



**MINUTES
BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT**

**Regular Board Meeting
February 5, 2009 at 3:00 p.m.
Brazos Valley Groundwater Conservation District Office
112 West Third Street
Hearne, Texas 77859**

1. Call meeting to order.
Board Chairman Kent Watson called the meeting to order at 3:00 p.m.

Directors present: Kent Watson, President
Pete Brien, Vice President
Dale Johnson, Secretary
Carl Cotropia, Treasurer
Dave Coleman, Director
Steve Lazarus, Director
Tom McDonald, Director
Wayne Wilson, Director

Staff present: Bill Riley, General Manager
Ralph Crum, Assistant General Manager
Monique Norman, Attorney
Cynthia Lopez, Administrative Assistant

2. Pledge of Allegiance.
3. Election of officers for Calendar year 2009 as per District Bylaws. Officers to be elected include, President, Vice-President, Treasurer, and Secretary.

As required by the Districts Bylaws, Chairman, Kent Watson at the November 13, 2008 Board Meeting appointed a committee to make recommendations at the next Board meeting to appoint officers for the 2009 year. Appointed to the committee were; Wayne Wilson, Tom McDonald, and Dale Johnson. Their recommendations to the Board for officers to serve for the year 2009 are, Kent Watson for President, Pete Brien for Vice-President, Dale Johnson for Treasurer, and Carl Cotropia for Secretary. A motion was made by Wayne Wilson to accept the recommendation and appoint the officers for 2009, and seconded by Steve Lazarus. The motion carried unanimously.

4. Discussion and possible action on the Minutes from the December 9, 2008 Public Hearing and Regular Board Meeting. **A motion was made by Pete Brien, second by Wayne Wilson to approve the Minutes from the December 9, 2008 Public Hearing and Regular Board Meeting.**

5. Review and Authorization of payments made for services rendered during December 2008 and January 2009. **A motion was made by, Wayne Wilson, and second by Dale Johnson, to accept payments made during the months of December 2008 and January 2009. The motion carried unanimously.**
6. Presentation of Audit findings for fiscal year 2007 by Russell Armagost, of Durst, Milberger, Nesbitt & Ask, LLP.

Mr. Armagost presented each of the Board of Directors with a copy of the Annual Independent Auditor's Report. (See attached) He stated that the District's finances are in order and the District continues to be in excellent financial condition.

7. Discussion and possible action on contracting with the Accounting firm of Durst, Milberger, Nesbitt & Ask, LLP, in the amount of \$3,465.00 for conducting the Districts annual financial audit for fiscal year 2008. **Kent Watson asked if the cost of this years audit would compare to last years cost. Mr. Armagost stated that the cost would be exactly the same. A motion was made by Wayne Wilson, second by Dale Johnson to approve the contract with the Accounting firm of Durst, Milberger, Nesbitt & Ask, LLP, in the amount of \$3,465.00 for conducting the audit for 2008. The motion carried unanimously.**
8. Closed Session: Texas Government Code 551.071 – Consultation with Attorney regarding: Brazos Barton Farming Partnership, et al. v. Brazos Valley Groundwater Conservation District, et al., Cause No. CI-08L-103, in the District Court of Deaf Smith County, Texas, 222nd Judicial District; and C.A. Skiles Family Partnership LTD and Cliff Skiles, Jr., D.V.M. contested case hearing.
9. Discussion and possible action regarding matters discussed in Closed Session regarding the Brazos Barton Farming Partnership, et al. v. Brazos Valley Groundwater Conservation District, et al., Cause No. CI-08L-103, in the District Court of Deaf Smith County, Texas, 222nd Judicial District; and C.A. Skiles Family Partnership LTD and Cliff Skiles, Jr., D.V.M. contested case hearing. **A motion was made by Wayne Wilson, to take the litigation action as recommended in closed session, and the motion was second by Carl Cotropia. The motion carried unanimously.**

The Board advised Ms. Mary Sahs, Attorney for the Board, that the hope and expectations of the Board are, that the hearing date set for September 14, 2009 take place on that day, and that the pre-file testimony date of August 21st, 2009 be a good firm date. Additionally, that the hearing last five (5) days approximately, with the sessions lasting up to six (6) hours each. But, to do what is necessary for the process. Ms. Sahs will notify Mr. John Vay of the Boards intent and wishes.

10. Discussion and possible action regarding District assessment of fees related to the C.A. Skiles Family Partnership LTD and Cliff Skiles, Jr., D.V.M. contested case hearing. **No action or discussion on this item was taken by the Board.**
11. Discussion and possible action on contracting with Attorney Max Renea Hicks, to provide legal counsel to the General Manager during the C.A. Skiles Family Partnership LTD, and Cliff Skiles, Jr., D.V. M. contested case hearing and related matters. **A motion was made by Tom McDonald to approve the amended contract with Max Renea Hicks, second by Dale Johnson. The motion carried unanimously.**

Chairman, Kent Watson welcomed Mr. Hicks. Mary Sahs, Attorney for the Board suggested that it would be helpful for the Board to have Mr. Hicks provide sufficient detailed information when submitting billing on a monthly basis.

12. Discussion and possible action on purchasing (2) new desktop computers to upgrade the districts aging system. **A motion was made by Wayne Wilson, second by Dale Johnson for new computers to be purchased through the Dell Government discount program, for the sum of \$2,158.24. The motion carried unanimously.**
13. General Managers Report
Financial Reports
Update on Directors Appointments

Bill Riley, General Manager presented the financial reports for the months of December 2008 and January 2009 for the District. He also stated that the District would be moving forward with the audit for year 2008. The delay for the 2007 audit was because he had been out for three (3) months due to illness, and if there were any questions or concerns on that issue he would be more than happy to answer.

**Update on appointment of Directors for Robertson County:
Dale Johnson and Carl Cotropia's terms are up. Mr. Johnson and Mr. Cotropia will either be re-appointed, or new Directors will be appointed by the Robertson County Commissioners Court. Mr. Riley reported that at present, the County Commissioners have not made a decision in this matter.**

**Update on appointment of Directors for Brazos County:
Kent Watson and Tom McDonald's terms were up. Both were re-appointed by the Brazos County Commissioners Court, and sworn in on February 5, 2009 by County Commissioner Duane Peters of Precinct 2, at the Bryan Court House to serve another four (4) years.**

14. Legal Report.
Ms. Norman had nothing to report.

15. Hear visitors.

James H. McCullough, Attorney representing C.A. Skiles Family Partnership, Ltd. and Cliff Skiles, Jr., DVM objected to the sufficiency of the posted agenda items 8, 9, and 14 as violating section 551.041 of the Texas Open Meeting Act, chapter 551. The Legal Report listed and General Managers Report listed on agenda items 13 and 14 is too general and generic a description as to provide adequate notice. Until these items are properly included in the meeting notice, the Board should refrain from considering these matters until proper notice has been issued. (see attached letter)

16. **Kent Watson, Chairman adjourned the meeting at 6:04 p.m. The motion carried unanimously.**

Signed this 6th, day of February, 2009

Cynthia Lopez
Administrative Assistant

The Board of Directors may meet in closed session, pursuant to the Texas Open Meetings Act, Texas Government Code §§ 551.071-551.076, to:

- (1) consult with attorney;
- (2) deliberate regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (3) deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (4) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a Board member or District employee
- (5) to receive information from employees or question employees, but not deliberate public business or agency policy that affects public business; and
- (6) to deliberate the deployment or specific occasions for implementation of security personnel or devices.

The Board may also meet in open session on these matters as required by the Texas Open Meetings Act, Texas Government Code § 551.102.

**** Agenda items may be taken out of order at the discretion of the Board Chairman**