

## 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 Merrell Daggett  
Sworn In: Allan Childs, Jr., and Jeff Sims Resignation: Merrell Daggett

### Employees

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

## Minutes of November 21, 2016

On this the 21<sup>st</sup> of November, 2016, a Special Called 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 (Resigned at end of meeting)
Weldon Blackwelder	Precinct 3
Ronald Cooper	Precinct 4
Vanessa Cardwell	City of Fort Stockton
Jeff Sims	City of Iraan (Sworn in to Appointed Position)
Allan Childs, Jr.	At Large (Sworn in to Elected Position)

Quorum Present.

Board members absent: Alvaro Mandujano, Jr.

Others present: Paul Weatherby, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Jeff Williams, and Bud Daggett.

- I Call to order special Board meeting at 10:00 a.m. by President Jerry McGuairt.
- II Comments from **public and media** – No Comments.
- III **Canvass election results of November 8, 2016 Directors Election.**  
(*Declarar resultados del escrutinio de la elección de directores celebrada el 8 de noviembre de 2016.*)

### OFFICIAL CANVASS FOR THE NOVEMBER 8, 2016 GENERAL ELECTION

The canvas of results for the November 8, 2016, Middle Pecos GCD election as conducted by the Pecos County Clerk Election Office are as follows:

Precinct 1

Janet L. Groth received 61.67% of the vote; 642 votes.  
Gary Bryant received 38.33 % of the vote; 399 votes.  
Janet L. Groth is declared the winner.

Precinct 2

M. R. Gonzalez ran unopposed, and is declared the winner.

Precinct 3

John D. Dorris received 51.99% of the vote; 471 votes.  
Houston McKenzie received 48.01% of the vote; 435 votes.  
John D. Dorris is declared the winner.

Precinct 4

Alvaro Mandujano, Jr. ran unopposed, and is declared the winner.

At Large Position

Allan Childs, Jr. received 44.93% of the vote; 1,644 votes.  
Oscar Hernandez received 33.04% of the vote; 1,209 votes.  
Kirby Warnock received 22.03% of the votes; 806 votes.  
Allan Childs, Jr. is declared the winner.

Agenda item VII is out of agenda order:

**VII Consider and/or act upon appointment of Director to represent City of Iraan.**  
Nominations were accepted to fill the unexpired term for the City of Iraan Director. The term will be up for election on November 6, 2018. To be a qualified Director for the City of Iraan, the candidate must be a registered voter of the City of Iraan, along with the other normal qualifications to be qualified to hold the position of Middle Pecos GCD Board Member.

Weldon Blackwelder nominated Jeff Sims. Nominations ceased. Weldon Blackwelder made a motion to appoint Jeff Sims as Director for the City of Iraan. Motion seconded by John Dorris. Motion carried unanimously.

**IV Issue Certificates of Election to Board Members.**  
Board President Jerry McGuairt issued Election and Appointment certificates.

**V Administer the Statement of Elected Officer.**  
The following Board Members were administered the *Statement of Elected Officer* by President Jerry McGuairt:

Janet Groth, Precinct 1 Director  
M. R. Gonzalez, Precinct 2 Director  
John D. Dorris, Precinct 3 Director

Allan Childs, Jr., At Large Director  
Jeff Sims, City of Iraan Director

**VI Administer Oath of Office for Board Members.**

The following Board Members were administered the *Oath of Office* by President Jerry McGuairt:

Janet Groth, Precinct 1 Director	Allan Childs, Jr., At Large Director
M. R. Gonzalez, Precinct 2 Director	Jeff Sims, City of Iraan Director
John D. Dorris, Precinct 3 Director	

**VIII Consider and/or act upon MPGCD Board Reorganization (Election of Officers).**

Office of President: Janet Groth nominated Jerry McGuairt. Nominations ceased. Janet Groth made a motion to elect Jerry McGuairt as President. Motion seconded by M. R. Gonzalez. Motion carried unanimously.

Office of Vice President: Merrell Daggett nominated John Dorris. Nominations ceased. Merrell Daggett made a motion to elect John Dorris as Vice President. Motion seconded by Weldon Blackwelder. Motion carried unanimously.

Office of Secretary/Treasurer: Weldon Blackwelder nominated M. R. Gonzalez. Nominations ceased. Weldon Blackwelder made a motion to elect M. R. Gonzalez as Secretary/Treasurer. Motion seconded by Vanessa Cardwell. Motion carried.

**IX Consider and/or act upon delegation of authority to Board President to engage legal counsel on behalf of the Board of Directors regarding contested hearing on Republic Water Co. of Texas, LLC's permit application.**

After Board discussion, Weldon Blackwelder made a motion to engage Bill Dugat III of Bickerstaff Heath Delgado Acosta, LLP as special counsel to the Board of Directors regarding the contested hearing on Republic Water Co. of Texas, LLC's permit application. Motion seconded by John Dorris. Motion carried unanimously.

**X Executive Session pursuant to Texas Government Code §§ 551.071 and/or 551.074 on personnel matters regarding employment of and employment agreement regarding District's General Manager.**

An Executive Session was called at 10:20 a.m. by Presiding Officer Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 and/or 551.074 of the Texas Government Code, to consult with attorney and/or discuss personnel matters.

The Executive Session ended at 11:27 p.m. President McGuairt stated that no decisions or votes were made in executive session.

Open session reconvened at 11:30 a.m.

Board President Jerry McGuairt stated that General Manager Paul Weatherby was given the opportunity to deliberate with the Board in closed or open session, and Mr. Weatherby elected to proceed in open session.

Note: Verbatim is available for review. The following is a recap.

The personnel committee members are Vanessa Cardwell as the chair, along with Janet Groth, Weldon Blackwelder, and Jerry McGuairt (Terry Whigham served on the personnel committee until his term ended). The committee had met several times and had a list of questions for Mr. Weatherby.

Vanessa Cardwell asked the following questions that the personnel committee prepared, and they were answered by Paul Weatherby. The numbers do not line up with the conversations that ensued, and discrepancies will be noticed in the numbering.

1. Paul Weatherby requested we hire an assistant General Manager to help get caught up and that he would be retiring in 2 years and that would give Paul an opportunity to train an assistant for his replacement, this was 3 years ago December. What is his plan since we are past the 2 years, and are now paying two salaries for a job that requires only 1 employee?

Weatherby: December 2017 is when I plan to leave.

2. Per-diem is received each time Paul goes outside of town. Policy manual requires receipts for expenses for per-diem be presented and travel expense reports be filled out, neither has been turned in.

Personnel committee statement: Per Diem checks will no longer be issued. The MPGCD credit card will be used instead.

3. Per-diem was received at meetings where meals were provided. Paul has a credit card and should be using this credit card for meals and expenses, receipts shall be presented for any expenditures. Paul should not be taking people to lunch.

Personnel committee statement: The MPGCD will not pay for taking people out to eat. Per Diem checks will no longer be issued. The company credit card will be used and receipts will be turned in, and the daily limit is \$36 per day. In the event that a Per Diem check is issued, any monies that are not need for the meal(s) will be returned to the District.

4. A laptop computer was purchased in November of 2014; software was also approved for use and installation on this laptop. The only work product on this computer is work from 2013 that was loaded immediately after purchase of the

computer, there is no work product after 2014. The laptop has been used to store and load game camera photos. Microsoft Office, Home and Student software was purchased with the laptop for \$139.99 and is not installed on the laptop

Mr. Weatherby could not recall anything about the software, and was asked to reimburse the District for the software, and he agreed to do so. As for the game camera photos, Mr. Weatherby explained that a photo card had been downloaded at one time as well as a video of a camered water well. He explained that the laptop had been designated to him years ago for use to monitor emails, but currently he uses his iphone.

Mr. Weatherby was asked about an old laptop and a laptop battery that had been purchased. He explained that the laptop was no longer functional and had been thrown away, and the battery had been thrown away also. Mr. Weatherby was asked if the laptop had been wiped clean before discarding it, and he said no because it would not work.

5. Since Paul was told that he would be an exempt employee and no longer receive comp time, Paul was overheard being said that he would no longer answer the phone or do any work after 5pm or before 8am for MPGCD. Paul turns his MPGCD phone off at 5.

Discussion reflected on comp-time being compensated with the salary increase that Mr. Weatherby had received when he was made an exempt employee.

7. In mid-summer Paul went to Canada, Paul ran up a \$300 personal phone call bill and district personnel told Paul he needed to reimburse the district for the bill. After several reminders from district staff Paul has made 2 payments the last 2 months of \$35 each month to repay the district for the phone bill.

Mr. Weatherby is asked to repay the \$245 remaining balance in full from his next check. Mr. Weatherby agreed to do so.

8. Paul Purchased tires for his trailer, supposedly approved by a board member, but not full board approval, unless included in the financial report.

Mr. Weatherby clarified that years ago it was understood that the District did not need to buy a trailer – since it was not needed that much – and Mr. Weatherby would loan his personal trailer to the District in time of need, and over the years the District has replaced about 3 tires on his personal trailer.

9. Paul is spending a large amount of his MPGCD work time on personal business; in October Paul left the MPGCD board meeting during discussion of the City Permit to conduct personal business and was gone for about 45 minutes.

Mr. McGuairt stated that on one occasion it was MPGCD business with a man about a water well during a Board meeting, and on another occasion it was business regarding his side job. Mr. Weatherby replied, OK.

10. Paul is not providing a work product, Ty is doing much of the MPGCD general manager work. Paul is the supervisor of the MPGCD and should supervise and delegate but there are job responsibilities that should be the sole responsibility of the general manager.

Mr. Weatherby explained that in his view he was training Ty by having him do presentations and speak before the legislature and at Board or court hearings.

11. Paul has been seen conducting personal business in the MPGCD truck, Paul has been taking his daughter to school and going to see his mom in Midland, this is just one example.

Mr. Weatherby explained that he does not use his District truck on personal business. He may have had an emergency about two times in the last five years and needed to borrow the truck when he was broke down.

12. Paul has a flip phone which in May & July minutes were purchased for the phone, question is who owns the flip phone. The phone believed to be for use in the Imperial area where there is no regular cell phone service. Paul had a booster put in his truck specifically for this reason and would not need the flip phone. Receipts are available for the minutes purchased with MPGCD money.

Mr. Weatherby explained that he has one flip that the District owns that requires "30 minute" phone cards. The phone is only used around the Girvin or Imperial area because his other phone does not get reception over there. The satellite phone is in Harvey Gray's (the field technician) pickup. The booster does not improve the signal.

President McGuairt called for a recess at 12:19 p.m. for lunch.

Note: Allan Childs had to leave the meeting at lunch.

13. Interview with district employees.

An Executive Session was called at 1:00 p.m. by Presiding Officer Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.074 of the Texas Government Code, to discuss personnel matters.

The Executive Session ended at 1:40 p.m. President McGuairt stated that no decisions or votes were made in executive session. A certified agenda was prepared.

Discussions: Several matters were brought up and were explained, while some of the issues were serious and warrant further Board direction. Other comments were directed at cutting the budget for the current year with a focus on the duties of the General Manager and the Assistant General Manager positions that are basically two people being paid to do one job.

President McGuairt stated that some of the items mentioned could possibly be felonious such as misuse of equipment, misuse of funds, phone calls of \$316.23, laptop for personal use. Since no motions have been made as to further actions to be taken as far as employment, he reasserted the following:

- When out of town on business, meals should be paid with a credit card, and receipts turned in with a Travel Expense Report. This applies to all employees.
- The District does not take anyone out to eat.
- When eating with someone locally, you will pay for your own meal.
- Phone calls and emails are expected to be tended to after 5:00 p.m., on weekends, and holidays. If you are out on sick leave or on vacation, you can designate that job to the Assistant Manager.

XI Consider and/or act upon **personnel matters** regarding employment of and employment agreement regarding District's General Manager.

A Separation and Release Agreement was presented to Mr. Weatherby. The agreement would issue 6 months salary to be paid in 6 equal installments and the first installment will be paid no later than 14 days after the employee executes the agreement.

Weldon Blackwelder made a motion to exercise the Separation and Release Agreement. Jeff Sims seconded the motion. Discussions followed. The vote was 5 For. 4 Against. 2 Absent. Motion failed due to lack of a majority of 6 votes.

Jerry McGuairt made a motion to implement the following:

- Receipts are required for all MPGCD purchases.
- Per Diem checks for \$36 per day will no longer be issued. Meals will be paid by credit card and receipts are required.
- Employees are not allowed to furnish meals for others with MPGCD funds.
- Employees should furnish their own lunch, unless you are out of town on MPGCD business and the normal per diem will apply and be paid via credit card.
- Mr. Weatherby will withhold from his next check \$245 for the remainder of the Canada phone bill and \$139.99 for the 2014 Best Buy software.
- Mr. Paul Weatherby will retire effective December 31, 2017 at 5:00 p.m.

Merrell Daggett seconded the motion. Motion carried unanimously.

**XII Consider and/or act upon 2017 Meeting and Holiday Schedule.**

Ronnie Cooper made a motion to approve the 2017 meeting and holiday schedule as presented. Motion seconded by Janet Groth. Motion carried unanimously.

**XIII Consider and/or act upon the Amended Accounts Payable and Treasurer's Report for the Month Ending September 30, 2016.**

John Dorris made a motion to approve the amended accounts payable and treasurer's report for the month ending September 30, 2016. Motion seconded by Merrell Daggett. Motion carried unanimously.

**XIV Directors' comments.**

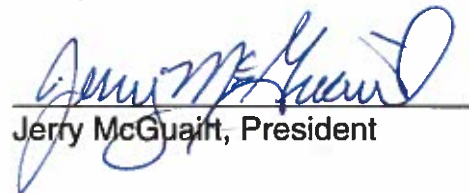
Merrell Daggett respectfully resigned from the Board effective immediately.

Weldon Blackwelder: Would like to see more explanation on Mr. Weatherby's timesheet. He is glad the vote went the way it did, and the Board appreciates Mr. Weatherby, but his employment is on thin ice.

**XV Adjourn special Board meeting.**

Merrell Daggett made a motion to adjourn the meeting at 2:18 p.m. Motion seconded by John Dorris. Motion carried unanimously.

  
\_\_\_\_\_  
M. R. Gonzalez, Secretary/Treasurer

  
\_\_\_\_\_  
Jerry McGuire, President

Date Approved 01-17-2017