



MINUTES
**BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT**

Public Hearing and Regular Board Meeting
May 7, 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.

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| Directors present: | Kent Watson, | Chairman |
| | Pete Brien, | Vice Chairman |
| | Dave Coleman, | Director |
| | John Hicks, | Director |
| | Dan Kyle, | Director |
| | David Stratta, | Director |
| | Wayne Wilson, | Director |

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| Directors absent: | Tom McDonald, | Director |
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| 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 required by District By-laws. Officers to be elected are Secretary and Treasurer. **A motion was made by Wayne Wilson, second by Dave Coleman to elect Tom McDonald for Secretary and John Hicks for Treasurer. The motion carried unanimously.**
4. Discussion and possible action on the Minutes from the April 2, 2009 Regular Board Meeting and April 7, 2009 Special Session of the Board of Directors, and revised March 18, 2009 Special Session Meeting Minutes. **A motion was made by John Hicks, second by Pete Brien to approve the minutes as presented from the April 2, 2009 Regular Board Meeting, April 7, 2009 Special Session of the Board of Directors Meeting and Revised March 18, 2009 Special Session of the Board of Directors Meeting. The motion carried unanimously.**
5. Review and Authorization of payments made for services rendered during April 2009. **A motion was made by Dave Coleman, second by Pete Brien that expenses for April 2009 be approved as presented. The motion carried unanimously.**
6. Public Hearing for the purpose of taking Public comment on the following Drilling / Operating Permit Applications:
 - A. Two (2) wells for Tony Varisco. The wells will be located West of Hwy 50, East of the Brazos River, and North of Fazzino Road, Bryan, TX for a total of 262.50 acre/feet per year for Agricultural Irrigation. The wells are in the Brazos River Alluvium Aquifer.

B. One (1) well for Tony Varisco. The well will be located East of Hwy 50 and South of Sims Lane, Bryan, TX for a total of 262.50 acre/feet per year for Agricultural Irrigation. The well is in the Brazos River Alluvium Aquifer.

7. Discussion and possible action on the following Drilling / Operating Permit Applications:

A. Two (2) wells for Tony Varisco. The wells will be located West of Hwy 50, East of the Brazos River, and North of Fazzino Road, Bryan, TX for a total of 262.50 acre/feet per year for Agricultural Irrigation. The wells are in the Brazos River Alluvium Aquifer.

B. One (1) well for Tony Varisco. The well will be located East of Hwy 50 and South of Sims Lane, Bryan, TX for a total of 262.50 acre/feet per year for Agricultural Irrigation. The well is in the Brazos River Alluvium Aquifer.

A motion was made by Pete Brien, second by Wayne Wilson to approve all (3) three wells for Tony Varisco as presented. The motion carried unanimously.

8. Discussion and possible action on adopting a preliminary Desired Future Condition for inclusion in the GMA 12 process. **This item was pulled from the Agenda. Bill Riley stated that after discussions with John Siefert, the District's Hydrologist, they need more time to run additional models. Item number (8) eight was postponed until the June 2009 Board Meeting.**

9. General Managers Report

- Financial / Budget Reports
- Update on Districts Certificate of Deposit's (First Victoria and First Star Bank)

Bill Riley, General Manager presented the Financial Reports with total liabilities and equity at \$660,880.00. The expenses for April were \$72,165.32 and total expenses for YTD through the end of April are \$219,866.78. Update on the Districts Certificate of Deposit's to the Board were presented.

10. Closed Session: Texas Government Code 551.071 – Consultation with Attorney regarding: C.A. Skiles Family Partnership Ltd and Cliff Skiles, Jr., D.V.M. contested case hearing before the Brazos Valley Groundwater Conservation District; and 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, 22nd Judicial District.

The Board convened into Closed Session at 3:25 p.m.

Mary Sahs, wanted to note for the record that Mr. Brien has recused on the Open Meeting Act lawsuit, but not on the other two.

11. Closed Session: Texas Government Code 551.071 – Consultation with Attorney regarding: Cliff A. Skiles, Jr., D.V.M. v. William H. Riley, Cause No. CI-098-056, in the District Court of Deaf Smith County, Texas, 22nd Judicial District, Cause No. 09 03-18,322 CV, State of Texas vs. Wayne Wilson in the District Court of Robertson County, Texas, 82nd Judicial District, and C.A. Skiles Family Partnership, Ltd., and Cliff A. Skiles, Jr., D.V.M. v. Brazos Valley Groundwater Conservation District, Cause No. 09-03-18339CV, in the District Court of Robertson County, Texas 82nd Judicial District.

After reconvening from Closed Session at 4:10 p.m. there was no discussion on item 11.

12. Discussion and possible action regarding assessment of administrative fees and costs for the contested case proceedings in C.A. Skiles Family Partnership Ltd and Cliff Skiles, Jr., D.V.M. contested case hearing before the Brazos Valley Groundwater Conservation District.

Kent Watson, Chairman opened the floor at 4:10 p.m. for discussion.

Jimmy McCullough, stated that his objection was the issue on the Open Meeting Act. If this was to discuss assessment fee's and cost generally for the district, he didn't feel it was appropriate posting for that. He certainly doesn't think it's fair to asses fee's only on a contested case. He would ask that posting in the future describe exactly what is going to be discussed.

13. Discussion and possible action regarding the procedure to be used in addressing the Protestants' Motion for Partial Summary Judgment filed in C.A. Skiles Family Partnership Ltd and Cliff Skiles, Jr., D.V.M. contested case hearing before the Brazos Valley Groundwater Conservation District.

Kent Watson, Chairman opened the floor at 5:00 p.m. for discussion. There was no further discussion by the Board on this item. (see attached Board Order)

14. Discussion and possible action on amending the August 26, 2008 "Order on the Hearings Examiner for Skiles Contested Case Hearing" in C.A. Skiles Family Partnership Ltd and Cliff Skiles, Jr., D.V.M. contested case hearing before the Brazos Valley Groundwater Conservation District.

A motion was made by John Hicks, second by Wayne Wilson, that the Board Order be Amended allowing some expansion of duties for John Vay, that would allow him to hear the entire contested case hearing, and send a recommendation, or finding of the facts to the Board for final decision. The motion passed with Director's David Coleman, and Pete Brien, recusing from this issue.

15. Discussion and possible action on mediation in the C.A. Skiles Family Partnership Ltd and Cliff Skiles, Jr., D.V.M. contested case hearing before the Brazos Valley Groundwater Conservation District as well as other district court cases involving the C.A. Skiles Family Partnership Ltd and Cliff Skiles, Jr., D.V.M.

Kent Watson, Chairman advised the board that the Mediation would take place on June 5th and possibly part of June 6th. No further action was taken by the board.

16. Hear visitors.

17. Kent Watson, adjourned the board meeting at 5:25 p.m.

Signed this 4th, day of May, 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**