

Clearwater Underground Water Conservation District Meeting
700 Kennedy Court
Belton, TX
Wednesday, November 8, 2023
Minutes

The Clearwater Underground Water Conservation District (CUWCD) held a Workshop and Board meeting at 1:30 p.m. on Wednesday, November 8, 2023, at the Clearwater UWCD Building 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

Janice Morin
Preston Siple
Jessica Diem (Rep. Brad Buckley)
Mike Keester – RW Harden
Aaron Crane
James Bishop
Phil Stacy
John Asbury
Jeffri King
Tere Grace
Lafonda Brown – MWSC
Stephanie Ritter
Ransom Jones
Daniel McBurney
Eric Allmon
Tom Curb
Austin Ruiz
James Hering
Tim Fleischer – Salado Village Voice
Bert Henry

James Morin
Barbara McBurney
Russell Coufal – MWSC
Gretchen Miller – Collier
Aaron Gresmer
Lynda Bean
Ron Lusk
Edwin Bailey III
John King
Liz Ferry – RW Harden
Dewitt Mayfield – MWSC
Sharon Higgins
Gail Hutcherson
Mike Cornett
Cheryl Walter Monteith
Nancy Curb
Tammy Lawler
Jason Walrath
Nancy Mills Mackey
Bill Schumann-Bell County Commissioner

Un Suk Siple
Edgar McBurney
John Bockhold – MWSC
Janet Kennedy
Deborah Fieber
Richard Bean
Cole Ruiz – Lloyd Gosselink, Attorney
Edwin Bailey
Bill Grace
Rebecca Miller – MWSC
Damon Boniface – MWSC
Phillip Higgins
Sara Fox
Samantha Fisher
Sandra Blankenship – WCID1
Kim Walker
Ben Lawler
Dave Musser
James Kerby

Board meeting convened with President, Leland Gersbach, at 1:32 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.*

None

3. *Approve minutes of the October 11, 2023, Board meeting.*

Board members received the minutes of the October 11, 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 October 11, 2023, Board meeting and Workshop as presented. Director, Jim Brown, seconded the motion.

Motion carried 5-0.

4. *Hold Public Hearing on the following permit applications:*

a.) Discuss, consider, and take appropriate action, if necessary, on an application submitted by Damon Boniface, General Manager for Moffat Water Supply Corporation, on behalf of Moffat Water Supply Corporation, for an additional amount of 51.4 acre-feet per year or 16,748,741 gallons per year from their two well aggregate system producing from the Hosston Layer of the Trinity Aquifer in the Belton Lake Management Zone.

President, Leland Gersbach opened the public hearing at 1:35 p.m. and 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 application 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 application for an amendment to the existing operating permit submitted by Damon Boniface - MWSC. Leland will hear testimony from Damon Boniface (applicant), Elizabeth Ferry (MWSC geoscience consultant), and Dirk Aaron (General Manager - CUWCD). Leland noted that James Beach would not be in attendance but submitted his report/analysis to Dirk prior to the hearing.

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 parties (Dirk Aaron – District GM, Damon Boniface – MWSC, Russel Coufal – MWSC, John Bockhold – MWSC, Rebecca Miller – MWSC, Lafonda Brown – MWSC, Dewitt Mayfield – MWSC, Elizabeth Ferry – RW Harden, and Cole Ruiz – Lloyd Gosselink, Attorney).

Damon Boniface laid out the application and needs related to the request for an amendment to MWSC's existing operating permit for an additional 51.4 acre-feet per year. Elizabeth Ferry presented her hydrogeologic assessment on behalf of MWSC.

The district's hydrogeologist, James Beach, was not available. Leland asked Dirk if he was comfortable with James' assessment submitted prior to the meeting. Dirk replied yes.

Dirk gave a general explanation of the application for an amendment to the existing permit. He laid out the legal elements and presented his executive summary and recommendations. Dirk recommended the Board approve the request with special provisions to include the use of monitoring equipment from Eno-Scientific.

Leland addressed the applicant with questions about his understanding related to the proposed application and the special provisions agreed upon. Damon replied that he understood all special provisions and requirements as discussed and agreed to.

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. He had none.

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 at 2:18 p.m.

Leland asked for a motion to grant or deny the amendment in full based on Dirk's recommendations that the District purchase and install the Eno-Scientific 700 for continuous monitoring of the wells.

Director, Scott Brooks, moved to grant the applicant's request for an amendment of 51.4 ac-ft/year from the Hosston layer of the Trinity aquifer with special provisions as agreed upon. Vice President, Jody Williams, seconded the motion.

Motion carried 5-0.

b.) Discuss, consider, and take appropriate action, if necessary, on an application submitted by Dr. Gretchen Miller, Ph.D., PE, PG, on behalf of Mr. James Kerby, Jaffe Interests LP (Mustang Springs Development), for two drilling permits for two proposed new public water supply wells to be completed in the Lower Trinity Aquifer (Hosston Layer), with a maximum 4-inch column pipe on a 1,106-acre housing development located on the north side of FM-2843 approximately 6 miles west of the Village of Salado in the Stillhouse Hollow Management Zone. No groundwater production will be authorized with these drilling permits.

President, Leland Gersbach opened the public hearing at 2:30 p.m. He confirmed a quorum of the Board was in attendance to participate in the ruling of the application. He gave a summary of the application to be considered and noted that the application is for 2 drilling permits only. No groundwater production will be authorized with these drilling permits today.

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 stated that the permit application had undergone administrative, legal, and technical review by District staff, geoscience consultants, and legal counsel.

The Board will offer an opportunity for members of the public wishing to speak in support of or against the drilling application to provide such public comments.

Leland stated that these individuals may or may not qualify as affected parties or what is known as parties to the case. This opportunity for public comment will be afforded specifically for those members of the public seeking to offer public comment, but not wanting to request a contested hearing under District Rule 6.10.8., and/or not qualifying as an affected party.

Leland informed the group that the district has received requests for a contested case hearing prior to today's hearing in writing, and if we receive any additional requests by a person appearing today before the Board, the Board will enter a preliminary phase of the contested case hearing in order to determine the following:

- (a) whether the hearing request meets the requirements of Rules 6.10.9 and 6.10.12;
- (b) whether the person requesting the hearing qualifies as an affected person with a personal justiciable interest; and
- (c) whether it is appropriate to deem the hearing a contested case hearing.

Leland commented that a final decision on the applications is not required today but may be made today if he closes the evidentiary portion of the hearing; or no later than 60 days at the conclusion of this hearing. The final decision will involve the Board acting on the application by either denying the permit application, granting the permit application as requested, or granting the permit application in part, or partial and, if granted, the issuance of an operating permit is possible with any special provisions, which may be agreed upon by the applicant and the Board.

Leland asked legal counsel, Cole Ruiz, to help facilitate whether protestants have standing to be a party to this case. Cole commented that there is a large number of protestants and requested the public be respectful and have patience as he works through the process.

Cole asked if there was anyone wanting to make a general public comment but not interested in being a party to the case.

John Asbury signed up for public comment. He stated that he has no conflict of interest. He did some research after reading the application. He presented his comments, concerns, and suggestions, then left the hearing (as noted by Dirk).

No other general public comments were received.

Cole explained the criteria for those seeking standing in the case. He addressed each registration submitted. There were 69 applications for standing received. Of those 69, 33 registrants were in attendance and 36 were absent. 30 of the registrants in attendance received standing and 3 were denied standing. The 36 absent registrants did not receive standing. These registrants did not understand that attendance was necessary to establish standing. Therefore, the 36 registrants not in attendance will be afforded an opportunity to establish standing at the December 13th Board meeting. Staff will notify the registrants not in attendance. Notification will consist of certified mail, email, and phone calls by the General Manager.

A request for continuance and discovery was submitted by attorney, Eric Allmon. Cole addressed comments and concerns related to the request.

Additional comments and concerns were made by those denied standing. Those comments were addressed by legal counsel and hydrogeologic consultant Mike Keester – RW Harden & Associates.

Cole offered the permit applicant an opportunity to comment on the application. They stated that they would appear and make comments at the future evidentiary phase of the hearing.

Leland requested the Board continue the preliminary phase of the hearing on December 13th to allow those absent to appear for the purpose of establishing standing.

The evidentiary phase will not be conducted at the December meeting.

Public hearing paused at 4:23.

Entered into Executive Session with Legal Counsel for debriefing at 4:43 p.m.

Executive Session closed and Regular Board meeting reconvened at 5:07 p.m.

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

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

Secretary, Gary Young, moved to accept the October 2023 financial report as presented. Director, Jim Brown, seconded the motion.

Motion carried 5-0.

6. *Discuss, consider, and take appropriate action, if necessary, to accept the monthly Investment Fund account report for October 2023 (FY23) as presented.*

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

Director, Scott Brooks, moved to accept the monthly Investment Fund account report for October 2023 as presented. Vice President, Jody Williams, seconded the motion.

Motion carried 5-0.

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

Shelly presented the budget line-item amendments as follows:

1. Payroll - adjustments due to “rounding” numbers.
2. Permit Review – Geoscience invoice from RW Harden
3. GMA8 reimbursement to NTGCD for work by INTERA – (Final invoice arrived last week.)
4. In-house adjustments as presented below.

| Vendor | Line Item | Invoice Amount | Available Funds | Amount Requested | New Balance | From | Available Funds | New Balance |
|---------------|-------------------------|----------------|-----------------|------------------|-------------|-----------------------------|-----------------|-------------|
| RW Harden | 53731-Permit rev - Geo | \$2,290.00 | \$1,783.74 | \$506.26 | \$0.00 | 53732-Permit review - Legal | \$10,571.00 | \$10,064.74 |
| NTGCD | 50605-GMA*8-Tech Review | \$3,487.06 | \$0.00 | \$1,575.81 | \$0.00 | 50610-GMA8-Admin | \$1,575.81 | \$0.00 |
| | | | | \$1,911.25 | \$0.00 | 53105.4-GAM Calibration | \$5,538.80 | \$3,627.55 |
| In-house Adj. | 52075-Field Tech | \$0.01 | \$0.00 | \$0.01 | \$0.00 | 52055-Payroll exp | \$1.05 | \$1.04 |

| | | | | | | | | |
|--|--|---------------------|--|--|--|--|--|--|
| 40010 | BellCAD Current Year Tax | -\$30,532.13 | | | | | | |
| | BellCAD Delinquent Tax | -\$2,900.86 | | | | | | |
| | (uncollected taxes) | -\$33,432.99 | | | | | | |
| Adjust line item 53760-Reserves for uncollected taxes - AMEND budget from \$20,000 to \$33,432.99 | | | | | | | | |
| 53760 | Reserves for uncollected tax (original bud | \$20,000.00 | | | | | | |
| | (adjustment for uncollected taxes: | -\$33,432.99 | | | | | | |
| | (return to contingency fund) | -\$13,432.99 | | | | | | |
| 50250 | Current contingency fund | \$13,316.45 | | | | | | |
| | Return to contingency fund | -\$13,432.99 | | | | | | |
| | Adjusted contingency fund | -\$116.54 | | | | | | |

Shelly explained these amendments, if approved, would allow her to officially close FY23 books.

Vice President, Jody Williams, moved to accept the final FY23 line-item budget amendments as requested. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

8. Discuss, consider, and take appropriate action, if necessary, to close out the FY2023 budget year as presented.

Dirk and Shelly presented the final numbers for the close out of the FY2023 budget year as follows:

Original Budget set for FY23 \$ 879,078.00 (projected income and expenses – page 1)

The following describes the year-end closeout for FY23

Actual income: \$ 862,675.25 (Tax Revenue, Permit Fees, and Delinquent Taxes Collected – pg 1)

Other income - Reserves (ASR-WCID#1) **\$ 50,000.00** (page 5)

Adjusted Income: **\$ 912,675.25**

Total Expenses: **\$ 835,973.51**(page 4)

Gross Return to Fund Balance: **\$ 76,701.74** (page 5)

Less Reserve funds (ASR-WCID1): **\$ 50,000.00** (page 5)

Net Return to Fund Balance: **\$ 26,701.74** (page 4)

Director, Jim Brown, moved to accept the FY2023 budget year close out as presented. Director, Scott Brooks, seconded the motion.

Motion carried 5-0.

9. Discuss, consider, and take appropriate action, if necessary, to approve the FY24 line-item budget amendments as requested.

Dirk presented the request for a line-item budget amendment for the cost share of the Bell County Museum storage and meeting room facility that the district will utilize for future Board meetings. The funds will be moved from the district's reserve funds.

| Vendor | Line Item | Invoice Amount | Available Funds | Amount Requested | New Balance | From | Available Funds | New Balance |
|-------------|-----------|----------------|-----------------|------------------|-------------|---------------|-----------------|-------------|
| Bell County | | \$50,000.00 | | | | Reserve Funds | | |
| | | | | | | | | |

Vice President, Jody Williams, moved to approve the FY24 line-item budget amendment as presented. Director, Scott Brooks, seconded the motion.

Motion carried 5-0.

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

- Dirk discussed the new staff position and will be working on a job description.
- Dirk presented ideas about reconfiguring the Board room to better fit the needs of staff.
- Dirk updated the Board on the recent theft of district magnetic signs from the truck and suspicious activity around the building. Police were notified.

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*

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

12. Director's comments and reports.

- **Leland Gersbach:** None
- **Jody Williams:** None
- **Gary Young:** Gary appreciated all the work by Dirk, staff, and consultants related to the Mustang Springs application.
- **Scott Brooks:** None
- **James Brown:** None

13. Discuss agenda items for the next meeting.

- Mustang Springs – Preliminary hearing continuation
- Job description for new staff member will be discussed in workshop
- ACA petition

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

Wednesday, December 13, 2023, 1:30 p.m. (location TBD)

15. Adjourn.

Board meeting closed and Workshop convened with President, Leland Gersbach, at 5:41 p.m.

Workshop Item #1: Receive updates related to GMA8 DFC determination, per TWC section 36.108, and plans for the next round.

Dirk briefed the Board on the latest updates related to the GMA8 DFC determination and plans moving forward.

Workshop Item #2: Receive updates related to the 2023 Bell County Water Symposium.

Shelly commented that there were 265 in attendance. That is the largest turnout the district has had. More than 300 registered in advance. Dirk gave a rundown of the day and noted a lot of positive feedback.


Workshop Item #3: Receive update related to current drought conditions.

Dirk gave a brief update on current drought conditions.

Workshop Item #4: Receive update on aquifer status reports.

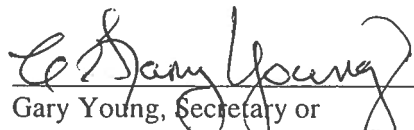
Dirk gave a brief update on the aquifer status reports.

Workshop closed with President, Leland Gersbach, at 5:50 p.m.



Leland Gersbach, President

ATTEST:



Gary Young, Secretary or
Dirk Aaron, Assistant Secretary