the Board that they have secured deposits with the bank. Director Minze moved that the Board approve quarterly Investment Report. Director Huebner seconded. **Motion carried.**
10. Discussion and possible action to accept quarterly Drought Status Assessment.

GM Holland reviewed the quarterly drought reports to the Board. Director Beckendorff stated that it looks as though the predictions look improving to which GM Holland pointed out the trends they are seeing. Director Beckendorff moved that the Board accept the quarterly Drought Status Assessment. Director Davis seconded. **Motion carried.**
11. Discussion and possible action relating to development and implementation of drought rules including, but not limited to, consideration of:
 - a. District Management Plan, District Rule 8.7B, April 2013 letter requesting drought declaration and District response.

GM Holland first discussed the Management Plan and the management goals of the District. Under Goal 6 of the Management the quarterly briefing of the Drought Status Assessment is required as a performance standard. Also under Goal 6, the District will download monthly climatological drought information concerning its four counties which are presented within the Drought Status Assessment and can be found via our website. GM Holland then turned towards the District Rules stating that the District does not have a rule directly addressing drought and that there are two provisions in the District Rules regarding drought. One provision is found in Rule 8.10 mentioning Drought Contingency Plans and the District's application forms require permittees to have a District-approved user Drought Contingency Plan or a declaration that an applicant will comply with District rules, policies, and Board actions in drought conditions. The second provision mentioning drought is Rule 8.7B providing that during times of drought, which is undefined, the District may prioritize groundwater use, place special requirements on, modify, delay, or deny a pumpage permit for a new well during a district-declared drought. GM Holland reiterated that the District has no rule definition or rule criteria for declaring a drought. GM Holland then addressed a letter dated April 8, 2013 from the citizen group now known as the Concerned Citizens for Texas Water Resources. The letter demanded that the District invoke Rule 8.7B and halt permitting of the Electro Purification wells. GM Holland's response to the letter indicating that the District has no criteria or rule to address the entry into and exit from a drought or a rule to address how permittees or applicants are to respond to a drought declaration. GM Holland reiterated that the pending application is under the jurisdiction of SOAH and that he would raise the matter to the SOAH Administrative Law Judge. Also included in GM Holland's response was that these issues relating to a district-declared drought would be brought to the Board's attention today at the July 17th Board Meeting.
 - b. TWDB Water Level Data

From the Texas Water Development Board, GM Holland obtained water level data from random wells varying in depth, aquifer layers, water use, and counties.
 - i. District

Within the District, GM Holland identified nine wells from Austin County with the shallowest well being one hundred eighteen feet deep and the deepest eight hundred fifty. The different aquifer layers mentioned in these nine were the Evangeline, Chicot, and Jasper. The uses of these wells include public water systems, agriculture, and domestic. In Grimes County, ten wells were identified with the shallowest well at twenty-two feet deep and the deepest at four hundred forty-five. The aquifer layers mentioned within these six were Evangeline, Jasper, Catahoula, and Yegua Jackson. The uses of these well include public water systems, domestic, and agriculture. There were seven wells identified in Walker County with the shallowest well at two hundred seventy-eight feet and the deepest at one thousand four hundred ten feet deep. The aquifer layer that these wells are located in is the Catahoula. These wells are producing water for public water supply and domestic use. There were three wells in Waller County mentioned with the shallowest well at seven hundred twenty-eight feet and the deepest at one thousand four hundred four feet. These wells were located in the Evangeline layer. The uses of these wells include public water supply and agriculture. When you look at overall trends

over time the water level is stable, not yielding to responses from drought. The aquifer recovers, even when there is some fluctuation, the aquifer recovers.

ii. Out-of-District

GM Holland noted several wells ranging in depth in Polk and Victoria Counties that have monitoring wells within the same aquifer layers as those within the District. These graphs showed the same trends as those wells within the District.

iii. Other Aquifers

GM Holland referred to graphs that he obtained from Dr. Hutchison through his work with GMAs 9 and 13. GM Holland focused on Gonzalez County because it has access to the Carrizo-Wilcox aquifer which is similar in its geological makeup to the Gulf Coast aquifer being that it is a sand/clay layer based aquifer. The graphs show that over time, regardless of the fluctuations in pumping, the overall static levels of water are not moving. Dr. Hutchison detailed the lines and colors of the graph to show what the data says and what is projected. GM Holland then mentioned Wilson County, again to see how a sand based aquifer responds. GM Holland demonstrated the extreme side of aquifers by using Hays and Blanco counties, both being Trinity aquifers, in the Hill Country. Both are using the karst geology which fluctuates and reacts much more readily to climate and the lack there of, as well as correlates a lot more with overall pumping and sees more drastic effects from start to finish. The Directors stated that they were quite impressed with the data, fluctuations, recovery and projections that the graphs showed.

c. District Permittees Response to Drought and Examples of Drought Contingency Plans

Drought Contingency Plans required by the Texas Commission on Environmental Quality on all public water systems, centering on the ability of the system to meet demand with available supplies which is generally tied to pumping capacity. They include demand reduction measures which may include prohibition of water waste, alternative and/or supplemental water supply sources, adjustment to water rates, and use of water savings devices and rate structures to curb use. Drought Contingency Plans include progressively stricter restrictions on customers from voluntary compliance reductions to limited watering times/availability. While these plans are required, their implantation is not, but must be in place to be considered for funding. In response during the 2011 climate drought, the TCEQ began logging public water systems who were forced to restrict use to avoid water shortages in their service area. The priority of water use and response stage criteria are based upon having greater than one hundred eighty day supply down to complete water service interruption. There have been a total of seven entities within our District to file; West End WSC (April 2013) and Couthatte Campground (October 2011) in Austin County, Brookshire MWD (September 2011) and BFT Trailer Park (September 2011) in Waller County, and Riverside WSC (July 2011), Lake Livingston Heights WSC (August 2012) and Frisby's Landing (January 2012) in Walker County. Notice that four of seven were listed in late 2011. All but one were listed as 'watch' priority which is defined as having greater than one hundred eighty days of water with either voluntary to restricted non-essential uses (i.e. outdoor watering limited to no more than once or twice a week). The lone exception, Frisby's Landing, was listed 'priority' status, defined as ninety day or less supply due to a well/pump going down and the issue has been addressed. Brookshire MWD promotes year-round conservation and water efficiency programs from being conscientious of water use to offering valuable knowledge of native plants and irrigation system set up. These systems and others not listed are taking common sense approaches to conservation. Seeing as how we live in Texas and it being hot and not generally getting rain in the summer, if everyone cuts back to only necessary uses, the supplies and pumping capacity aren't strained.

d. Examples of other District's Drought Rules

Some Districts in our Groundwater Management Area and most Groundwater Conservation Districts, if they have drought rules, are limited to obtaining copies of Drought Contingency Plans from entities required to have them. The language in the District's Rules related to Drought Contingency Plans is consistent with the other GCDs, with some restating the requirements of the plan from the TCEQ. A few Districts have extensive drought rules, primarily those in karst geology aquifers which are not as drought tolerant or resistant. These Districts base initiation in an individual or combination of four general categories: groundwater level monitoring/data, stream/spring flow level, precipitation/rainfall, or drought severity indices. Based on the defined stage or phase, restrictions escalate from voluntary to emergency levels corresponding to percentage water reductions. GM Holland also noted that these implemented reductions are upon permittees, exempt users would not be restricted.

e. Drought Rule Considerations

- i. Aquifer-defined entrance and exit
GM Holland stated that a drought rule needs a definition of what conditions trigger entry into a drought. Some districts use water level indicators in representative wells. Some districts use stream flow for streams for which primary flow is from groundwater springs. And others use drought severity or precipitation indexes, or a combination of sorts. Similarly, the rule must define what conditions must be met when there is an exit from drought.
- ii. Staged or phased levels
Drought conditions under a rule should be staged or phased. That is, as water levels decline, the rule would provide for more restrictive response by the District and permittees.
- iv. Response requirements
GM Holland described different types of scenarios which would cause a response from a permittee.
- v. Addressing these issues with comments from permittees and public
GM Holland stated that if the Board wishes to go forward with a rulemaking, the permittees and public should be included in the discussion, which is the case in all rulemakings. After discussions amongst the Directors circled, President Patout suggested that the Rules Committee look at and take up this item. No action taken.

12. Discussion and possible action to approve Interlocal Agreement with GCD members of GMA-14 to engage consultants to perform tasks in the desired future condition process; including but not limited to review, update, and adoption of desired future conditions.

GM Holland briefed the Board on the Interlocal Agreement with other GCD members of GMA-14 and answered questions from the Board regarding costs and how the costs were figured up between members of the GMA-14. GM Holland also answered questions regarding the timeframe of this process. When questions were raised regarding the need of completing both phases to which Director Ward responded by stating that in order to protect future needs we need information and these studies performed. Director Ward moved that the Board approve the Interlocal Agreement with GCD members of GMA-14 to engage consultants to perform tasks in the desired future condition process. Director Beckendorff seconded. **Motion carried.**

13. Discussion and possible action to adopt resolution and policy for costs and inspection of public documents.

General Counsel Dugat summarized to the board that the District has limited abilities to help recover costs in requests by the public for documents only if they exceed a certain number of copies, located offsite, or are in storage, and there are limits to even be able to charge staff time for that tied to the quantities of documents. He stated that with a district of this size it doesn't take very many Public Information Act requests before the entire staff is tied up just doing that and not able to do anything else. GC Dugat also stated that there is a provision to the Public Information Act that said if the Board adopts a policy that if one requester ties up district staff time for more than thirty-six hours of staff time, the Board can start charging for staff time. That basically implements that policy because until the policy is implemented the staff wouldn't be able to do that. Director Beckendorff moved that the Board adopt the resolution. Director Davis seconded. **Motion carried.**

14. Discussion and possible action to approve engagement agreement with Dr. Bill Hutchison.

GM Holland highlighted the review needed by Dr. Hutchison with costs not to exceed \$25,000. Director Blezinger moved that the Board approve the engagement agreement with Dr. Hutchison. Director Ward seconded. **Motion carried.**

15. Discussion and possible action to initiate Management Plan Amendment.

GM Holland briefed the Board on the Management Plan Amendment stated that language and updating to statute are the needs that should be addressed. GM Holland stated that he would be in touch with the Management Plan Committee and that this process would require hearings and public comment. Director Minze moved that the Board initiate the Management Plan Amendment. Director Davis seconded. **Motion carried.**

16. Legislative wrap-up and discussion:

GM Holland brought the Board up to date with new information from the 83rd Legislature with details from HB 2414, SB 293, SB 984, SB 1282, SB 1297, HB 4, and HB 11.

- a. Desal
- b. Permit terms

c. Administrative

17. General Manager's Report
GM Holland overviewed the following to the Board:
- a. Well Registration/Permitting
 - b. TAGD
 - i. 2013 Texas Groundwater Summit
 - c. Region G & H RWPG
 - d. BGCD Update
 - i. SOAH proceedings
 - ii. Presentation engagements
 - iii. Vehicle Summary

18. Date for next regular Board meeting – September 18, 2013

19. Adjourn
Director Beckendorff moved that the Board adjourn the meeting. Director Browne seconded. The meeting was adjourned at 8:00 PM.

The above minutes of the regular meeting of the Board of Directors of the Bluebonnet Groundwater Conservation District held on July 17, 2013, were approved and adopted by that Board on October 16, 2013.

J Jared Patout, President

ATTEST:

James Morrison, Secretary