

**MINUTES OF THE JUNE 11, 2019  
BOARD OF DIRECTORS MEETING OF  
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session June 11, 2019, at 9:00 a.m. in the Conference Room of the Hampton Inn & Suites, 2010 South Dumas Avenue, Dumas, Texas 79029. The following persons were present:

**Members Present at 9:01 a.m.:**

Daniel L. Krienke, President;  
Gene Born, Director;  
Harold Grall, Director; and  
Zac Yoder, Director.

**Staff Present during part or all of the meeting:**

Steve Walthour, General Manager;  
Dale Hallmark, Assistant General Manager — Hydrologist/Production Services;  
Kirk Welch, Assistant General Manager — Outreach;  
Kristen Blackwell, Executive Assistant;  
Odell Ward, Program Coordinator — GIS/Monitor Wells;  
Julia Stanford, Conservation Outreach Specialist; and  
Paige Glazner, Conservation Outreach Assistant.

**Others present during part or all of the meeting:**

F. Keith Good, Attorney; and,  
Ellen Orr, Paralegal.

President, Daniel L. Krienke, declared a quorum present and called the meeting to order at 9:01 a.m. President Krienke gave the invocation and led the pledge.

**1 – Public Comment**

No Public Comment was made to the Board.

General Manager, Steve Walthour, introduced Paige Glazner, who will be interning at the District until January, 2020. Ms. Glazner is working to develop graphics for the District's Conservation and Outreach programs.

**2 – Consent Agenda**

The Consent Agenda was discussed by the Board and consisted of: the review and approval of the Minutes of the regularly scheduled March 19, 2019 Board of Directors Meeting; the review and approval of un-audited District expenditures for March 1, 2019 through May 31, 2019, including the General Manager's expense and activity report; the review and approval of payment to Lemon, Shearer, Phillips & Good, P.C. for professional services and out-of-pocket expenses from March 1, 2019 through May 31, 2019, in the amount of \$12,012.62; the review and approval of the Hansford County Tax Collection Contract for 2019-2020; the review and consideration of an Order allowing discounts from the Lipscomb County 2019 Ad Valorem Tax due if ad valorem tax is paid before January, 2020; and the review and approval of the Sherman County Appraisal District's proposed 2020 budget.

Gene Born moved to remove from the Consent Agenda, the review and consideration of an Order allowing discounts from the Lipscomb County 2019 Ad Valorem Tax due if ad valorem tax is paid before January, 2020 and to approve all of the other items on the

Consent Agenda. Harold Grall seconded the motion and it was unanimously approved by the Board.

***Action Agenda 3.a. - Consider requests to waive Ad Valorem Tax penalties and interests in Moore County for Etter Farms (Faria Brothers Dairy)***

Etter Farms LLC., a division of Faria Brothers Dairy, requested a waiver of penalty and interest on PID 162169 because of an apparent administrative error by the Moore County Appraisal District (MCAD). Etter Farms noticed that Property ID (PID) 143472 and PID 162169 both had the same mobile home information on the statements. Etter Farms paid the taxes on PID 143472 with a check postmarked January 31, 2019. MCAD corrected the information on PID 162169 to reflect another mobile home. The waiver of penalty and interest for PID 162169 would be the penalty and interest applied of \$13.21.

The Moore County Tax Office believes that the error on the part of MCAD was documented in the supplement received by the tax office on April 2, 2019. All the other taxes owed by Etter Farms were paid in a timely manner. Copies of the original statements and print screens showing the error and the MCAD correction in the Supplement Records were presented to the Board.

The General Manager recommended that the Board waive the penalties and interest on PID 162169 because of the apparent administrative error.

Gene Born moved that the Board waive the penalties and interest on PID 162169 because of the apparent administrative error of MCAD. Zac Yoder seconded the motion and it was unanimously approved by the Board.

President Krienke deferred the following Action Agenda items and Discussion Agenda items to the next regular Board meeting:

- 3.b. Receive report and discuss 86th Legislative Session;*
- 3.c. Consider final compliance approval of Water Well Permits as active and complete wells;*
- 3.d. Receive report and consider action as needed regarding District agriculture irrigation demonstration conservation programs and other water conservation education initiatives;*
- 3.e. Receive report regarding groundwater production reporting for 2018 and its relationship to Desired Future Conditions;*
- 3.f. Receive Hydrology and Groundwater Resources Report 2018-2019;*
- 3.g. Consider action regarding Groundwater Management Area - 1 Joint Planning Committee;*
- 3.j. Consider General Manager's request to modify the District's pay periods;*
- 3.l. Receive preliminary report regarding North Plains GCD tax valuations for the purposes of developing a budget;*
- 3.m. Receive report regarding development of the 2019-2020 District Budget and schedule a Finance and Budget Committee meeting;*
- 3.n. Receive a report and schedule a meeting of the Agriculture Committee to develop recommendations for 2019-2020 Budget;*



*3.o. Receive report regarding district construction and facility maintenance activities and schedule a Property Committee meeting to develop construction and maintenance priorities for the 2019-2020 budget;*

*4.a. District director reports regarding meetings and/or seminars attended, weather conditions and economic development in each Director's precinct.*

*4.b. Committee Reports; and,*

*4.c. General Manager's Report*

- i) Upcoming meetings and conferences.*
- ii) General Manager's Activity Summary*
- iii) Permits Issued in March through May 2019*
- iv) District Activity Summary*
- v) Groundwater Management Districts Association Summer Conference*

President Krienke referred the following Action Agenda items to the Finance Committee:

*3.h. Consider action regarding the District's Texas County and District Retirement System Retirement Plan Assessment for Plan Year 2020; and*

*3.i. Consider action recommended by Amarillo National Bank to change third party administration of the District's 457 John Hancock Retirement Plan.*

***Action Agenda 3.k. - Consider General Manager's request to amend Nicholas Kenny contract.***

The General Manager requested that the contract currently in effect with Nicholas Kenny be increased by \$10,000 from \$36,000 to \$46,000 and that the 2018-19 budget be amended to allow for the increase.

Mr. Walthour reported that the District entered into a contract with Nicholas Kenny (Kenny) for agricultural engineering services in July of 2018. That contract will expire on July 15, 2019. Since initiating the contract, Kenny has, at the District's request, assumed additional responsibilities including making a presentation at a 2019 Master Irrigator session, and assisting with public outreach through newsletter articles and the development of an ongoing educational radio segment. In addition, Kenny has made three trips to the Panhandle from his hometown in Mesa, Arizona to coordinate the conservation demonstrations at the Water Conservation Center and will begin providing technical assistance to past Master Irrigator graduates on his next visit. Two more visits are already tentatively scheduled for June and July. In addition, Kenny is coordinating with Dr. Jourdan Bell regarding the AgriLife cover crop demonstration and on the District's cotton Water Efficiency Trials (WET) that are using the same fields as Bell's Replicated Agronomic Cotton Evaluation (RACE) trials. The District is supplying equipment and funds for the WET demonstration and Kenny will analyze and present the data. Kenny's role has expanded from technical consultant to District ag conservationist. With the addition of these activities, the \$36,000 budget for the position has been expended with 1.5 months left on the contract. The additional services being provided are directly benefitting stakeholders in the District.

The \$10,000 increase is derived from expenses for 1.5 months, based upon a total annual contract amount of \$65,000, with a contingency of \$1,875 included for unexpected expenses. The \$65,000 projected contract figure is an estimate of the cost of a full year of services provided at current levels and is less than the cost for similar services in past budget years. In addition to recommending the additional funds for the remainder of the current contract, the General Manager requested that the Board authorize the preparation of next year's contract with Kenny at the new level of \$65,000.



Harold Grall moved that the Board increase the contract currently in effect with Nicholas Kenny by \$10,000 from \$36,000 to \$46,000; that the 2018-19 District budget be amended to allow for this increase; and that the Board authorize the preparation of the 2019-2020 contract with Kenny in the amount of \$65,000. Gene Born seconded the motion and it was unanimously approved by the Board.

***Action Agenda 3.p. - Moore County Commissioners meeting regarding taxing of the former Star Theater at 118 West 7<sup>th</sup> Street, Dumas, Texas 79029.***

The General Manager reported to the Board that on Monday May 13, 2019, the Moore County Commissioners met in regular session and an item of discussion was the unpaid back taxes estimated at over \$40,000 from the former Star Theater located at 118 West 7th Street in Dumas, owned by the Ray Troy Estate and Lloyd D Mills. The value of the property was estimated at approximately \$30,000. The taxing entities did not initiate foreclosure on the property in the past due to costs associated with abating the asbestos in the building prior to restoring the property or tearing it down.

Mr. Walthour stated that on April 10, 2019 the building caught on fire and the issue of asbestos abatement was no longer an issue. The City of Dumas estimated its cost in the firefighting, demolition and removal of the building at approximately \$40,000. The County Commissioners appeared to favor foreclosing on the property for the back taxes owed and the demolition costs involved. They will be providing each taxing entity with their proposal for approval before proceeding.

***Action Agenda 3.q. - Consider Approval of Lipscomb County Parcel Increases.***

The General Manager reported that the Lipscomb County Tax Assessor/Collector proposed to increase the monthly cost per parcel from 10 cents to 30 cents and to increase the weekly cost per parcel from 15 cents to 35 cents per parcel. The increase is to cover the increasing costs of stamps, envelopes, paper and maintaining tax processing programs.

Gene Born moved that the Board approve the increase of weekly parcel costs proposed by the Lipscomb County Tax Assessor/Collector from 15 cents to 35 cents and to approve the increase of the monthly parcel costs proposed by the Lipscomb County Tax Assessor/Collector from 10 cents to 30 cents to cover the Tax Assessor/Collector's increasing expenses for stamps, envelopes, paper and maintaining tax processing programs. Harold Grall seconded the motion and the motion passed by the majority vote of the Board with Daniel L. Krienke opposing the motion.

***Consent Agenda 2.e. - Review and Consider adopting an Order allowing discounts from the Lipscomb County 2019 Ad Valorem Tax due if paid before January, 2020.***

The General Manager stated that the District allows county tax collectors and assessors, upon request and approval by the Board, to offer discounts from the gross ad valorem taxes due on the tax statement, if the taxes are paid before January to encourage the prompt payment of taxes. The Lipscomb County Tax Assessor/Collector has requested that the District adopt the discount policy for Lipscomb County by Order for ad valorem tax year 2019.

Under the proposed Order, a person is entitled to a discount from the amount of 2019 tax due if he or she pays the tax before January 2020. The amount of discount shall be three percent (3%) if the tax is paid in October, two percent (2%) if the tax is paid in November, and one percent (1%) if the tax is paid in December. The proposed Order was presented to the Board.



The General Manager recommended that the Board adopt the Order presented to the Board allowing Lipscomb County to offer discounts from the amount of 2019 ad valorem tax due if paid before January 2020.

Gene Born moved to adopt the following Order proposed by Lipscomb County Tax Assessor/Collector:

**ORDER ALLOWING DISCOUNTS FROM THE AMOUNT OF 2019 AD VALOREM TAX DUE IF PAID BEFORE JANUARY**

**WHEREAS**, the **NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT** of the County of Lipscomb, wishes to encourage the prompt payment of taxes, and

**WHEREAS**, the **NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT** of the County of Lipscomb, has authority to adopt a discount policy under Sections 31.05 of the Texas Property Tax Code of the State of Texas:

**NOW, THEREFORE**, it is ordered by the **NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT** of the County of Lipscomb, State of Texas, that;

A person is entitled to a discount from the amount of 2019 tax due if he or she pays the tax before January. The amount of discount shall be three percent (3%) if the tax is paid in October, two percent (2%) if the tax is paid in November, and one percent (1%) if the tax is paid in December.

This Order shall become effective immediately after its publication in the manner and for the length of time required by law.

Harold Grall seconded the motion and the Order was adopted by the majority vote of the Board with Daniel L. Krienke opposing the motion.

***Action Agenda 3.r.- Consider legal and compliance matters before the District.***

The General Manager reported that in May, the District received a request from Prestage Farms for an Exception to the District's rules related to metering. The General Manager reported that District staff investigating the matter. The General Manager recommended that the Board order a Hearing regarding Prestage Farm's request for an exception to the District.

The General Manager also stated that late Filed 2018 Production letters and invoices were sent to sixteen (16) producers for twenty- three (23) late filed reports. A \$50 per day late filing fee was set up to \$500 for each report that was filed after March 1, 2019. The due date for the late filing fee is June 30, 2019 with an opportunity for reimbursement of the fee if the 2019 Production Report is filed with the District on or before Jan 15, 2020. As of May 31, 2019, fees have been paid by nine (9) producers for nine (9) late filed reports. Exceeding 2018 Production Limit Letters and invoices were sent to thirteen (13) producers for seventeen (17) potentially overproduced GPU's (Groundwater Production Units). A \$25 per acre foot over the production limit was set for the 1st offense and additional fees for each subsequent offense for the same GPU. The due date to pay the fees or re-establish the GPU was set for June 30, 2019.

Mr. Walthour reported that as of May 31, 2019, nine (9) overproduced GPU's were resolved by re-establishing GPU's, re-calculating production or paying overproduction fees.

Harold Grall moved that the Board adopt Board Order 019-001 as follows:

On June 11, 2019, at its regularly scheduled meeting, the North Plains Groundwater Conservation District (District) Board of Directors (Board) reviewed the Application for Exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5, filed by Marvin W. Jones, Esq., on behalf of Prestage Farms of Oklahoma, LLC ("Prestage").

### **FINDINGS**

On or about May 20, 2019, Marvin W. Jones, Esq., filed an Application for Exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5 on behalf of Prestage Farms of Oklahoma, LLC.

District Rule 11.2.3 requires that all Applications for Exception shall be heard and considered by the Board at a Board meeting within sixty (60) days after submittal. At least ten (10) days prior to the hearing, the General Manager shall:

- A. post the notice in a place readily accessible to the public in the principal office of the District;
- B. provide the notice to the county clerk of each county in the District for public posting in each respective courthouse;
- C. publish one notice to the public in a newspaper in general circulation within the District; and
- D. provide the notice by regular mail to:
  - (1) the Applicant; and,
  - (2) known interested Persons, including, without limitation, those Persons defined by TWC, § 36.119(b), whose rights may be affected by the exception requested, including all governmental agencies having concurrent jurisdiction.

### **ORDER SETTING HEARING AND ORDERING NOTICE**

**IT IS THEREFORE ORDERED** that an exception hearing shall be held on July 9, 2019 at 9:00 a.m., Daylight Saving Time, at the Hampton Inn & Suites Conference Room, 2010 South Dumas Avenue, Dumas, Texas 79029, to consider the Application for Exception filed on behalf of Prestage.

**IT IS FURTHER ORDERED** that the General Manager provide notice of the exception hearing as required by District Rule 11.2.3 set forth above.

Gene Born seconded the motion and it was unanimously approved by the Board.

#### ***Agenda 5 - Discuss Items for Future Board Meeting Agendas and Set Next Meeting Date and Time.***

By consensus, the Board set the next regular Board Meeting at 9:00 a.m. on July 9, 2019 at the Conference Room of the Hampton Inn & Suites, 2010 South Dumas Avenue, Dumas, Texas 79029.

#### ***Agenda 6 - Adjournment.***

There being no further business to come before the meeting, President Krienke declared the meeting adjourned at 9:51 a.m.



Daniel L. Krienke, President



Harold Grall, Director