

**UPPER BLACK SQUIRREL CREEK GROUND
WATER MANAGEMENT DISTRICT
REGULAR MEETING MINUTES**

May 7th, 2019

The **May** meeting of the Board of Directors of the Upper Black Squirrel Creek Ground Water Management District was called to order **Tuesday, May 7th, 2019 at 6:06 P.M.**, in the conference room inside Farmers State Bank, 1500 8th Street, Calhan, CO. by President Dave Doran who determined a quorum was present.

Board Members in Attendance: President David Doran, Vice-President Dan Farmer, Treasurer Mark Greeley

Board Members Absent: JR Bond

Others in Attendance: John Hill, David Pelsler, Lisa Thompson, Tracy Doran

PUBLIC NOTICE OF THE MEETING WAS POSTED AND OPEN TO THE PUBLIC

President Doran opened the meeting and called for approval or amendments to the agenda.

1. Agenda for May 7th, 2019:

Director Farmer motioned to add under Old Business #7 Election, #8 under New Business will be the McGinnis application, #3 Hamann under Determination of Water Right, under new subsection in New Business #1 County Request, #2 Irrigation Well 4105-FP and an executive session to discuss the Gonzalez case and local rules. Director Greeley seconded the motion. Motion carried. (3-0)

2. Minutes for April 2nd, 2019:

Director Greeley motioned to approve the April 2nd, 2019. Director Farmer seconded the motion. Motion carried (3-0)

3. Treasurer Report & Any Bills Needing Board Approval:

Treasurer Greeley went over the bills needing paid and motioned to approve the April treasurer report and pay the attorney bill for \$4,666.51 and engineering bill of \$1625.00. Director Farmer seconded the motion. Motion carried (3-0)

OLD BUSINESS

1. Rules & Legislation Updates:

a. **GWC General Amendments to Designated Basin Rules 4, 5 & 7:**

1. **5.3 & 5.4:**

Mr. Vander Horst circulated an amendment to the proposed rules on April 26th, 2019. The amendments only modify Designated Basin Rules 5.3 and 5.4 and involve the permitting of small capacity wells following a determination of water right. Staff proposes a change in its procedure and allow small capacity well permits to be issued following a determination of water right, without first cancelling any portion of the determination. Staff proposes that the small capacity well withdraw water allocated by the determination, and that the amount of water that can be withdrawn through large capacity wells pursuant to the Determination be limited (decreased) to account for the water withdrawn by the small capacity well. Staff's proposed changes also allow an applicant seeking a determination to exclude property from the determination at the outset-this would allow a small capacity well to be constructed on the excluded land without a corresponding limitation on water withdrawals under the determination. Discussion followed. Attorney Thompson updated the board on dates for filings and status conferences and asked the Board to look them over and within 10 days let her know what they would like to do.

2. **Meridian Service Metropolitan District/Application for a Well Permit and an Amendment to a Replacement Plan/Case No. 19-GW :**

Ms. Thompson noted that Dave Doran and Mike Wireman went on a site visit to view the latest underdrain and recharge systems. Discussion followed.

3. **Cherokee Metro & Meridian Service Metro/Replacement Plan/Case No. 08GW71/Cherokee Motion for Determination of Question of Law related to Case No. 98CW80:**

Ms. Thompson advised that the Hearing Officer ordered that a status conference be held on September 10, 2019, and that Cherokee and Meridian file a status report no later than June 14, 2019. Discussion followed.

4. **District Violations:**

Ms. Thompson informed the Board that we submitted an objection to the Tran Determination of Water Rights applications and that the Hearing Officer has not assigned a Case number to this matter yet, and has not set a status conference or other deadlines at this time. Ms. Thompson advised that per Chris Grimes email the owners of the Shaw Ranch may attempt to register a couple of the ponds as Livestock Water Tank Erosion Control Dams, which requires that all the water in those structures must be surface water. Mr. Grimes acknowledges that this will be difficult. Mr. Hollister and the Dam Safety Staff will make that evaluation. The owner of Shaw Ranch also indicated that he will remove other ponds and will perform the work needed to ensure that unintended water in Zanger Ditch No. 3 is returned to the stream system and that this work will be completed by April 1, 2019.

5. Gonzalez/Determination of Water Rights Case No. 19GW09 & 19GW10/Division 2 Water Court Case No. 19CW3011/JM Enterprises Augmentation Plan:

Ms. Thompson advised that there are two determinations inside the management district and that there is also an application in Water Court. Ms. Thompson reported that their counsel has contacted the district and seems willing to work with us. They also have an export application. Ms. Thompson went over the Hearing procedures and advised that the notice of the application must be published to allow interested parties an opportunity to comment or object. Discussion followed. Director Greeley motioned to direct Lisa talk to Bob Longenbaugh regarding the Gonzalez case. Director Farmer seconded the motion. Motion carried (3-0) Discussion continued and Mike Wireman will be kept in the loop.

6. District Rulemaking:

Ms. Thompson reported that the District had conducted a workshop with Meridian, Cherokee, Woodmen Hills, and Paintbrush Hills to discuss the proposed amendments to the rules and provided them with our red line version. Ms. Thompson stated that they did go back and look at the questions submitted and drafted responses to those. Discussion followed. Ms. Thompson asked that the Board review the drafts and let Dave know if they have any comments and he will get those to Lisa.

7. Election:

Mrs. Doran was asked when the next election was and reported that it will be in February 2020, for Districts 3 & 4. President Doran briefed the Board that Cherokee, Woodmen Hills, Meridian and Paint Brush Hills submitted a letter to the Board on April 11, 2019, requesting that the District establish a second polling site at the Falcon Fire Station No. 3. President Doran reported that each district is equal in population, that we have always had the elections in the areas that are up for election in a central location. President Doran noted that maybe the District should look into doing a mail in ballot and having the County facilitate it. Discussion followed that people who reside in one district cannot vote in another district's elections, that we are not Title 32, election fraud, election attorney's, the cost of having the County run an election for the district, timing of giving County notice for an election, that we have our own Statutes, the time frame of only having 35 days before an election to know whether you will be having an election or not. Ms. Thompson noted that the letter was completely inaccurate and was from Meridian's attorney and it did not go over well, and basically accused the District of not having polling places in convenient locations, and they have. Mr. Pelsner said that he was not aware of the origin of the letter. Discussion continued on ballots, and election rules, and that we have to follow as generally as close as possible, rules that are specific to management districts. The Board directed Mrs. Doran to see if she could get an estimate for a mail in ballot with the County.

NEW BUSINESS

Water Well Permit Applications:

1. Atkinson:

The applicant has 35 requested 1 acre-foot in the Arapahoe aquifer with 2 homes, 1 acre-foot or irrigation, domestic animal watering and livestock watering. This will be the only well on the property. Director Greeley motioned to approve the Atkinson application. Director Farmer seconded the motion. Motion carried (3-0)

2. Ragan:

Applicant has 19.55 acres and is requesting 1 acre-foot in the Denver aquifer under determination of water right no. 3419-BD, does not require a replacement plan. They are seeking 1 home, 1 acre of irrigation and domestic animal watering. This will be the only well on the property. Director Greeley motioned to approve the Ragan application. Director Farmer seconded the motion. Motion carried (3-0)

3. Vega:

Applicant has 35.77 acres and is seeking 1 acre-foot in the Laramie-Fox Hills aquifer with 2 homes, 1 acre of irrigation, domestic animal watering, and livestock watering. This will be the only well on the property. Director Greeley motioned to approve the Vega application. Director Farmer seconded the motion. Motion carried (3-0)

4. Mountain Reign Ranch Trust:

Applicant has 35 acres and is requesting 1 acre-foot in the Denver aquifer, which Old West Ranch deeded over 1 acre-foot from Determination of water right no. 459-BD, but according to the State needs to be canceled due to no replacement plan for 459-BD. Applicant wants 1 home, 1 acre of irrigation, domestic animal watering and livestock watering. Director Farmer motioned to have Mrs. Doran get clarification from the State on what they meant about no replacement plan and will have to cancel it, when she gets response back from the State send to Lisa and have her give her opinion on this. Director Greeley seconded the motion. Motion carried (3-0)

5. Ducharme & Barry:

Applicants have 10 acres and are wanting 1 acre-foot in the Denver aquifer, with 2 homes, 1 acre of irrigation, and domestic animal watering. This will be the only well on the property. The State said this was approved for a subdivision exemption. Director Greeley motioned to limit them to .5 acre-feet and to clarify with the State what she meant by subdivision exemption. Director Farmer seconded the motion. Motion carried (3-0)

6. Albertson & Strine:

Applicants have 35 acres and are requesting 1 acre-foot in the Arapahoe aquifer, with 1-2 homes, 1 acre of irrigation, domestic animal watering. This will be the only well on the property. Director Greeley motioned to approve the application. Director Farmer seconded the motion. Motion carried (3-0)

7. Vaupel:

Applicant has 40 acres and is applying to change the use of permit no. 205251 from 1 to 2 single family dwellings and from 1 acre-foot to 2 acre-foot. There is no determination of water rights. Director Farmer motioned to allow them to change their application from

1 home to 2 but they are not allowed to change their acre-feet amount. They will be limited to 1 acre-foot. Director Greeley seconded the motion. Motion carried (3-0)

8. McGinnes:

Application to expand the use of an existing well, permit no. 202501. The expansion is sought under determination of water right no. 3672-BD, which we commented on February 15, 2019. They are asking for max allowable under their determination in the Arapahoe aquifer, for industrial, municipal, irrigation, commercial, and other determined uses. Discussion followed. Director Greeley motioned to have attorney Thompson comment on this application. Director Farmer seconded the motion. Motion carried (3-0)

Determination of Water Rights:

1. Pete Lien & Sons, Inc.:

Applicant has 92.47 acres and is seeking a determination of water right in the Denver, Arapahoe, and Laramie-Fox Hills for the following beneficial uses: industrial, commercial and irrigation. The Commission staff finds that there is 31.4 acre-feet available in the Denver, 32.2 in the Arapahoe, and 28.4 in the Laramie-Fox Hills. They will have to replace 4% back into the Denver aquifer. Discussion followed. Director Greeley motioned to approve the Peter Lien & Sons, Inc. application. Director Farmer seconded the motion. Motion carried (3-0)

2. Kerry E. Burt/DWR & Replacement Plan:

Applicant has 40 acres and is seeking determination of water rights in the Denver, Arapahoe, and Laramie-Fox Hills aquifers for the following beneficial uses: domestic (inhome, irrigation of lawn and gardens, domestic animals), commercial, irrigation, replacement and fire protection. Commission staff finds 13.2 acres available in the Denver, 14.3 in the Arapahoe, and 15.3 in the Laramie-Fox Hills. The amount of the Denver represents a reduction in the initial amount determined to be available to account for the amount historically withdrawn by a small capacity well located on the described property with a permit no. 115609, which will be re-permitted pursuant to the replacement plan. Discussion followed. Director Greeley motioned to approve the Burt determination. Director Farmer seconded the motion. Motion carried (3-0)

3. Hamann:

Applicant has 19.31 acres and is seeking determinations for the Denver, Arapahoe, and Laramie-Fox Hills aquifers for the following beneficial uses: Domestic, in house use, lawn and garden irrigation, domestic animal watering, commercial, agricultural, stock watering, and replacement. Commission staff finds 5.09 acres available in the Denver, 7.55 in the Arapahoe, 5.94 in the Laramie-Fox Hills. They will have to have 4% replacement in the Laramie, and actual impact replacement in the Denver. Discussion followed. Director Doran motioned that we comment on the Hamann application to address the speculative uses. Director Farmer seconded the motion. Motion carried (3-0)

El Paso County Reviews:

1. Muster Kennel:

Legalize an existing kennel for dogs. The Board did not have any comments on this application.

2. Hale Sand Site Development Plan:

This property is currently permitted to have a 9.9 acre sand pit, and the proposed development is to expand to 52.5 acres. The expansion will take place within the property line setbacks. They have applied for a determination of water rights. Discussion followed. Director Farmer motioned to direct attorney Thompson to review and comment if necessary. Director Greeley seconded the motion. Motion carried (3-0)

3. Hannah Ridge Filing 1 & 2:

Filing 1 is for 61 lots, filing 2 is for 28 lots. Cherokee Metro is providing water and wastewater. The Board did not have any comments on this application.

4. Grandview Reserve Preliminary Plan:

768.23 acre parcel seeking approval for 184 acre lots. They plan on individual well and septic systems. The proposed lots will also utilize onsite wastewater treatment systems as permitted on 2.5 acres by the land development code. This is in the 4-Way ranch area. Discussion followed. Director Farmer motioned to direct Lisa to review the application and to contact Mike Wireman and she will get the material to him to review the water quality. Director Farmer seconded the motion. Motion carried (3-0)

5. Ellicott Town Center Commercial Rezone:

The Board reviewed the application and did not have any comments on this application.

6. Ellicott Town Commercial Replat:

A replat of Tract L Ellicott Town center Filing No. 1 and adjacent vacant land to create Ellicott Town Center Filing No. 2, comprising 3 lots and 4 tracts on the 84.78 acre property. Proposed water sources are Ellicott Utilities Company 598-BD, and Ellicott Springs Waste Water Treatment Facility. Discussion followed. Director Farmer motioned to have Attorney Thompson review the applications for the Ellicott Town Commercial Replat and Mayberry Colorado Springs Metropolitan Districts 1 & 2 and comment to the County and the Health Department on the Waste Water Treatment Facility. Director Greeley seconded the motion. Motion carried (3-0)

7. Mayberry Colorado Springs Metropolitan Districts 1 & 2:

Changing the name from Ellicott Town Center Metropolitan District to Mayberry, Colorado Springs Metropolitan District No 1 and No. 2. They plan on using the Ellicott Utility Company for water and waste water. This was included in the motion for Ellicott Town Commercial Replat.

8. Retreat at TimberRidge Filing 1:

70 lots on 68.135 acres. Water and waste water will be provided by Sterling Ranch Metropolitan District. The Board took no action on this item.

9. Paint Brush Hills/Pump House:

Request to replace an existing pump house with an upgraded facility. New pump house will include controls for two new well pumps, flow meters, sodium hypochlorite storage and feed, and other equipment relative a wellhouse. The Board took no action on this item.

New Business Not Covered Above:

1. County Request:

El Paso County would like to request additional use of the Ellicott well for 2019. They estimate they will need an additional 250,000 gallons (.77 acre-foot) to complete a current project. They will return to normal use in 2020. Director Farmer motioned to have Lisa write to the State and see how they will adjust for the next year and then contact the County with what is decided. Director Greeley seconded the motion. Motion carried (3-0)

2. Irrigation Well 4105-FP:

We got a call from an attorney who has a client who is purchasing a property with a pond. This property is no. 131 on the priority list. He wants to irrigate with the pond. He also wants to get a replacement permit to install a well with casing within 50' of this well. Please refer to the rest of their questions and Rick Nielson's answers to their questions. The attorney is wanting to know what the district's take is on their questions and if they will be different that the States. Mr. Robinson, the potential buyer attended the meeting and discussed with the Board the various scenario's he could potentially have regarding this pond.

ANY OTHER BUSINESS THE BOARD MAY HAVE:

Board Reports:

1. Ground Water Contamination Study:

President Doran reported that they are waiting on the USGS preliminary results. Discussion followed with David Pelser on the study and participation. Mr. Pelser said he would give the information to his Board to consider.

VISITOR INPUT

Mr. Pelser from Meridian Ranch stated that the election letter was not originated by Meridian Ranch or Meridian's attorney and stated it was a request from another district.

The Board discussed the 40 year anniversary of the Management District and how we should acknowledge it.

The Board discussed talking to the County about having the District sponsor a hazardous waste program in several areas in the basin.

Discussion followed about maybe having a booth at the County Fair to try and educate people in the Basin and to get them to participate in the Basin. Discussion continued about talking to the Farm Bureau and maybe co-op with them.

Director Greeley motioned to go into executive session at 8:46 p.m. to discuss the Gonzalez case and local rules. Director Farmer seconded the motion. Motion carried (3-0)

EXECUTIVE SESSION

Please take notice that Attorney Thompson Pursuant to C.R.S. §24-6-402(4)(b)(e) 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, May 7th, 2019, regarding the following matters:

1. Gonzalez
2. Local Rules

Director Farmer motioned to come out of executive session and back into regular session at 9:24 p.m. Director Greeley seconded the motion. Motion carried (3-0)

EXECUTIVE SESSION REPORT

There was no action taken.

ADJOURNMENT

President Doran called for the meeting to be adjourned.

Director Farmer made a motion to adjourn the meeting. Director Greeley seconded the motion. Motion carried (3-0)

The meeting adjourned at 9:25 P.M.

Respectfully submitted,

Tracy Doran/Office Manager