



POLK COUNTY COMMISSIONERS COURT

MARCH 2, 2001

10:00 A.M.

Polk County Courthouse, 3rd floor

Livingston, Texas

2001-20

NOTICE

is hereby given that a Special Session of the Polk County Commissioners Court will be held on the date stated above , at which time the following subjects will be discussed;

Agenda topics

- 1. CONSIDER ANY/ALL NECESSARY ACTION PERTAINING TO THE CONTRACTING FOR COUNTY AMBULANCE SERVICE.
- 2. WORKSHOP DISCUSSION ON GROUNDWATER REGULATION ISSUES.

ADJOURN

Posted: February 27, 2001

Commissioners Court of Polk County, Texas

By: John P. Thompson, County Judge

I, the undersigned County Clerk, do hereby certify that the above Notice of Meeting of the Polk County Commissioners Court is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice in the Polk County Courthouse at a place readily accessible to the general public at all times on Tuesday, February 27, 2001 and that said Notice remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

BARBARA MIDDLETON, COUNTY CLERK

BY *[Signature]* Deputy

FILED AND RECORDED
 OFFICIAL PUBLIC RECORDS
 2001 FEB 27 AM 9:12
[Signature]
 BARBARA MIDDLETON
 COUNTY CLERK, POLK CO.



POLK COUNTY COMMISSIONERS COURT

MARCH 2, 2001

Polk County Courthouse, 3rd floor

10:00 A.M.

Livingston, Texas

~~#2001-01~~
#2001-20

**ADDENDUM
NOTICE**

is hereby given that the following will serve as an addendum to the agenda of the Special Session of the Polk County Commissioners Court to be held on the date stated above, at which time the following subjects will be added;

ADD;

- 3. CONSIDER APPROVAL OF RESOLUTION REQUESTING LEGISLATIVE ACTION TO CREATE POLK COUNTY GROUNDWATER DISTRICT. (presentation of this item contingent upon concensus of workshop discussion in item #2)

Commissioners Court of Polk County, Texas

By: John P. Thompson, County Judge

Posted: February 27, 2001

I, the undersigned County Clerk, do hereby certify that the above Notice of Meeting of the Polk County Commissioners Court is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice in the Polk County Courthouse at a place readily accessible to the general public at all times on Tuesday, February 27, 2001 and that said Notice remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

BARBARA MIDDLETON, COUNTY CLERK

BY Schelana Walker, Deputy

FILED AND RECORDED
 2001 FEB 27 AM 9:53
 Barbara Middleton
 BARBARA MIDDLETON
 COUNTY CLERK, POLK CO

STATE OF TEXAS)

DATE: MARCH 2, 2001

COUNTY OF POLK)

"SPECIAL" MEETING
All Members - Present**"COMMISSIONERS COURT"**
AGENDA - #2001-20

BE IT REMEMBERED ON THIS THE 2nd DAY OF MARCH, 2001
THE HONORABLE COMMISSIONERS COURT MET IN "SPECIAL"
CALLED MEETING WITH THE FOLLOWING OFFICERS AND MEMBERS
PRESENT, TO WIT:

JUDGE JOHN P. THOMPSON, PRESIDING.

BOB WILLIS - COUNTY COMMISSIONER PCT#1, BOBBY SMITH - COUNTY
COMMISSIONER PCT #2, JAMES J. "Buddy" PURVIS - COUNTY COMMISSIONER
PCT #3, R.R. "Dick" HUBERT - COUNTY COMMISSIONER PCT #4,
BARBARA MIDDLETON - COUNTY CLERK & BILL LAW - COUNTY AUDITOR,
THE FOLLOWING AGENDA ITEMS, ORDERS, AND DECREES WERE DULY
MADE, CONSIDERED & PASSED.

1. JUDGE JOHN THOMPSON CALLED THE MEETING TO ORDER AND WELCOMED
THE GUEST AT 10:00 A.M.
2. WORKSHOP:
MR. JIM ALLISON OF ALLISON OF ALLISON, BASS & ASSOCIATES FROM
AUSTIN MADE PRESENTATION TO THE INTERESTED PARTIES CONCERNING
FORMATION OF GROUNDWATER DISTRICT AND DISCUSSION ON GROUND
WATER REGULATION ISSUES.

RECESS - AT 11:10 AM FOR 10-MINUTE BREAK.


RECONVENED SPECIAL SESSION AT 11:20 AM.

3. MOTIONED BY BOBBY SMITH, SECONDED BY JAMES J. "Buddy" PURVIS, TO
APPROVE CONTRACT AGREEMENT WITH GOLD STAR EMS FOR
AMBULANCE SERVICES WITHIN THE COUNTY, AS CHAMPION EMS WILL
TERMINATE THEIR CONTRACT ON MARCH 31, 2001.
ALL VOTING YES.
4. MOTIONED BY R.R. "Dick" HUBERT, SECONDED BY BOB WILLIS, TO ADJOURN
COURT THIS 2ND DAY OF MARCH 2001 AT 11:45 AM.
ALL VOTING YES.



JOHN P. THOMPSON, COUNTY JUDGE

ATTEST:



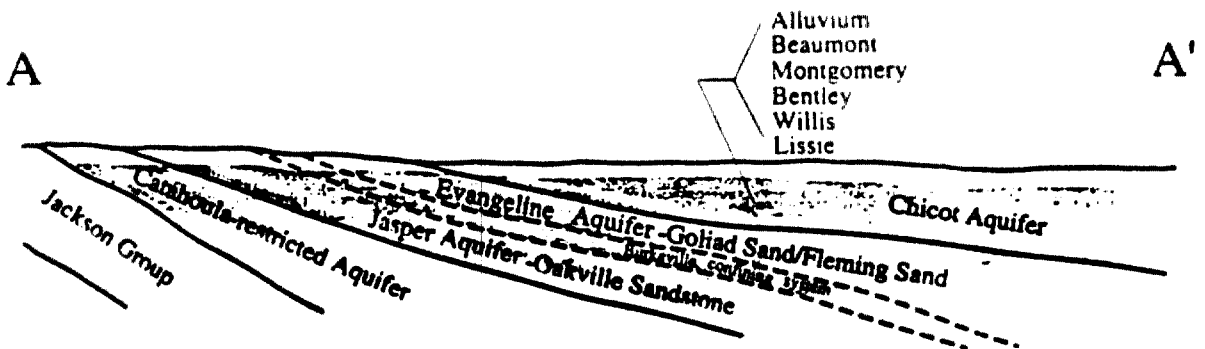
BARBARA MIDDLETON, COUNTY CLERK
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PRESENTATION
ON
GROUNDWATER DISTRICT FORMATION
TO
POLK COUNTY
MARCH 2, 2001

Prepared by

Jim Allison
Allison, Bass & Associates
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Austin, Texas 78701
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(512) 480-0902 - fax

Gulf Coast



Modified from Baker, 1979

GROUNDWATER LAW



◆ OUTSIDE A GROUNDWATER DISTRICT

- State has exercised minimal authority
- Landowners have unlimited right to withdraw groundwater unless:
 - Δ a “waste” of water, or
 - Δ withdraw as to maliciously harm neighbors, or
 - Δ negligence causing subsidence
- “Rule of capture” vs. “property”

◆ INSIDE A GROUNDWATER DISTRICT

- Landowners are not deprived of ownership rights in groundwater
- Groundwater rights do become subject to the District’s rules .
- After Senate Bill 1, State exercises broad authority over districts

EXAMPLES OF DISTRICT RULES



- Permit to drill well
 - grandfather existing wells
 - small wells exempted
 - water wells for O & G exempted
- Registration of wells
- Well spacing requirements
- Well capping requirements
- Limit groundwater production
- Permit to take groundwater out of the District
- Limit water-table drawdown or depletion
- Data gathering / reporting
- Conservation
- Water quality related rules

ISSUES THAT MAY INDICATE NEED



- ◆ How important is groundwater in the area?
- ◆ Groundwater resources sufficient to support use?
- ◆ Are groundwater levels declining? Quality?
- ◆ Increase in demand on aquifer?
- ◆ Is there a need for assistance in conservation?
- ◆ Is the groundwater supply well-understood?
- ◆ Real or perceived threats to local control?

CREATION AND OPERATION



◆ **Make basic choices**

- Territory
- Governance
- Funding
- Powers

◆ **Draft creation statute**

◆ **Introduce and pass legislation**

- TNRCC review
- Publication
- Introduce legislation—target February

✓ ◆ **Conduct confirmation election?**

- Necessary for any taxing authority

◆ **Convene Board of Directors**

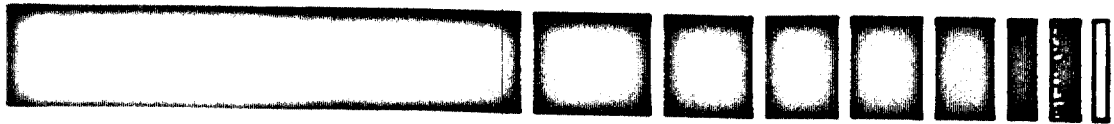
◆ **Pass rules**

FUNDING OPTIONS



- ◆ Administrative fees
- ◆ Line item for city/county budgets
- ◆ Taxes
 - Unspecified
 - General law cap for O & M
 - Special law cap
- ◆ Production or use fees

DISTRICT GOVERNANCE



◆Members

5 7 9 11

◆Temporary directors

- Until election
- Term specified in creation statute

◆Permanent directors

- Elected
- Appointed
- Term

PROS & CONS



◆Pros

- Local control / local management
- Protect groundwater levels
- Protect groundwater quality
- Spread cost to all those benefited
- Provide water related services
- Enhanced data
- Assistance for conservation efforts

◆Either / Or

- Advance planning
- Conservation

◆Cons

- Cost
- Regulation of wells
- State regulation of district
- General obligations: open meetings, open records, procurement, competitive bidding, finance laws
- Controversy

GROUNDWATER DISTRICTS

ISSUE	OPTION A	OPTION B	OPTION C
Territory	County-wide	Multi-county	Part of county
Governance	3 directors	3 directors	Name 7 or more directors
Temporary Directors	Name 3 directors in creation statute	Name 3 directors in creation statute	Name a larger number of directors
Permanent Directors	On approval of creation, temporary directors become permanent directors, directors from odd-numbered precincts serve for two years; directors from even numbered precincts and at large directors serve for four years; initial terms to be followed by regular election every two years, four year terms	Temporary directors, and anyone else who files an application, to be on ballot for election as initial directors; election held simultaneously with creation election, regular elections to follow, draw lots to stagger four-year terms	Some or all directors appointed
Selection Structure	Elect primarily by precinct; 4 by County Commissioner Precincts plus 1 at large; or District Board may divide territory into precincts	All elected at large	Appoint 2 or more by Commissioners Court, others appointed by cities
Compensation	No more than \$100/day actually engaged in duties, no more than \$6000/year, reimbursement (Water Code ch. 36)	Not more than \$25/day; reimbursement	Reimbursement of actual expenses reasonably and necessarily incurred
Funding	Ad valorem taxation authority, with or without use fee authorization; administrative fees, etc	Use fees based on production or well size, taxation only if use fees unconstitutional; administrative fees, etc.	Budget item for area political subdivision; administrative fees, etc
Tax Cap	Statutory cap of \$0.50¢/100	Special tax cap set at \$0.03/100	Special tax cap set at \$0.01/100
Powers	Adopt powers by reference to Water Code ch 36	Add specific powers (See examples)	Withhold specific powers
Rulemaking	No specification (Generally preferable to keep creation statute as simple as possible and to leave greatest possible flexibility in rulemaking)	Require grandfathering, specify exemptions, specify no denial of a well, etc	
Annexation	For areas with less than 50 landowners, a petition signed by a majority of them, or for an area including more than 50 landowners, a petition signed by 50, a hearing in existing district and in new area, resolution by the District Board, and ratifying election in the area to be annexed (Water Code ch 36)	To initiate annexation requires a petition signed by not fewer than 50% of the persons residing in the territory to be annexed, hearing and separate elections in both areas	Consolidation of 2 or more districts upon resolution of each, confirming election in each district if taxing authority (Water Code ch 36)

POWERS

- 1) All the powers of Chapter 36?
- 2) Additional powers to be expressly added or denied?
 - a) Taxation and/or use fees (see other issues list)
 - b) Eminent domain (Chapter 36 grants eminent domain except that power may not be exercised to condemn groundwater or surface water rights)
 - c) Land reclamation, soil conservation, terracing
 - d) Drilling and operating recharge or input wells
 - e) Directly or by contract, supply groundwater in or outside the district
 - f) Directly or by contract, supply surface water in or outside the district
 - g) Control or store stormwater
 - h) _____
 - i) _____
 - j) _____
 - k) _____
 - l) _____
 - m) _____

SAMPLE

RESOLUTION NO. _____

**A RESOLUTION SUPPORTING THE CREATION OF A COUNTY-WIDE
GROUNDWATER CONSERVATION DISTRICT IN POLK COUNTY**

WHEREAS, Polk County (the "County") is underlain by significant groundwater resources;

WHEREAS, these resources provide an important water supply for industrial, agricultural, domestic, and municipal drinking water supply in the County;

WHEREAS, local management of the groundwater resources in the County will protect and promote the future productivity and quality of the supply;

WHEREAS, the expeditious creation of a county-wide groundwater conservation district pursuant to Article XVI, § 59 of the Texas Constitution, will provide reasonable local management of groundwater resources;

WHEREAS, such a district may be accomplished by the passage of state legislation followed by a local election to confirm the desire of County residents to support operation of a district;

WHEREAS, all of the land and other property and the residents within the County will benefit by the work and projects of a groundwater conservation district, and creation of a district will serve a public necessity, use and benefit;

THEREFORE, BE IT RESOLVED that _____ :

1. Supports creation of a groundwater conservation district, co-extensive with the boundaries of the County with an elected Board of Directors and limited ad valorem taxation authority, not to exceed five cents per \$100 valuation;
2. Requests that our state legislators introduce and obtain passage of legislation to create the Polk County Groundwater Conservation District, subject to the approval of the voters at a confirmation election.

READ AND ADOPTED this _____ day of _____, 2001.
