

MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

P.O Box 1644 Fort Stockton, TX 79735 Phone (432)336-0698 Fax#432-336-3407
405 North Spring Drive Fort Stockton, Texas 79735
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 October 18, 2016

On this the 18th of October, 2016, a regular board meeting and public hearing 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
Janet Groth	Precinct 1
Weldon Blackwelder	Precinct 3
Ronald Cooper	Precinct 4
Alvaro Mandujano, Jr.	Precinct 4
Vanessa Cardwell	City of Fort Stockton

Quorum Present.

Board members absent: M. R. Gonzalez, Merrell Daggett and Terry Whigham.
Position for City of Iraan is vacant.

Others present: Paul Weatherby, Mike Gershon, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Raquel Mishnick, Jeff Williams, Brock Thompson, Ed McCarthy, II, Jimmy Perkins, James Cravens, Paula McGuairt, Aaron Boese, Mark Harral, Aaron Ramos, Jr., Raul Rodriguez, Fred Tyler, Oscar Hernandez, and Bob Beal/Fort Stockton Pioneer.

PRODUCTION PERMIT HEARING for City of Ft. Stockton.

I The Public Hearing on Application for a Production Permit for City of Ft. Stockton on Block 48-9, Section 31 was called to order at 10:00 a.m. by President Jerry McGuairt.

Party representing application: Aaron Boese and Mark Harral

Protestant to application: None

Public Comment: None

Application declared uncontested by President McGuairt.

Ty Edwards presented the application to the Board. The application is for 2 well system located on T&P RR CO Block 48-9 Section 31 approximately 4.5 miles north of I-10 and 7.6 Miles West of Belding, in Pecos County, Texas. The purpose of this well system is for Irrigation Use and requests 990 acre-feet per year from the Edwards Trinity Aquifer. The application is administratively complete.

Aaron Boese was sworn in. He plans on having a pivot on section 31 next year. Last year he used 4 pivots. The 2 pivots to the North were watered with his wells that have Historic & Existing Use permits. The two pivots to the South were watered with the City well on Section 31 (Well#1). Next year he will add an additional pivot on Section 31, and will use the permit granted today to water the 3 pivots. Last year he used approximately 1800 to 2000 acre feet for the 4 120 acre pivots.

- II Adjourn hearing and consider and/or act on **Application for a Production Permit for City of Ft. Stockton Block 48-9, Section 31.**

Jerry McGuairt adjourned the hearing at 10:18 a.m.

Alvaro Mandujano, Jr. made a motion to approve the application as presented. Motion seconded by Vanessa Cardwell. Motion died for lack of vote.

John Dorris made a motion to approve the application as presented with a one year term and the well production will be metered. Janet Groth seconded the motion. Motion carried Unanimously.

REGULAR BOARD MEETING

- I Regular Board meeting began at 10:23 a.m.
- II Comments from **public and media**: No comments
- III Consider and/or act upon **Minutes of September 20, 2016/Regular Meeting**

Ronnie Cooper made a motion to approve the minutes of September 20, 2016 as presented. Motion seconded by John Dorris. Motion carried unanimously.

- IV Consider and/or act upon **Minutes of September 20, 2016/Special Called Meeting**

John Dorris made a motion to approve the minutes of September 20, 2016 for the Special Called meeting as presented. Motion seconded by Janet Groth. Motion carried unanimously.

V Consider and/or act upon Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending September 30, 2016.

Vanessa Cardwell made a motion to approve the accounts payable, treasurer's report and line item transfers for the month ending September 30, 2016. Motion seconded by Janet Groth. Motion carried unanimously.

The Board requested that the Credit Card expenses always be itemized and shown with the Treasurer's Report.

VI Consider and/or act on setting a date for a hearing on Republic Water Company of Texas, LLC's (Republic LLC's) pending permit application.

Jimmy Perkins was sworn in. He thanked the Board for having RWC on the agenda and looked forward to the setting a hearing within the next 30 days.

The application was declared administratively complete at last month's meeting. Note that the MPGCD expended funds to Dr. Bill Hutchinson related to process of getting the application to be administratively complete.

Vanessa Cardwell made a motion to set the preliminary hearing for November 15, 2016, at the Middle Pecos GCD office at 10:00 a.m. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

VII 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.

Jerry McGuairt: We cooperated fully with the investigation, and we were always confident that no violation occurred. This complaint filed by City Water Attorney, Mark Harral was based on what Mark Harral speculated was discussed in executive session. The allegations were unfounded and after the investigation by the Attorney General, we are one hundred percent confident that no violation occurred, and the Attorney General will close, or has closed the books, on this one the way the Attorney General closes the books on the other Texas Open Meetings Act matters in which they find no wrong doing, they simply close the investigation. However, because we were investigated by the Attorney General's office it was necessary for us to hire an outside attorney to defend us on these allegations based upon pure speculation by City Attorney, Mark Harral. To date, Mr. Harral's complaint has cost Middle Pecos Groundwater Conservation District at least \$15,000.00 of Pecos County taxpayer money.

An Executive Session was called at 10:44 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. Agenda items VIII and IX will be discussed.

The Executive Session ended at 12:07 p.m. The Board recessed for lunch at 12:07 p.m. The Board reconvened at 1:01 p.m. and President McGuairt stated that no decisions, deliberations, or votes were made in executive session.

VIII Briefing and take action as necessary on pending lawsuits:

- A. **Republic LLC and Fort Stockton Holdings, LP's federal lawsuit** filed May 20, 2016, Case #4:16-CV-33-PRM
- B. **Republic LLC's state lawsuit** filed May 10, 2016, Cause # P-11956-112-CV
- C. **Fort Stockton Holdings, LP v. Pecos County, Middle Pecos GCD, et al.**
Court of Appeals # 08-15-00382-CV

No discussion and no action.

IX Discuss and/or act upon **Republic LLC's settlement offer** dated September 23, 2016, **regarding its pending application and pending lawsuits** in state court (Cause # P-11956-112-CV) and federal court (Case # 4-16:CV-00033-PRM).

Mike Gershon presented Republic LLC's settlement offer to the Board. On September 23, 2016 and email was received from Marty Jones, Republic Water Company's attorney, with the following offer: As I indicated at the HNR hearing, in light of the District's determination that the Republic Water Company application is administratively complete and in light of the action of the Board lifting the abatement of that application, Republic offers to dismiss the mandamus action and the suit in federal district court if the District will drop its claim for attorneys fees and set an initial, preliminary hearing on the application for October 18, 2016.

Ronnie Cooper made a motion to refuse the offer of the settlement. Motion seconded by John Dorris. Motion carried unanimously.

X Consider and/or act upon General Manager's 3rd Quarter Report.

Ronnie Cooper made a motion to accept the General Manager's report as presented. Motion seconded by John Dorris. Motion carried unanimously.

XI Briefing on interim legislative activity.
Presented a letter sent by Senator Charles Perry of Lubbock, the Chairman of the Texas Senate Ag, Water, and Rural Affairs Committee, to the TWCA Groundwater Committee. The TWCA Groundwater Committee has been formed to try and address some of the bigger groundwater issues facing Texas and the Texas Legislature.

XII **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 a few in the works
- On October 26 & 27 Paul Weatherby will be attending the Permian Basin Petroleum Association meeting in Midland.

XIII **General Manager's Correspondence.**

- House Bill 30 recommended brackish groundwater production zones be created in the Rustler Aquifer. There are 2 zones designated to become final next week.
- Rigdata Report: 3 rigs in Pecos County

XIV 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 1:11 a.m. by Presiding Officer Jerry McQuairt 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 2:35 p.m. The Board reconvened and President McQuairt stated that no decisions, deliberations, or votes were made in executive session.

XV Consider and/or take action on **Personnel Matters Discussed in Executive Session and Annual Review and Compensation of District's Employees.**

No discussion and no action taken.

XVI **Directors' comments.** No comments.

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

- Republic Water Company of Texas, LLC preliminary hearing
- Possible Mandujano hearing
- Briefing on litigation
- Swearing in of new officers

XVIII **Adjourn Board meeting.**

Weldon Blackwelder made a motion to adjourn the meeting. Motion seconded by John Dorris. Motion carried unanimously. Adjourned at 2:38 p.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuair, President

Date Approved 11-16-16