

Clearwater Underground Water Conservation District Meeting
700 Kennedy Court
Belton, Texas
Wednesday, September 9, 2015
Minutes

The Clearwater Underground Water Conservation District (CUWCD) held a board meeting on Wednesday, September 9, 2015 at 1:30 p.m. at the Clearwater UWCD Building, located at 700 Kennedy Court, Belton, Texas.

Board Members Present:

Leland Gersbach, President
Wallace Biskup, Vice President
Judy Parker, Secretary
David Cole, Director
Gary Young, Director

Public Advisory Committee:

Henry Bunke
Bradley Ware

Staff:

Dirk Aaron
Tristin Smith

Guests:

Mike Keester – LBG-Guyton
Jill Wright
Jason Wright
Mike Gershon-Lloyd Gosselink

Scott Law
Jessica Law
Elizabeth Ferry-Thornhill Group, Inc.
Steve Kallman - CTWSC

Lee Kelly-CTWSC
Linda Reynolds

Board meeting convened with President, Leland Gersbach, at 1:34 p.m.

1. Invocation and Pledge of Allegiance:

Vice President, Wallace Biskup gave the invocation.
Secretary, Judy Parker led the Pledge of Allegiance.

2. Public Comments:

None

3. Approve minutes of the August 24, 2015 Board Meeting and Workshop.

Director, David Cole moved to approve the minutes of the August 24, 2015 Board Meeting and Workshop.
Director, Gary Young seconded the motion. **Motion carried 5-0.**

4. Discuss, consider and take action if necessary to accept the monthly financial report for August 2015 as presented.

Secretary, Judy Parker moved to accept the monthly financial report for August 2015 as presented. Director, David Cole seconded the motion. **Motion carried 5-0.**

5. Discuss, consider and take action if necessary to accept the monthly Investment Fund account report as presented.

Director, David Cole moved to accept the monthly investment fund account as presented. Director, Gary Young seconded the motion. **Motion carried 5-0.**

6. Discuss, consider and take appropriate action if necessary to approve the FY15 line item budget amendment as requested.

Vice President, Wallace Biskup moved to approve the FY15 line item budget amendment as requested.
Secretary, Judy Parker seconded the motion. **Motion carried 5-0.**

7. *Discuss, consider and take action if necessary on the application from Scott and Jessica Law for a combination drilling/operating permit on 105.74 acre tract for nine (N1-15-001P thru N1-15-009P) wells for domestic purposes each with an 1 ¼ column pipe and maximum of 17gpm for a total of 5.4 acre feet/year (each well at .6 acre feet per year) or 1,759,595 gallons per year.*

President, Leland Gersbach reconvened the Public Hearing from August 12, 2015 at 1:39 p.m.

President, Leland Gersbach called to order the hearing on the application described under Agenda Items #7. This application was filed by Scott & Jessica Law. For the record, it is September 9, 2015; Leland officially opened the hearing a 1:39 p.m. and reminded everyone that the hearing is recorded by audiotape as required by statute and district rules. As the President of the District's Board of Directors, Leland served as the Presiding Officer of the hearing. The quorum of the Board of Directors also officiate and participate in ruling on the applications before us today.

The Law's request is to attain a combination Drilling/Operating Permit for 5.4 ac-ft per year on their proposed nine wells to withdraw from the Edwards BFZ Aquifer, for domestic use in a proposed rural subdivision to be known as Salado Country Estates.

Leland announced that the Board can only rely upon testimony and other information presented by the applicant, applicant's consultants, CUWCD General Manager, CUWCD's consultants and a party that qualifies under the Water Code and District Rule 8.10. He further stated that District Rule 8.10.12 provides that any person who wishes to protest an application must submit a contested case hearing request either before the hearing or be present at today's hearing.

Additional testimony on agenda item 7 was heard:

Parties Hill, Johnson and Smith sent an email to the district manager, Dirk Aaron, stating they are willing to drop their opposition to the 9 wells as long as the following special provisions were met:

1. Each well would be an N2 metered well
2. Annual amount to be pumped should not exceed 195,511 gallons per well per year

Scott Law confirmed he offered that each well be metered and agrees to this special condition.

Secretary, Judy Parker moved to approve with **N2 classification**, and require metering and monthly production and special provisions to include observation tube with trimmie pipe to allow for quarterly monitoring by District Staff. Director, David Cole seconded the motion. **Motion carried 5-0.**

8. *Discuss, Consider and take action if necessary on the application from Lee Kelley, General Manager of Central Texas Water Supply Corporation, to the CUWCD on July 2, 2015, for an operating permit to produce from Well #1 (N2-14-004P) in the Lower Trinity Aquifer to produce water for public water supply with a 6 inch column pipe at 450 gpm to 600 gpm on a 78 acre site located at the Doc Curb Pump Station off West Amity Rd, .5 miles due west of FM 1670; Latitude 30°.993361', Longitude -97°.542527'with a proposed annual withdraw of 726 ac-ft/year or 226,676,945 gallons per year.*

Leland called to order the public hearing for Central Texas Water Supply Corporation at 1:55 pm on September 9, 2015.

For the record, it is September 9, 2015; Leland officially opened the hearing a 1:55 p.m. and reminded everyone that the hearing is recorded by audiotape as required by statute and district rules. As the President of the District's Board of Directors, Leland served as the Presiding Officer of the hearing. The quorum of the Board of Directors also officiate and participate in ruling on the applications before us today.

Leland reviewed the procedures that apply to the hearing and Board's potential action on the applications. Leland announced the hearing has been properly noticed, pursuant to statute and the District Rules. Notice of today's hearing was posted at our District Headquarters, District Website and at the District Courthouse on Friday, August 28, 2015 @ 9:05 a.m., giving the board at least 10 days' notice. Leland reviewed the procedures

for the Public Hearing to include proper posting and notification of the Public Hearing. President Gersbach noted that all administrative requirements had been met.

The District requires that each applicant provide notice to adjacent landowners and well owners located within ¼ mile of the applicant. Leland Gersbach announced that this is only a courtesy. He stated we are not required to provide this courtesy notice by law. He affirmed, as long as we meet our 10-day notice requirement at the Clerk's office, District office, and by mailing to the applicant and folks who request it under our rules, we are in compliance and can move forward with the hearing.

Leland reminded the applicants that the burden of proof is on them to establish that they are entitled to have their permit application granted. Leland reported, as set forth in Chapter 36 of the Texas Groundwater Water Code and the District's Rules, the permit application must meet certain elements to be approved, elements that our General Manager will cover in his review and recommendation and that he or other members of the Board will ask questions on.

Leland reviewed the order of testimony appearances on all three applications. He reviewed who was present as expert witnesses for the District and the Applicants. He asked for any member of the public that wished to either (1) provide public comment or (2) protest any of the three applications to speak up. Do we have anyone that is interested in making a comment but who doesn't want to be a part of the hearing? (None came forward for public comment).

Leland announced that the Board can only rely upon testimony and other information presented by the applicant, applicant's consultants, CUWCD General Manager, CUWCD's consultants and a party that qualifies under the Water Code and District Rule 8.10. He further stated that District Rule 8.10.12 provides that any person who wishes to protest an application must submit a contested case hearing request either before the hearing or be present at today's hearing. He asked all who wanted to participate as an official party, to explain to him and the Board how you meet the legal standard established in the Texas Groundwater Water Code and our District Rules. (See attached sign in sheet) All parties who signed in qualified as affected parties and attained party status by being adjacent landowners and well owners in ¼ mile of the proposed well locations. All parties, District GM, and Consultants, were sworn in at this time.

Testimony on agenda item 8 was heard:

Leland Gersbach reviewed the particulars of this application. Elizabeth Ferry, summarized that the well has been completed and that test pumping has been completed. She also reviewed the water quality.

Lee Kelley, General Manager of Central Texas Water Supply Corporation, stated that due to the quality of the water, the water will be blended with surface water. Mr. Kelley answered questions from the Board members regarding blending of water, water loss, and annual permitting. The Board members are satisfied with Mr. Kelley's answers.

Mike Keester presented his analysis based on his research and findings. Director, David Cole, made some observations and comments based on the testimony provided.

Dirk Aaron explained that David Cole addressed some of the same concerns that he has. Dirk also explained that the applicant has met the criteria set forth by the Board and recommends approving the operating permit as requested with the **special provision** laid out in his and Mike Keester's reports. Special provisions include:

1. Metered and monthly production reported to CUWCD
2. Observation tube with trimmie pipe to allow for quarterly monitoring by District Staff
3. Transducer
4. Yearly water quality analysis

Director, David Cole moved to approve the operating permit as requested with the special provisions set forth by the Board. Director, David Cole seconded the motion. **Motion carried 5-0.**

Leland stated that the Public Hearing is concluded at 3:23 pm

Leland called for a 5 minute break.

9. *Discuss, consider and take appropriate action on proposed exception to District rule 11.5 Spacing Requirements, to allow a reduction in the south (side) setback and north (side) setback on property located at 13313 Rattlesnake Road, Belton, TX 76513 (owned by Nationstar Mortgage LLC, Lewisville, TX) to allow construction of a new well for domestic use.*

Dirk explained that due to no public water supply at this address, Nationstar Mortgage LLC is requesting approval for a new domestic use well to be constructed in order for the home to be sold. Waivers have been signed and submitted by adjacent property owner's in agreeance with the setbacks for construction of the well. Setbacks include: 38ft from the south property line, 47.5ft from the north property line and 50ft from the center of the road using the red line on Bell Cad.

Secretary, Judy Parker moved to approve the requested reduction in setbacks of property lines. Vice President, Wallace Biskup seconded the motion. **Motion carried 5-0.**

10. *Discuss, consider and take action if necessary on the request for extension of a drilling permit for Dean Mikeska.*

Dirk explained that Dean Mikeska submitted a letter to the Board explaining his need for another extension on his drilling permit. Dirk recommended the Board approve the extension.

Director, David Cole, moved to grant the 120 day extension. Secretary, Judy Parker seconded the motion. **Motion carried 5-0.**

11. *Discuss, consider and take appropriate action if necessary to accept real property covenants in the Village of Salado.*

Agenda Item #11 will be addressed in Executive Session. The Board agreed. Executive session ended at 4:30

The Board feels that it is outside CUWCD's jurisdiction to accept any covenants on real property because it doesn't enter into our management responsibilities of the Aquifer. Dirk is to contact Mrs. Walsh regarding this.

12. *Discuss, consider and take action if necessary to approve the CUWCD statement of Private Property Considerations for the explanatory report, section 36.108(d)(7).*

Dirk presented the draft copy of the statement of Private Property Considerations that was created by Troupe Brewer and Mike Gershon, Lloyd Gosselink. Mike Gershon discussed the importance of private property rights. He made a few minor corrections to the draft.

Director, David Cole moved to accept the statement of Private Property Considerations. Director, ~~David Cole~~ ^{ok} Wallace Biskup seconded the motion. **Motion carried 5-0.**

13. *Discuss, consider and take action if necessary to reschedule the November 2015 board meeting*

Dirk presented the date of November 4th for November board meeting due to November 11th being a holiday.

Vice President, Wallace Biskup moved to set Wednesday, November 4th as the date for the November board meeting. Director, David Cole seconded the motion. **Motion carried 5-0.**

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

15. *Receive monthly report and possible consideration and Board action on the following:*

- a. *Drought Status Report and/or Aquifer Status Report*
- b. *Education Outreach Update*
- c. *Monitoring wells*

d. Rainfall Report

e. Well registration

f. Aquifer Status Report and Non-exempt Monthly well production

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

16. Public Advisory Committee comments.³

None

17. Director comments³

None

18. Discuss agenda items for next meeting.

Chapter 36 Rule Changes

DFC/GMA 8 GAM Runs

Budget Amendments

19. Set time and place of next meeting.

October 14, 1:30 p.m.

20. Adjourn.

Meeting adjourned with President, Leland Gersbach at 4:55 p.m.

Workshop convened with President, Leland Gersbach, at 4:56 p.m.

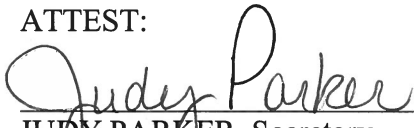
Workshop item #1. Discuss Water Symposium topics.

Dirk presented a theme for the Water Symposium. He also discussed possible topics and speakers for the Water Symposium.

Workshop closed by President, Leland Gersbach at 5:15 p.m.


Leland Gersbach, President

ATTEST:


JUDY PARKER, Secretary
(A compact disc of this meeting is available upon request.)