

Clearwater Underground Water Conservation District Meeting
700 Kennedy Court
Belton, TX
Wednesday, April 12, 2023
Minutes

The Clearwater Underground Water Conservation District (CUWCD) held a Workshop at 10:00 a.m. and the Regular Board meeting at 1:30 p.m. on Wednesday, April 12, 2023, at the Clearwater UWCD Building, located at 700 Kennedy Court, Belton, Texas.

Board Members Present:

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

Absent:

Staff:

Dirk Aaron, General Manager
Shelly Chapman, Admin Manager

Guests

Sandra Blankenship – WCID#1
KD Hill
Sara Whitis

Chad Stewart – RREAF
Peter DiLillo
Darlene Walsh

Bill Schumann – Commissioner, Pct 3
Mike Keester – R.W. Harden
Cole Ruiz – Lloyd Gosselink

Executive Session convened with President, Leland Gersbach at 1:30 p.m.

Executive Session closed and Workshop reconvened with President, Leland Gersbach, at 2:00 p.m.

Workshop item #1: Receive information on public hearing related to the Cyber Security Training required for 2023.

Shelly Chapman presented the information related to Cyber Security Training. She gave Board members login information and requested the training be completed by May 31, 2023. This training must be reported to the State each year.

Workshop item #2: Receive information related to the Texas Alliance of Groundwater Districts' 2023 Groundwater Summit.

The TAGD Groundwater Summit will be held at the Hyatt Regency Hill Country Resort in San Antonio from August 29-31. CUWCD will sponsor the printed program again this year. Over 400 groundwater industry leaders, community stakeholders, agency representatives, and elected officials are expected to attend.

Workshop item #3: Receive information related to the 88th Legislative Session and Groundwater Legislation.

Leland noted for the record that the Board would enter into Executive Session with the legal team for attorney/client privilege for the presentation from Attorneys with Lloyd Gosselink Rochelle Townsend. Executive Session convened at 1:30 p.m. and closed at 2:00 p.m.

Workshop item #4: Receive information related to Groundwater Management Area 8, per the Joint Planning and Development of the Round 4 Desired Future Conditions.

Nothing new to report at this time.

Workshop closed and Board meeting opened with President, Leland Gersbach, at 2:06 p.m.

1. Invocation and Pledge of Allegiance.

Director, Jody Williams, gave the invocation.
Secretary, Gary Young, led the Pledge of Allegiance.

2. Public Comment.

John Asbury – would like to talk about the criteria used for issuing water permits and water used in Bell County. Thinks the Board needs to be more restrictive on what they approve. More restrictions on using water just for landscaping. Concerned about water wells close to the Salado Springs Complex pumping too much water and affecting the Salado Springs Complex. Mr. Asbury would like the board to consider testimony from the general public on permit applications and not just adjacent property owners and well owners within ½ mile. The amount of water pumped that affects the Springs needs to be considered because it affects the Salado Salamander.

3. *Approve minutes of the March 8, 2023, Board meeting.*

Board members received the minutes of the March 8, 2023, Board meeting and workshop in their Board packet to review prior to the meeting.

Secretary, Gary Young, moved to approve the minutes of the March 8, 2023, Board meeting and Workshop. Director, Scott Brooks, seconded the motion.

Motion carried 5-0.

4. *Discuss, consider, and take appropriate action, if necessary, to accept the monthly Financial Report for March 2023 (FY23) as presented.*

Board members received the corrected monthly financial report for March 2023 in their Board packet to review prior to the meeting.

Vice President, Jody Williams, moved to accept the corrected financial report for March 2023 as presented. Secretary, Gary Young, 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 March (FY23) as presented.*

Board members received the monthly Investment Fund account report for March 2023 in their Board packet to review prior to the meeting.

Director, Jim Brown, moved to accept the monthly investment Fund account report for March 2023 as presented. Vice President, Jody Williams, seconded the motion.

Motion carried 5-0.

6. *Discuss, consider, and take appropriate action, if necessary, to accept the Quarterly Deferred Compensation Employee Retirement Program account report as presented.*

Board members received the Quarterly Deferred Compensation Employee Retirement Program account report in their Board packet to review prior to the meeting.

Director, Scott Brooks, moved to accept the quarterly report as presented. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

7. *Discuss, consider, and take appropriate action, if necessary, to approve the FY23 line-item budget amendments as requested.*

Shelly and Dirk presented a request for line-item budget amendments to cover legal expenses related to the ACA petition for annexation, legal counsel, and TAGD Groundwater Summit sponsorship.

Vendor	Line Item	Invoice Amount	Available Funds	Amount Requested	New Balance	From	Available Funds	New Balance
Lloyd Gosselink	53703-General	\$787.50	\$0.00	\$787.50	\$787.50	50250-Contingency Fund	\$41,142.24	\$40,354.74
	(Rules & Accountability)							
TAGD	53603-sponsorship	\$3,500.00	\$2,235.39	\$1,264.61	\$3,500.00	53620-Ed Outreach -	\$3,776.11	\$2,511.50

Secretary, Gary Young, moved to approve the line-item budget amendments as requested. Director, Scott Brooks, seconded the motion.

Motion carried 5-0.

8. Discuss, consider, and take appropriate action, if necessary, to approve rescheduling the June 7, 2023 Board Meeting to Tuesday, June 13, 2023.

Due to the TAGD business meeting on June 6-7, 2023, Dirk is requesting the June Board Meeting be rescheduled to Tuesday, June 13, 2023, at 1:30 p.m. Director, Jim Brown, will be out of town on June 13th, however, the other 4 directors will be available.

Secretary, Gary Young, moved to reschedule the June 7, 2023, Board Meeting to Tuesday, June 13, 2023, at 1:30 p.m. Vice President, Jody Williams, seconded the motion.

Motion carried 5-0.

9. Continue Public Hearing on the following application:

Discuss, consider, and take appropriate action, if necessary, on a proposed operating permit for an existing well for RREAF Holdings, LLC, and the Hanks-Cabiness Christian Trust submitted on November 1, 2022, for an operating permit for an not to exceed 19.2 acre-feet or 6,256,339 gallons per year for landscape use only, completed in the Edwards BFZ Aquifer and located in the Edwards BFZ Management Zone described in District Rule 7.1 and limited to a maximum 2-inch column pipe on a 14.387-acre tract in accordance with District Rule 9.5 and located at Latitude 30.93497°/Longitude -97.53675° at the N.E. corner of I-35 and FM 2268, Salado, Texas.

President, Leland Gersbach, reconvened the public hearing to order at 2:18 p.m.

Leland revisited the procedures that will apply at today's hearing and for the Board's consideration and action on the application. This hearing has been properly noticed, pursuant to statute and the District Rules. Notice of the hearing was posted at the District Office and at the District Courthouse on Friday, December 29th at 9:10 am.

Leland reminded the Board that there were several individuals that wished to participate in the hearing on January 11, 2023, to protest the application and did properly sign up. Ten individuals did participate and established standing in the hearing as affected parties. By providing them with party status, Leland formally deemed the hearing as a "Contested Case Hearing" under District Rule 6.10.8. Leland asked if there were any questions about that from any member of the public.

The Affected parties of this contested case hearing are as follows:

Chet Sutton, Linda Griffith, Session Harrell, Karen Kinnison, Warren Stevens, KD Hill, Darlene Walsh, Murray Lane, Sara Whitis, and Randy Bloomer.

Leland asked if Mr. Aaron attempted to contact these parties in order that they could attend and participate today. Mr. Aaron stated we did. We emailed them and made follow-up calls to confirm they received the packet for today's hearing.

Leland moved to the evidentiary phase of the hearing. He asked Dirk if representatives for the applicant were present. Chad Stewart. Also present were District Counsel Cole Ruiz, and Hydrogeologist Mike Keester representing CUWCD. Leland administered an oath to all parties introduced that will speak on the application.

The oath was administered to Dirk Aaron, Cole Ruiz, Mike Keester, Sara Whitis, Darlene Walsh, and Chad Stewart.

Dirk Aaron – Clearwater UWCD, presented his updated executive summary and support documents referenced in his summary. He stated that the applicant conducted the required pumping test. Dirk stated the data from the monitor well at Murray Lane’s well was not usable because the SD card was damaged, and the data could not be retrieved. Dirk stated he met with Chad Stewart and consultants on March 29th to discuss the findings from the pumping test and offer them a chance to request a continuance ahead of today’s proceedings. Dirk recommends that he and Mike Keester testify to the findings and opinion that the proposed production is unreasonable due to the long-term impact of the proposed production.

Mike Keester – R.W. Harden, presented his opinions which include the results from the pumping test indicated aquifer coefficients are much lower than previously modeled. There was more drawdown during the test than anticipated and more predicted drawdown associated with proposed production. Keester also stated that maintaining production during peak irrigation demand could be challenging. Keester suggested that the applicant reduce the annual volume to 2 acre-feet for negligible predicted drawdown at the nearest existing active well.

Chad Stewart – RREAF Holdings LLC, stated he is waiting on Billy Hanks with Hanks-Cabiness Christian Trust to make his decision on how he wants to proceed. Chad stated he would like another 30-day continuance at this time while he awaits Mr. Hanks’ decision.

Sara Whitis – asked if the impact would be the same if they use water from Salado Water Supply and if would that affect the surrounding wells the way the pump test did. Dirk replied and stated that Salado Water Supply has 9 wells so they can focus on where they pump from in times of drought and low spring flow. He also stated Salado WSC has measures in place to help them monitor how much water is being used by its customers and that they are also now blending with lake water to increase how much water they have to use.

Darlene Walsh – commented on how she is pleased with the Board and their efforts to protect the Salado Springs Complex, the water quality, and the Salado Salamander.

Dirk Aaron’s final comments – Dirk requests that the Board honor Chad’s request for a 30-day continuance.

Leland stated that the evidentiary portion of this application is not concluded and will not be issuing an operating permit until the applicant meets the requirements to assist the Board in making a legally and more scientifically defensible decision.

Leland stated that the hearing will be reconvened on May 10, 2023, at 1:30 p.m.

10. Hold Public Hearing on the following application:

Discuss, consider, and take appropriate action if necessary, for a combination drilling and operating permit of 0.051 acre-feet or 16,618 gallons per year for Ben Daniel authorizing production from a new well (N3-23-001P) completed in the Lower Trinity aquifer at 10-gpm for domestic use on a 4.369-acre tract located at 2407 Briggs Road, Killeen, Texas, Latitude 30.945707°/Longitude -97.818658°.

Leland gave a summary of the application to be considered and noted that reviewed the procedural issues in the first public hearing. 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 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 again 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 Ben Daniel.

Leland will hear testimony by Dirk Aaron (General Manager - CUWCD).

Leland invited anyone wishing to make a public comment or protest the application to speak up. There were no public comments or protestants.

Leland administered an oath to all participants (Dirk Aaron).

Dirk gave a general explanation of the application. The applicant has met all criteria and has agreed to the special provisions laid out for him. Dirk replied to Leland's questions and stated that the application had been deemed administratively complete, and all fees have been paid. Dirk read an email from the applicant that states the applicant agrees to all special provisions and requests of the District. Dirk recommended the Board approve a drilling/operating permit for Mr. Daniel.

Leland gave the Board an opportunity to ask any additional questions they might have concerning the application. No other questions were asked.

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. There was none.

Leland concluded the evidentiary portion of the application.

Leland asked for a motion to grant/deny/partially grant the applicant's request for a combination drilling/operating permit of 0.051 ac-ft/year from the Hosston Layer of the Trinity Aquifer described in the hearing.

Director, Scott Brooks, moved to grant the combination drilling/operating permit for 0.051 acre-feet/year, to include special provisions as agreed to. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

11. Discuss, consider, and take appropriate action, if necessary, to approve the requested waiver of property line setbacks submitted by Mr. Dean Winkler, 13349 Rattlesnake Rd, Belton, TX for a new exempt well to encroach on one adjacent property to less than the required 75-foot setback per District Rule 9.5.5(e).

The applicant is requesting an exception to the District's requirement that wells observe a minimum setback of 75' from all property lines. A setback reduction of approximately 24' is requested from the west property line placing the well adjacent to Ms. Kande Gibson Bruening's east property line. The applicant has provided the required waiver from the adjacent property owner.

These properties are outside the service area of the City of Morgan's Point Resort. The sole source of water supply has been water pumped directly from Lake Belton. This property is located in the Tomahawk Trails subdivision but is adjacent to Belton Lake where the US Army Corps of Engineers has required all submersible pumps to be removed. This is the only alternative for domestic water supply due to the removal of submersible pumps from the lake.

The well will be located approximately 24' from the western property line. The well will observe the required setback from the eastern property line and will be 75' off the southern property line when measured from the center of the road. The well satisfies all requirements for an exempt well classification; therefore, no permit is required. This well will be more than 100 feet from any other existing wells on adjacent properties. The proposed well location and construction standards must satisfy the on-site septic regulations required by Bell County Public Health District.

Director, Jim Brown, moved to grant the setback waiver as presented. Secretary, Gary Young seconded the motion.

Motion carried 5-0.

12. General Manager's report concerning office management and staffing related to District Management Plan.

- Drought concerns
- Permits and plats coming in all of the time

13. 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**

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

14. Director's comments and reports.

- **Leland Gersbach:** Asked if anything is being done through Rep. Carter's legislation about getting the lake raised/conservation level?
- **Jody Williams:** None
- **Gary Young:** Welcomed Bill Schumann back.
- **Scott Brooks:** None
- **James Brown:** None

15. Discuss agenda items for the next meeting.

- Budget timeline
- Update on investments (data analytics tools, DMS, groundwater availability model)
- Possible permits and continuance

16. Set the time and place of the next meeting.

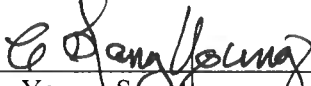
Wednesday, May 10, 2023, at 1:30 p.m. at the CUWCD office.

17. Adjourn.

Board meeting closed with President, Leland Gersbach, at 4:30 p.m.


Leland Gersbach, President

ATTEST:



Gary Young, Secretary or
Dirk Aaron, Assistant Secretary