

Clearwater Underground Water Conservation District Meeting
700 Kennedy Court
Belton, TX
Wednesday, December 8, 2021
Minutes

The Clearwater Underground Water Conservation District (CUWCD) held a Board meeting on Wednesday, December 8, 2021 at 1:30 p.m. at the Clearwater UWCD Building, located at 700 Kennedy Court, Belton, Texas.

Board Members Present:

Leland Gersbach, President, Pct 1
David Cole, Vice President, At Large
Gary Young, Secretary, Pct 2
Jody Williams, Director, Pct 3
Scott Brooks, Director, Pct 4

Absent:

Staff:

Dirk Aaron, General Manager
Shelly Chapman, Admin Manager

Guest:

Sandra Blankenship – WICD 1
Russell Spillers – applicant
Malcolm Miller – Bell County
Allan Standen – ARS, LLC
William Gamblin – Gamblin Engineering
Cole Ruiz – Lloyd Gosselink

Erik Gudbranson
Stephanie Wong – LRE
Mike Keester – LRE
James Beach – AGS

Anna Thornton
Bryan Neaves – Bell County
Vince Clause – ARS, LLC
Michelle Sutherland

Board meeting convened with President, Leland Gersbach, at 1:30 p.m.

1. *Invocation and Pledge of Allegiance.*

Vice President, David Cole, gave the invocation.
Secretary, Gary Young, led the Pledge of Allegiance.

2. *Public Comment.*

None.

3. *Approve minutes of the November 10, 2021 Board meeting.*

Board members received the minutes of the November 10, 2021 Board meeting and workshop in their Board packet to review prior to the meeting.

Vice President, David Cole, moved to approve the minutes of the November 10, 2021 Board meeting and Workshop. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

4. *Discuss, consider, and take appropriate action if necessary, to accept the monthly financial report for November 2021 (FY22) as presented.*

Board members received the monthly financial report for November 2021 in their Board packet to review prior to the meeting.

Director, Scott Brooks, moved to accept the monthly financial report for November 2021 as presented. Director, Jody Williams, seconded the motion.

Motion carried 5-0.

5. *Discuss, consider, and take appropriate action if necessary, to accept the monthly Investment Fund Account report for November 2021 (FY22) as presented.*

Board members received the monthly investment fund account report for November 2021 in their Board packet to review prior to the meeting.

Secretary, Gary Young, moved to accept the monthly investment fund account report for November 2021 as presented. Vice President, David Cole, seconded the motion.

Motion carried 5-0.

6. Discuss, consider, and take appropriate action if necessary, to amend FY21 year-end close out.

Dirk and Shelly explained that after the November Board meeting adjourned, Shelly received a late invoice from USGS for the FY21 Spring Flow Gage System.

Director, Scott Brooks, asked how this could have happened and what measure are taken to avoid these situations.

Shelly explained that in September she reached out to all vendors requesting any open invoice, or invoices for work completed in September, to be submitted by October 8, 2021 for year end close out and financial audit preparation. USGS indicated there were no outstanding invoices and nothing due (the invoice was not past due at the time of the inquiry). Invoices are emailed to the District and not mailed. The email from USGS was captured in Dirk's quarantine folder and never delivered. Shelly spoke with Leland Gersbach regarding the situation. He commented that this was not a problem, to enter it as a receivable for FY21, and notify the auditor of the situation. Shelly spoke with the auditor and submitted documentation. The Auditor indicated this was nothing out of the ordinary. Shelly spoke to her contact at USGS, Kandis Becker, and requested all invoices be sent to her and copied to Dirk. Shelly presented the amended close out as follows:

Original Budget set for FY20:	\$ 795,203.00 (projected income and expenses – page 1)
Reserves from prior year:	<u>\$ 35,000.00</u> (page 5)
Total Amended Budget:	\$ 830,203.00 (total projected expenses and income – page 5)

The following describes the year end closeout for FY21.

Actual income:	\$ 750,439.49 (Tax Revenue, Permit Fees, and Delinquent Taxes Collected – pg 1)
Reserve Funds from prior year	<u>\$ 35,000.00</u> (page 5)
Adjusted Income:	\$ 785,439.49

Total Expenses: \$ 693,746.89 (page 5)

Gross Return to Fund Balance: \$ 91,692.60 (page 5)
(from current year operation)

Less reserves from prior year: \$ 35,000.00 (page 5)

Net Return to Fund Balance: \$ 56,692.60 (page 5)

Dirk recommended the Board approve the FY2021 close out as **amended** with a return to fund balance of **\$56,692.60**.

Vice President, David Cole, moved to approve the FY2021 amended close out as presented. Director, Scott Brooks seconded the motion.

Motion carried 5-0.

7. Discuss, consider, and take appropriate action if necessary, to approve the FY22 line-item budget amendments as requested.

Shelly presented the request for line-item budget amendments for the purpose of paying the monthly fee for Wex to handle the employee HSA accounts. Dirk presented the information regarding payment to Bell County for the ILA related to Karst Coalition and future development of the RHCP as discussed at the October Board meeting. These are simple adjustments between line-items.

Vendor	Line Item	Invoice Amount	Available Funds	Amount Requested	New Balance	From	Available Funds	New Balance
WEX-HSA	52055 - Payroll Expense	\$25 x 12 = \$300/yr	\$125.00	\$300.00	\$425.00	50250-Contingency Fund	\$90,264.00	\$89,964.00
	(HSA monthly service fee)							
Bell County	53120.1 - Coalition	\$31,250.00	\$0.00	\$31,250.00	\$31,250.00	50250-Contingency Fund	\$89,964.00	\$58,714.00
	(ILA-Karst Coalition/RHCP)							

Director, Jody Williams, moved to approve the FY22 line-item budget amendments as requested. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

(Dirk Aaron suggested the Board move to the Public Hearing at 1:42 p.m. President, Leland Gersbach, concurred.)

9. Hold Public Hearing on the following application:

a) Discuss, consider, and take appropriate action if necessary, on a proposed operating permit for 2 existing wells for Whitley 20 Stillman Valley, LLC. Well # 1 (N2-20-008P) authorizing an operating permit to serve 8 homes not to exceed 2.6 ac-feet/yr. or 855,414 gallons per year, and Well #2 (N2-20-009P) authorizing an operating permit to serve 7 homes not to exceed 2.3 ac-feet/yr. or 748,487 gallons per year. Wells are completed in the Hosston Layer of the Trinity Aquifer and equipped with submersible pump rate not to exceed 17-gpm on a 43.435-acre tract located on the corner of Stillman Valley Road and Firefly Road, Florence, Texas.

As Presiding Officer of the hearing, President Leland Gersbach, called to order the public hearing at 1:44 p.m. Leland gave a summary of the application to be considered and a brief explanation of the procedural issues. He confirmed a quorum of the Board was in attendance to participate in the ruling of the application. Leland stated that the permit applications had undergone administrative and technical review by District staff, consultants, and legal counsel.

Leland reviewed the procedures that would apply to the hearing and noted the meeting had been properly noticed.

Leland stated anyone wishing to participate in the hearing, in support or protest, would need to sign up to speak and should do so while he addressed other procedural issues.

As presiding officer, Leland will take evidence and sworn testimony, and rule on any procedural issues.

Leland noted that the Board would hear testimony and deliberate on the well application submitted by Whitley 20 Stillman Valley, LLC. Leland will hear testimony by the Russell Spillers (Representative for Applicant), Dirk Aaron (General Manager - CUWCD), Mike Keester (LRE Water), Cole Ruiz (Lloyd Gosselink Attorneys at Law), and any qualified party to the case.

Leland invited anyone wishing to make a public comment or protest the application to speak up. There were no public comments. Two protestants signed up to be a party to the case: Anna Thornton and Eric Gulbranson. They are adjacent property owners to the area in question.

Leland administered an oath to all participants (Dirk Aaron, Mike Keester, Cole Ruiz, Russell Spillers, Anna Thornton, and Eric Gulbranson).

Russell Spillers, representing Whitley 20 Stillman Valley, LLC, addressed the Board and laid out his application for an operating permit on 2 existing well and the beneficial needs associated with the proposed groundwater production. It was noted that the applicant's consultant was not in attendance. Russell also presented a revision to the amount of water requested which is significantly less than the original request. He also explained the plan to monitor usage.

Director, Scott Brooks, expressed his disappointment that the applicant's consultant was not in attendance. Scott commented that he had questions and concerns regarding differences in the conclusions drawn between his report and the District's report. He doesn't think he can make a decision today without some questions being answered and reconciled. Scott proposed that the applicant decide if he wanted to continue today or continue the public hearing at a later time. Leland suggested continuing with the testimony portion for the hearing for record. Dirk commented that continuing with the evidentiary portion of the hearing may answer some of the questions that people have. He also assured the protestants that they would have an opportunity to address the applicant and ask their questions.

Dirk gave a general explanation of the application. He replied to Leland's questions and stated that the application had been deemed administratively complete, all fees have been paid. He noted for the record that the applicant lowered the amount of water requested, and also reduced the number of connections from 15 to 14, and made a choice to go to the Lower Trinity with the wells. The applicant has agreed to special provisions as requested by the District to include metering the wells, installation of a measuring device for CUWCD staff to periodically measure drawdown, and report monthly production on each well.

Mike Keesters presented his findings based on the applicants revised numbers. He compared his information to that of the applicant's consultant and noted a vast difference. Mike fielded questions from the Board. Dirk questioned whether or not the amount of draw down on other wells meets the negligible criteria of the District. Mike said it did not. Leland addressed questions related to Mike's analysis.

Leland addressed Cole Ruiz (legal counsel for the District). Cole noted that all aspects of the application in the District's jurisdiction had been met. Cole addressed the protestants and let them know they could request a contested case hearing with SOAH or continue here with this hearing. The District does not have jurisdiction on what the County may or may not do regarding platting requirements. The District can be a resource to the County regarding groundwater availability study. The decision of the District is grant or deny a permit.

Leland addressed the applicant with questions of his understanding related to the proposed application with described reductions, special conditions as described, his understanding of curtailment and the DFC, and other conditions as mentioned. Russell understood and agreed. Leland asked the applicant if he would be comfortable continuing the hearing at next month's meeting to mitigate the concerns of the protestants and allowing all parties more time to offer additional evidence. He declined to answer until he can consult with his consultant and legal counsel.

Russell commented that there are questions that need to be answered and he wished his consultant had been in attendance. He stated that regardless of the outcome of the hearing, it doesn't stop the development, there will still be wells there, they will still be used. He can still sell the land and individual wells will be drilled with no permits. If these 2 wells are permitted there will be some control of how much water is used which will be less than if he sells 10-acre tracts and each tract has their own well instead of 2 shared wells. He is trying to do the right thing to conserve water for all of the neighbors by permitting these wells. Scott Brooks addressed the comments by the applicant and stated that he would really like to speak with the applicant's consultant to clarify information in his report.

Leland invited the protestants, Anna Thornton, and Eric Gulbranson, to state their concerns. Anna is aligned with Eric. He will be speaking on her behalf. Eric's concerns are water availability for existing landowners in the area with the continuation of developments coming in and the penalties for using more than applied for. Dirk addressed his concerns.

Leland gave the Board an opportunity to ask any additional questions they might have concerning the application. Hearing none, Leland invited the applicant an opportunity for rebuttal. Russell declined.

Leland concluded the discussion on the application. Seeing that all parties had an opportunity to make their cases, Leland asked if any parties were interested in submitting additional evidence. Dirk asked if Russell was willing to get his consultant to meet with the District in the 30-day window and have him attend the next meeting. Russell asked if that would really make a difference? Scott commented that he would like to hear how the consultant defends his report because the calculations are so different. Leland would like the applicant's consultant and the District's consultant to discuss the difference. The other Board members agreed.

Russel agreed to continue the public hearing in order to bring in his consultant to answer questions.

Leland asked for a motion to continue the public hearing at the January 12, 2022 Board meeting

Director, Scott Brooks, moved to continue the public hearing at the January 12, 2022 Board meeting. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

(recessed for a short break at 3:23)

Regular Board meeting reconvened with President Leland Gersbach at 3:37 p.m.

8. *Discuss, consider, and take appropriate action if necessary, to approve CUWCD/Bell County ILA related to rural plats and groundwater availability studies.*

Dirk presented the ILA that was worked up between Bell County Engineer's Office and the District. The ILA was put together with the help of the District's attorney, Cole Ruiz, and has been reviewed by the County Judge. Dirk put together a flow chart of the processes between the Engineer's Office and the District. He noted these procedures are currently in place and need to be memorialized in an ILA.

Dirk walked the Board through the process, gave scenarios, and explained each step.

Leland asked if there were any questions from the Board. Director, Scott Brooks wanted more time to finish reading through the agreement.

Dirk noted that the ILA was not included in the packet sent to the Board prior to the meeting. He recommended the Board table this item until the next meeting to allow the Director's a chance to review it.

Secretary, Gary Young, moved to table agenda item #8 until the January Board meeting. Director, Jody Williams, seconded the motion.

Motion carried 5-0.

10. *General Manager's report concerning office management and staffing related to District Management Plan.*
Nothing to report

11. *Review monthly report and possible consideration and Board action on the following:*

- a) *Drought Status Reports*
- b) *Education Outreach Update*
- c) *Monitoring Wells*
- d) *Rainfall Reports*
- e) *Well Registration Update*
- f) *Aquifer Status Report & Non-exempt Monthly Well Production Reports*

(Copiers of the Monthly Staff Reports were given to the Board Members to review. No action required. Information items only.)

12. *Director's comments and reports.*

- **Leland Gersbach:** None
- **Jody Williams:** Commented that from everything he is learning, it's imperative that we establish aquifer zones asap. He wished everyone a Merry Christmas.
- **Gary Young:** Commented that it has been an interesting year. He continues to learn more all the time. He thanked Dirk for all the good information he gives the Board. He thanked Staff for there hard work and wished everyone a Merry Christmas.
- **Scott Brooks:** Wished everyone a Merry Christmas
- **David Cole:** None

13. *Discuss agenda items for the next meeting.*

- 2022 calendar dates/holiday schedule
- Public hearing continued
- ILA-CUWCD/Bell County
- Water Symposium update

- Board officer election
- DMS demo

14. Set time and place of next meeting.

Wednesday, January 12, 2022 at 1:30 p.m. CUWCD office

15. Adjourn.

Board Meeting closed and Workshop convened with President, Leland Gersbach, at 3:49 p.m.

Workshop Item #1: Receive update related to the Data Management System (DMS).

Tabled until next month.

Workshop Item #2: Receive information related to FY21 LRE, Baylor, and Standen collaborative study.

Received presentation from Mike Keester, Michelle Sutherland, and Vince Clause related to the collaborative study and management zones. Also heard comments and thoughts regarding the study from James Beach, AGS.

Workshop Item #3: Receive information related to the 5 Year Strategic Plan.

Dirk presented benchmarks for a 5-year strategic plan for the District to include:

- Modifying District rules
- Facility needs and expansion
- Staffing

Workshop Item #4: Receive update related to the Karst Coalition and future development of RHCP.

The Judge has approved the ILA for the Karst Coalition. He has received the RFPs and will be conducting interviews. Dirk briefed the Board on the information he was given.

Workshop Item #5: Receive information related to Groundwater Management Area 8, per the Joint Planning and Development of the Round 3 Desired Future Conditions.

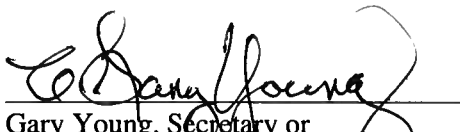
James Beach gave a brief update on GMA8 and round 3 of the DFC.

Workshop closed with President, Leland Gersbach, at 5:22 p.m.



Leland Gersbach, President

ATTEST:



Gary Young, Secretary or
Dirk Aaron, Assistant Secretary