

Middle Pecos Groundwater Conservation District

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Email: mpgcd@mpgcd.org Website: www.mpgcd.org

Directors

Jerry McGuairt, President John D. Dorris, Vice President M. R. Gonzalez, Secretary/Treasurer
Alvaro Mandujano, Jr. Vanessa Cardwell Ronald Cooper Janet Groth
Weldon Blackwelder Terry Whigham Merrell Daggett

Employees

Paul Weatherby, General Manager Ty Edwards, Assistant Manager
Melissa Mills, Office Manager Gail Reeves, Office Assistant

Minutes of August 16, 2016

On this the 16th of August, 2016, a regular board meeting was held by the Middle Pecos Groundwater Conservation District in the office located at 405 North Spring Drive, Fort Stockton, Texas, with the following members present, to-wit:

Jerry McGuairt	President, Precinct 1
John Dorris	Vice President, Precinct 3
M. R. Gonzalez	Secretary/Treasurer, Precinct 2
Janet Groth	Precinct 1
Merrell Daggett	Precinct 2
Weldon Blackwelder	Precinct 3
Ronald Cooper	Precinct 4
Alvaro Mandujano, Jr.	Precinct 4
Vanessa Cardwell	City of Fort Stockton
Terry Whigham	At Large

Quorum Present.

Board members absent: None. Position for City of Iraan is vacant.

Others present: Paul Weatherby, Mike Gershon, Allan Standen, William (Bill) Hutchison, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Jeff Williams, Brock Thompson, Ed McCarthy, II, Tommy Ervin, Gary Harrell, Steve Chapman, Mark Osborn, Rick Dudman, Jimmy Perkins, Marty Jones, Elizabeth Ferry, Oscar Hernandez, Gerald D. Lyda, Fred Tyler, Ernest Woodward, Skip Woodward, Snap Woodward, Tommy and Debra Ezell, James Cravens, Paula McGuairt, Gladys Dorris and Bob Beal/Fort Stockton Pioneer.

REGULAR BOARD MEETING

I Call to order regular Board meeting at 10:02 a.m. by President Jerry McGuairt.

III **Administer the Statement of Elected Officer and Oath of Office for New Director for City of Iraan.**

No action taken. Item tabled.

**Workshop on Proposed Budget and Proposed Tax Rate
Call to Order following Public Hearings**

- I Call to order 10:03 a.m. by President Jerry McGuairt.
- II **Workshop to review Proposed Budget for Fiscal Year ending 09/30/2017.**
The Board reviewed the proposed budget.
- III **Workshop to review Proposed Tax Rate for 2016.**
The Board reviewed a tax rate of \$0.0249 per \$100 valuation.
- IV **Adjourn.** President McGuairt adjourned the workshop at 10:26 a.m.

REGULAR MEETING CONTINUED

- IV Receive public comments on the District's fiscal year ending 9-30-2017 budget and proposed tax rate, to comply with the requirements of the District's enabling act, rules, and bylaws; Texas Water Code Chapter 36; and the laws of the State of Texas.

No public comments on the District's fiscal year ending 9-30-2017 budget and proposed tax rate.

- V Consider and/or approve **Proposed Budget for Fiscal Year Ending 09/30/2017 and sign the Resolution to Adopt the Annual Budget.**

Vanessa Cardwell made a motion to approve the Budget for the Fiscal Year Ending 09/30/2017 and to sign the resolution to adopt the annual budget. The motion was seconded by John Dorris. The motion carried unanimously.

- VI Consider and/or adopt **Tax Rate for 2016 and Sign Ratification.**

Ronnie Cooper made a motion to have the property tax remain the same by adoption of a tax rate of \$0.0249 per \$100 valuation, which is effectively a 13.54 percent decrease in the tax revenue and also to sign the supporting resolution. The motion was seconded by Alvaro Mandujano, Jr.

The motion passed as follows: 10 For. -0- Against. 1 Vacant Position. The motion carried unanimously.

- VII Comments from **public and media** (limit 5 minutes per person) - Members of the public may address the Board for a limited time concerning any subject whether or not it is on the agenda. The Board is not allowed to take action on any subject presented that is not on the agenda, nor is the Board required to provide a response.

Tommy Ezell has property on the Northeast corner at Owego Road and Highway 67 in Pecos County. He voiced concerns about the Pecos SS LLC production permit, and the possible effects that it could have on his water supply. He had not been notified earlier about the original hearing on the application. He urged the Board to deny the extension of time and let the permit expire.

Ernest Woodward urged the Board to deny the Pecos SS LLC permit amendment and let the permit expire. He felt that he had not been notified correctly. He explained that he had not received the certified letter that had been sent to him on 06-10-2016, and that the return card signature was not his signature.

Kirby Warnock spoke against the export of water.

Note: The agenda items are taken up in a different order than posted on agenda.

- XV Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending July 31, 2016.**

Vanessa Cardwell made a motion to approve the accounts payable and treasurer's report for the month ending July 31, 2016. Motion seconded by John Dorris. Motion carried unanimously.

- XVI Consider and/or act upon **Minutes of June 21, 2016.**

John Dorris made a motion to approve the minutes for June 21, 2016 with an addition of one sentence on agenda item XII on page 10. The following sentence shall be added: *During discussion after the motion, it was clarified that this motion does not affect the ongoing abatement.* Motion seconded by M. R. Gonzalez. Motion carried unanimously.

- XVII Consider and/or act upon **Minutes of July 19, 2016.**

John Dorris made a motion to approve the minutes for July 19, 2016. Motion seconded by Vanessa Cardwell. Alvaro Mandujano, Jr. abstained. Motion carried. 9 For. 0 Against. 1 Abstain. 0 Absent. 1 Vacant Position.

An Executive Session was called at 10:59 a.m. by Presiding Officer Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to consult with attorney.

The Executive Session ended at 12:17 p.m. The Board recessed for lunch at 12:17 p.m. The Board reconvened at 1:01 p.m. and President McGuairt stated that no decisions or votes were made in executive session.

- XIII Briefing on April 25, 2016 **letter complaint submitted by City Water Attorney Mark Harral/Fort Stockton** to 112th District Attorney Laurie English and Attorney General of the State of Texas alleging violation of Texas Open Meetings Act and consider and/or act (a) to engage legal counsel regarding this complaint and (b) to waive client-attorney privilege of discussions between Board and its legal counsel during the second Executive Session on April 19, 2016, which started at approx. 11:47 a.m. and ended at approx. 12:07 p.m.

Update from MPGCD attorney Mike Gershon: No new developments since last month.

Janet Groth made a motion to engage legal counsel with Andrew Weber with the firm of Kelly Hart and Hallman, LLP regarding this complaint. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

Janet Groth made a motion to waive client-attorney privilege of discussions between Board and its legal counsel during the second Executive Session on April 19, 2016, which started at approx. 11:47 a.m. and ended at approx. 12:07 p.m. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

- VIII Executive Session pursuant to the Texas Open Meetings Act, Section 551.074 of the Texas Government Code, to deliberate evaluation and duties of District's employees.

An Executive Session was called at 1:06 p.m. by Presiding Officer Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.074 of the Texas Government Code, to deliberate evaluation and duties of District's employees.

The Executive Session ended at 2:07 p.m. The regular meeting reconvened at 2:07 p.m. and President McGuairt stated that no decisions or votes were made in executive session.

- IX Consider and/or take action on **Personnel Matters Discussed in Executive Session and Annual Review and Compensation of District's Employees.** Item tabled. No action taken.

X Consider and/or act upon **Production Permit Amendment for Pecos SS, LLC.**
Mike Gershon, MPGCD attorney, recapped:

- 03-17-2015: Production Permit approved for 10,000 acre feet from the Edwards Trinity for industrial use.
- 04-19-2016: Permit amendment approved to add 3 more counties to the permit.
- 06-08-2016: Permit amendment submitted requesting 18 additional months be added to the permit stipulation, and also change the wording to *"Pipeline construction to one or more of the counties shall be completed, and water shall be sold, within 18 months of the granting of this permit amendment."*
- 06-21-2016: Hearing closed, and decision tabled.

Mark Osborn, attorney for Pecos SS LLC, said that 6 wells have been drilled and equipped and are ready to run. JMAC is working on the Right-of-Ways, but it is unsure if they will be ready by December. No pipeline has been laid. Demand is uncertain.

John Dorris made a motion to deny the amendment request. Motion seconded by Weldon Blackwelder. Vote: 5 For. 5 Against. 1 Vacant Position. Motion died for lack of a majority of 6 votes.

M. R. Gonzalez made a motion to approve the amendment for pipeline construction to one *or* more of the following counties (Upton, Reagan, Glasscock, Midland, Crane, Crocket, Ward, Reeves, and/or Loving Counties) shall be completed, and water shall be sold, within 18 months of the granting of this permit amendment. Motion seconded by Alvaro Mandujano, Jr. Vote: 4 For. 6 Against. 1 Vacant Position. Motion failed.

Janet Groth made a motion to deny the permit amendment as presented. Motion seconded by Weldon Blackwelder. Vote: 8 For. 2 Against. 1 Vacant Position. Motion passed.

XI Discuss and/or approve **Transport Fee Agreement by and Between MPGCD and Pecos SS, LLC.**

Item not considered due to previous motion failing.

XII Consider and/or act on matters related to determination of administrative completeness of permit applications, including but not limited to **Republic Water Company of Texas, LLC's pending application for a production permit.**

Ty Edwards reported that the application remains administratively incomplete. The one outstanding issue is the USGS model that has not been run which is a requirement of MPGCD rule 11.9.3 relating to the hydrogeological requirements. The USGS model should be able to run Thornhill Group's VISTA information in one to two weeks. Republic Water Company of Texas LLC has requested to use the Thornhill model to fulfill the hydrogeological requirements.

Allan Standen, MPGCD Hydrogeologist, presented his reasons why the USGS Pecos Groundwater Model was selected as the preferred model:

- Aerial extent of USGS model covers most of Pecos County.
- The model has been internally peer reviewed by other USGS modelers.
- The District funded model to assist with evaluating permits.
- The District's Board has approved use of the USGS Model.
- The USGS is unbiased on model development.
- USGS model considered geochemistry to support model results.

Marty Jones, legal attorney for Republic Water Company of Texas LLC, requested that the application be declared administratively complete according to Texas Water Code 36.114. Doing so would have the modeling discussions be part of the hearing. Also, declaring the application administratively complete would cancel the Court case of Pecos County 112th District Court, Cause # P-11956-112-CV.

XIV Consider and/or act on **Capitan Reef Aquifer Moratorium**.

Gerald D. Lyda, La Escalera Ranch, requested that the moratorium be lifted.

Allan Standen, MPGCD Hydrogeologist recommended removal of the Capitan Reef Moratorium based on:

- The Texas Water Development Board's Capitan Reef model has been reviewed and determined to be not useable for assisting in evaluating permit applications on a case by case basis.
- Consultant's effort to compile additional data on Capitan Reef Complex is complete.
- Potential applicant (Escalera Ranch) has completed a detailed groundwater model of the Capitan Reef and has provided the District with technical details of the model results.
- The Escalera Capitan Reef model will have to be peer reviewed; the applicant will be expected to pay for the review of the model.
- It is our understanding that there are potential applicants waiting to submit applications for the Capital Reef.

Weldon Blackwelder asked to discuss correlative rights at the next meeting.

Ronnie Cooper made a motion to lift the Capitan Reef Aquifer Moratorium. Motion seconded by Merrell Daggett. Motion passed unanimously.

XVIII Consider and/or act upon Order of General Election for November 8, 2016

John Dorris made a motion to order a general election for November 8, 2016. Motion seconded by Janet Groth. Motion passed unanimously.

XIX Consider and/or act upon General Manager's 2nd Quarterly Report.

Vanessa Cardwell made a motion to accept the General Manager's 2nd quarterly report. Motion seconded by Merrell Daggett. Motion passed unanimously.

XX Briefing and take action as necessary on Republic Water Company of Texas, LLC and Fort Stockton Holdings, LP federal lawsuit filed May 20, 2016, Cause #4:16-CV-33.

Mike Gershon, MPGCD attorney, reported that there have been some filings but there are no material developments.

XXI Briefing and take action as necessary on Republic Water Company of Texas, LLC's Request for Issuance of Writ of Mandamus filed on May 10, 2016, in Pecos County 112th District Court, Cause # P-11956-112-CV.

Mike Gershon, MPGCD attorney, reported that there are no material agreements.

An agenda has been filed for MPGCD Board of Directors for 08-17-2016 at 9:30 a.m. The hearing starts at 10:00 a.m.

XXII Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, Drought Monitor Map and ongoing Water Quality Analysis.

- Well Registrations: Progress report in notebooks.
- Drought Monitor Map: The current drought monitor map in their notebooks.
- Production Permits: There may be little ones in the works
- Data Loggers: 1 new City of Fort Stockton well – everything is normal
- Water Analysis: Collected weekly. No issues to report.

XXIII Consider and/or act upon **General Manager's Correspondence.**

- Thank you letter from Crystal Perez for the scholarship.
- Texas Groundwater Summit agenda
- Notice from Texas Water Development Board that the House Bill 30 draft reports are available on line at www.twdb.texas.gov
- Sunset Advisory Commission hearing on November 10, 2016.

XXIV **Directors' comments.** No comments.

XXV Consider and/or act upon **agenda for next meeting.**

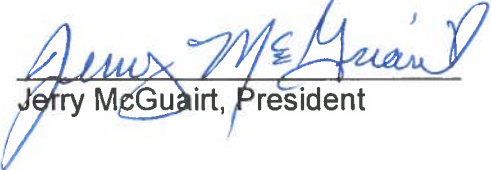
- Correlative rights
- Executive session on personnel, and action item.

XXVI **Adjourn Board meeting.**

Merrell Daggett made a motion to adjourn the meeting. Motion seconded by John Dorris. Motion carried unanimously. Adjourned at 3:55 p.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuairt, President

Date Approved 09-20-2016