

UPPER BLACK SQUIRREL CREEK GROUND

WATER MANAGEMENT DISTRICT

REGULAR MEETING MINUTES

June 7th, 2016

The June meeting of the Board of Directors of the Upper Black Squirrel Creek Ground Water Management District was called to order Tuesday, June 7th, 2016 at 5:40 P.M., at the District Office, 520 Colorado Avenue, C., Calhan, CO by President Booker, and determined that a quorum was present.

Board Members in Attendance: President Donald Booker, Vice-President J.R. Bond, Treasurer Mark Greeley, Secretary Dave Doran

Others in Attendance: Anita Baker, John Hill, Steve Hanum, Dean Goss, Alyson Scott, Lisa Thompson, Will Kroger, Art Sintas, Dan Farmer, Leon Gomes, Tracy Doran

PUBLIC NOTICE OF THE MEETING WAS POSTED

1. Agenda for June 7th, 2016:

Director Bond motioned to approve the agenda with the additions of #3 Waggin Tails Kennel, #4 Swenson Change of Use of a Domestic Well to Commercial Horse Boarding #5 Water Well Permit for Wrights #6 El Paso County Review for Mary Dugan Kennel and #7 El Paso County Review for William Parish Hangar under New Business. Director Greeley seconded the motion. Motion carried (4-0)

2. Minutes for May 3rd, 2016 Meeting:

Director Greeley motioned to approve the May 13, 2016 minutes as written. Director Doran seconded the motion. Motion carried (4-0)

3. Treasurer's Report & Any Bills Needing Board Approval:

Treasurer Greeley reported on the income and expenses for the month of May. Director Greeley motioned to accept the treasurer's report for May and pay the April attorney's bill for \$11,775.97. Director Bond seconded the motion. Motion carried (4-0)

OLD BUSINESS:

1. Cherokee Metro & Meridian Service Metro/Replacement Plan:

Attorney Thompson reported that there are no updates to report on this item.

2. **Cherokee Water Court Case No. 14CW3061:**

Attorney Thompson reported that we have been monitoring this Case and have provided some general comments. Attorney Thompson reported that she has gotten some concerns from people who think the Dawson pumping by Cherokee, even though it is outside the basin, could impact and lower the Dawson in the northern part of the Basin and in North Kiowa Bijou and she would like to flag this case. Discussion followed on modeling and discussing the case with the State and see if they could do their own modeling.

3. **Cherokee Wells 1-8/Case No. 15GW15:**

Attorney Thompson reported that there is a 5 day hearing set for March 2017. Ms. Thompson went over deadlines.

4. **Woodmen Hills Ground Water Commission Case No. 03GW20/Replacement Plan:**

Attorney Thompson reported that there is a 5 day hearing set for the end of October 2016. Ms. Thompson reported that there is going to be a site visit on June 22, 2016 at 9:30 with Upper Black Squirrel, any other opposer's and the State. Ms. Thompson reported that if more than three board members plan on attending they need to let Tracy know so she can post this.

5. **Meridian Ground Water Commission Case No. 15GW14/ Replacement Plan :**

Attorney Thompson reported that this case is set for hearing in February 2017 and the Woodmen Hills case will probably set the precedence for the Meridian case. Discussion followed on timelines. Ms. Thompson reported that HRS is the combined expert for both of these cases.

6. **Goss:**

President Booker reported that Cherokee has sent some accounting for water they think they can use to irrigate with. Attorney Thompson reported that she received a letter from Cherokee's interim general manager and he attached a letter from the Attorney General's Office that had a nice summary of their water sources and what can be used in the basin. Ms. Thompson reported that Cherokee followed up with the Attorney General's letter and said that they had calculated now how much water they get from the out of basin Denver Basin wells. Ms. Thompson reported that we do not have enough accounting at this point to agree or disagree, and we need additional information to better understand this. Ms. Thompson will send a letter to Cherokee asking for more information. Discussion followed.

7. **Cherokee-Albrecht Case No. 15GW08/Application for Change in type and Place of Use (Export) for Well Permit Nos. 27571-FP & 27572-FP:**

Attorney Thompson reported that there is a 3 day hearing scheduled for September 2016. Ms. Thompson reported on items submitted and future deadlines for submittals. Discussion followed on beneficial use of the well.

8. **Blue Springs Ponds:**

Attorney Thompson reported that we have no updates to report on this.

9. **Water Quality Control Commission/Regulation 42/TDS:**

Attorney Thompson reported that there is a hearing scheduled before the Water Quality Control Commission on August 8, 2016. Ms. Thompson reported that she sent a letter to Dick Wolfe and the Ground Water Commission expressing our position that the relaxing of the TDS Standards would result in material injury to vested water rights in the basin and

have asked them to meet with us. Dan Farmer reported that the State Engineer Dick Wolfe and Carolyn Burr were going to write a letter in opposition and he has not seen a copy of that letter yet. Ms. Thompson reported that Cherokee just submitted their pre-hearing statements today.

10. Ground Water Contamination Study:

President Booker reported that we have no updates on this.

NEW BUSINESS:

1. El Paso County Review/Salladay Extended Family:

Director Doran motioned to approve the Salladay proposal. Director Bond seconded the motion. Motion carried (4-0)

2. El Paso County Review/Colorado Centre Metropolitan District Water Treatment Facility-Appendix B:/Areas and Activities of State Interest (a.k.a. "1041" Regulations)/4-Way Ranch:

The Board discussed the 4-Way Ranch review by El Paso County. Director Bond motioned to have Lisa review the 4-Way Ranch Water Treatment Facility. Director Greeley seconded the motion. Motion carried (4-0)

3. El Paso County Review/Waggin Tails Kennel:

The Board discussed the Waggin Tails Kennel. Tracy Doran will look up the well permit to make sure they are in compliance and have the necessary water to do this kennel.

4. Change of Use of a Domestic Well to Commercial Horse Boarding/Swenson:

Director Doran made a motion that the applicant needs to fill in the acre foot amount and aquifer and that they will have to get a determination of water right, as their well permit only allows 1 acre foot, and their estimated use for the commercial horse boarding is 3.18 acre foot, so until that is done the board cannot approve their application. Director Bond seconded the motion. Motion carried (4-0)

5. Water Well Permit Application/Wright:

Director Bond motioned to send a letter to Shannon approving the application for the Wright's in Blue Springs Subdivision for .5 acre feet in the Denver aquifer. Director Doran seconded the motion. Motion carried (4-0)

6. El Paso County Review/Mary Dugan Kennel:

The Board directed Tracy to write a letter to the County that they need to be in compliance of their well permit, which only allows .33 acre feet per year.

7. El Paso County Review/William Parish/Hangar:

The Board took no action on this item.

ANY OTHER BUSINESS THE BOARD MAY HAVE:

1. Donald Booker:

President Booker reported that less than a couple of weeks ago we got some letters with well complaints. President Booker said he made the board aware of it. Discussion followed on how many wells. Attorney Thompson reported that the Commission Staff has copied the Board on this; there is enormous attachments, and an extension request that has been

granted until the end of July. There will be more information in the next couple of months. Discussion followed on potential violations from the State and what the district typically does regarding them. Attorney Thompson reported that Mr. Goss, and his attorney have asked to be put on the agenda for July related to these same issues. Director Doran for the record reported that he has recused himself from all Goss matters since 2006 and will not be partaking in any of this. Discussion followed on having a quorum as President Booker will be recused from this as well.

2. J.R. Bond:

Director Bond reported that he has not gotten back with the guy at the Army Corp of Engineer's on the ponds yet. Discussion followed on Google Earth and Donald getting together with Tracy to put the pictures from the field trip on a disc.

3. Mark Greeley:

Nothing to report

4. Dave Doran:

Nothing to report

Attorney Thompson reported that the next Ground Water Commission meeting is scheduled In August and she received a call from the Attorney General's Office and there is some discussion about having the next meeting in Colorado Springs or near Upper Black Squirrel, and having a site visit for the Commission members of areas in the Upper Black Squirrel. Ms. Thompson reported that there is some concern with pending cases and that they would have to get permission from applicant's and the applicant's attorney's, so we will hear more on that and they will keep us in the loop.

VISITOR INPUT:

Mr. Will Kroger reported that at the last board meeting he heard there were some misconceptions reported about Cherokee's source report. The Board asked Will to email it to the District. Will reported that Cherokee turned in their pre-hearing statement to the Water Quality Control Commission and they prepared a point paper on the Proposed Change to Regulation No. 42, and he handed that out to the Board for their review.

Ms. Alyson Scott introduced herself and reported that she is the attorney on behalf of Dean Goss and noted that she was here to talk about one of the 7 wells that an enforcement letter dated May 23rd that was issued concerning President Booker's wells. Ms. Scott reported that they are involved with those enforcement letters, but just here to discuss one of those wells. Ms. Scott noted that their goal is to advise the Board of the situation and to request action. Ms. Thompson reported that this will be on the July agenda and the Board cannot take action tonight. Ms. Thompson asked if they will be coming back in July to present the same information. Ms. Scott advised that she will not be presenting in July. Ms. Scott wanted to discuss permit number 27558 FP; that is a 1984 permit, that is for domestic and mechanical use, she noted it does describe irrigation and the list of uses, and reported that it goes on to say that zero acres of irrigation are permitted. Ms. Scott reported on the acre feet pumped from this well from 2007 to 2014. Ms. Scott reported that they believe this to be unlawful

depletions and injurious and would like the District to take action on this next month and issue a cease and desist order, and would like Mr. Booker to present accounting from years past, and make repayments to the basin. Discussion followed on how that well was being used. Ms. Scott reported that Mr. Goss and Director Doran observed the pressure of the irrigation. President Booker reported that Director Doran would have the authority to go in but Mr. Goss would not. Ms. Scott reported that this is a violation of Upper Black Squirrel's rules and a President who is violating the rules. Ms. Scott discussed conflicts of interest and thanked the Board for their time.

The Board took a short break at 6:45 PM

EXECUTIVE SESSION:

Please take notice that Attorney Thompson pursuant to C.R.S. §24-6-402(4) (b), is requesting an executive session with the Board of Directors of the Upper Black Squirrel Creek Ground Water Management District during its regular meeting scheduled on Tuesday, June 7th, 2016, regarding the following matters:

1. All Pending Cases

Director Greeley motion to go into executive session to discuss all pending cases at 6:58 PM. Director Bond seconded the motion. Motion carried (4-0)

Director Doran motioned to come out of executive session at 7:36 PM and back into regular session. Director Bond seconded the motion. Motion carried (4-0)

EXECUTIVE SESSION REPORT:

The Board discussed all pending cases with the attorney, no direction was given and no action taken.

ADJOURNMENT:

President Booker called for the meeting to be adjourned.

There being no further business before the Board at this time Director Doran made a motion to adjourn the meeting. Director Bond seconded the motion. Motion carried (4-0)

The meeting adjourned at 7:41 P.M.

Respectfully submitted,
Tracy Doran/Office Manager