

**MINUTES OF THE MEETING OF THE
REGION F WATER PLANNING GROUP
10:30 A.M. MONDAY, NOVEMBER 28, 2005
AT HOWARD COLLEGE
1001 BIRDWELL LANE – BIG SPRING, TEXAS**

The Region F Water Planning Group (WPG) meeting was scheduled for 10:30 a.m. on Monday, November 28, 2005 at Howard College, 1001 Birdwell Lane, Big Spring, Texas. Present were voting members Marilyn Egan, Wendell Moody, Terry Scott, Andrew Valencia, Will Wilde, Len Wilson, Buddy Sipes, John Grant, Scott Holland, Richard Gist and Steve Hofer. Joe David Ross and Dennis Clark were present as designated alternates for absent voting members Kenneth Dierschke and Cindy Cawley respectively. Terry Scott was present but was concerned that a prior commitment might require him to leave before all of the business was conducted. Prior to the meeting he designated Don Daniel as his voting alternate effective at such time as he might leave the meeting. Voting members absent were Johnny Jones, Charles Hagood, Jr., Larry Turnbough, John Gayle, Stuart Coleman, Stephen Brown, Caroline Runge and Lowell Woodward. Non-voting members present were Jon Cartwright, Winton Milliff, Rick Harston, Billy Hopper and John Shepard. Other non-voting members present were: Sherry Cordry, Texas Water Development Board (TWDB); Jon Albright, Freese and Nichols; John Ashworth, LBG-Guyton; Ray Glasscock, Sutton County Underground Water Conservation District; Jared Miller, City of Snyder; Chris Wingert, Colorado River Municipal Water District; and Mike Mecke, Texas Water Resource Institute.

Call to Order

Chairman John Grant called the meeting to order at 10:55 a.m. A quorum was present.

Introductions and Opening Remarks

Voting and non-voting members and audience attendees introduced themselves.

Consider Approval of Minutes for the Region F WPG Meeting July 25, 2005

Motion was made by Steve Hofer, seconded by Buddy Sipes that the minutes of the July 25, 2005 Region F WPG meeting be accepted. The motion passed unanimously.

Consider Ratification of Payments/Financial Report

Richard Gist made a motion, seconded by Marilyn Egan, that the group approve the financial report and ratify the payments as noted in the printed report. The motion passed unanimously.

Reports from Standing Committees

There were no committee reports.

Report from TWDB: Announcements and General Update

Sherry Cordry reported that TWDB had reviewed the Initially Prepared Plan and made relatively minor comments and recommendations. She reviewed the subsequent steps in the state water planning process. Region F has until January 5, 2006 to make any revisions to the plan, address the written public and state/federal agency comments and submit the final document to the TWDB. Following evaluation by TWDB staff and resolution of any problems, the regional plans will be combined into a statewide water plan draft and 16 public meetings will be held to elicit stakeholder and public comments. The draft plan to be submitted to the Board of Directors of TWDB in August 2006 and TWDB will submit the final document to the 2007 session of the Texas Legislature. Ms. Cordry said that

after two rounds of regional planning, TWDB is seeking input on ways to improve the process. They are considering whether to recommend continuation of the five-year plan cycle or whether complete plans should only be done following census years or some other alternate schedule. Mr. Hofer pointed out that planning for 50 years every 5 years sets the stage for redundancy and may inflate the cost for consultants. Buddy Sipes and Terry Scott suggested that it might be good to continue some level of effort at 5 year intervals to validate and improve the data available to the planners but to only complete an actual plan every 10 years. It was the consensus of the group that it is important to maintain some level of planning activity on a consistent basis that is frequent enough to not be "starting over" every time. Also, the process allows all stakeholders, regardless of population or numbers of voters in their region, to participate in the planning process and to be allowed to have a voice in the overall decisions that determine water policy and availability in Texas. Ms. Cordry also asked for input from regional planning groups on the implementation process. She said the TWDB had instructed staff to identify obstacles to implementation and suggest ways those obstacles would be removed or overcome.

Report on Public Hearing August 29, 2005

Mr. Grant reminded the group that adoption of the Initially Prepared Plan on July 25 began the 90 day period for public comment. A total of 14 people signed in at the public hearing on August 29, 2005. Eight were planning group members or consultants and six were others from the general public. Joe David Ross was the only person to provide verbal comments. No written comments were received at the public hearing. The period to submit written comments ended November 7 for the general public and November 11 for members of the Region F WPG. State and Federal Agencies had until November 28. Mr. Grant and consultants believed that all written comments have likely been received at this time and will be addressed by consultants in the next agenda item.

Report from Consultants: Consider Comments Received in Initially Prepared Plan

Jon Albright of Freese & Nichols, Inc. reported there were no major surprises in the comments. He detailed corrections and items that had been completed. These included the Ector County supply allocations, Sterling City water availability data, the socioeconomic analysis, the cost of the rights subordination strategy and the report on infrastructure financing. He listed all the individuals and entities that provided written comments. These included the several cities, environmental and wildlife groups, water districts and river authorities, electric power companies and interested individuals. The only two governmental agencies to submit written comments were the TWDB and the Texas Parks and Wildlife Department. Mr. Albright provided the group with his suggested response to each comment that had a specific reference to an item in the plan. He listed the other comments that were non-specific to Region F and the group agreed that those items did not need to be specifically addressed. Most of the consultant's recommendations were approved by consensus of the group but a few were discussed in detailed and settled by formal votes. Mr. Albright said the original work plan included \$10,000 to evaluate a possible reservoir at Madera Canyon but consultants had not completed this study. There is an existing study stating that a dam might be feasible for flood control, but there would be no value to the project as a water supply because there are no new water rights to be allocated there and no unmet needs in that area at this time. Consultants could utilize the study to complete the evaluation or the region could leave the evaluation out and return the funding to the TWDB. The group voted 11-2 to leave out the Madera Canyon evaluation and return the funds to TWDB. The consultants also inspected the Mountain Creek Reservoir dam and determined the structure to be adequate for flood control but no new water rights would be available by increasing the size of the structure. The group agreed to include the description but that no further work was necessary on it at this time. Len Wilson made a motion, seconded by Scott Holland that a statement be included in the plan specifying the link between drinking water quality standards and water quantity in the region, and further that the consultant be instructed to include a section that specifically addresses drinking water standards and the presence of nitrate, arsenic and per chlorate in Region F groundwater and the effect of those contaminants on the quantity of available water. The motion was not unanimous but it passed. Mr. Albright requested that anyone who had not returned the surveys on planned methods of financing projects in the plan do so this week. The group recessed for lunch at noon but continued the discussion through the meal as soon as

everyone was served.

Other Reports or Discussion: Planning Group Membership

Mr. Grant brought up the topic of planning group membership. He noted that a 2/3 affirmative vote is necessary to approve the plan. In spite of numerous communications and efforts to get as many voting members as possible to attend today, only 13 were present. He said that in light of the current membership it is unlikely that 14 of the 21 voting members could all be present at any single meeting before the state deadline for adoption of the plan. Two members submitted resignations and four or more have frequently been absent. The resignations of John Gayle and Charles Hagood had not been accepted by the WPG. The positions were advertised and nominations were sought but, thus far, no one had been located to fill the positions. Members agreed that the meetings are always properly posted and that the importance of today's meeting was well known. The bylaws provide that any member who has been absent from three consecutive meetings or missed more than half of the meetings in a 12-month period are deemed to have submitted a defacto resignation by failure to attend. Several voting members met one or the other criteria, but Johnny Jones had met both. Mr. Grant said that although there are 21 membership positions, the actual number of voting members is the number of people who fill those positions. Buddy Sipes made a motion seconded by Terry Scott that the written resignations of John Gayle and Charles Hagood and the defacto resignation of Johnny Jones be accepted. The motion passed unanimously. This action made the number of voting members 18, thus requiring an affirmative vote of approval from 12 members. Terry Scott expressed his regrets at having to leave and reiterated his designation of Don Daniel to vote in his stead.

Consider Final Adoption of Region F Regional Water Plan

Len Wilson made a motion, seconded by Terry Scott, that the plan be approved with the changes outlined by the consultant and the various votes. During discussion, several other changes were suggested and Mr. Wilson withdrew his motion until all the issues could be resolved. Mr. Hofer suggested several changes to wording. Under surface water policies, he suggested changes for the sake of consistency in several of the policy statements. These included items related to junior priority water rights, protection of existing water rights and polices on granting changes to existing water rights. The group was in agreement on all except one of the suggestions and they were carefully noted by the Chair and the consultants for inclusion in the plan. One suggestion was controversial, regarding the Rule of Capture and correlative rights. Mr. Hofer made a motion, seconded by Buddy Sipes, that the wording be changed to state that Region F supports protection of the Rule of Capture for groundwater to affirm the sanctity of private property, tempered by protection of the correlative rights of other owners in a common source of supply. The motion failed 5-8.

Wendell Moody made a motion seconded by Richard Gist that the plan be adopted with the changes approved at the meeting. The vote was 11-2 in favor but the plan failed to receive the 12 votes required for approval under the by-laws. The reasons for the negative votes were discussed. One member wanted more time to read the plan before voting to approve and the other did not want to approve the plan without some policy statement affirming Rule of Capture and the sanctity of private property rights. He stated his position that it was vital that the region support Rule of Capture tempered by recognition of the correlative rights of other stakeholders in the water source so one user cannot harvest groundwater in a way that causes detriment to the rights of others. Mr. Gist suggested that the problem may be the lack of a clear legal definition of the term "correlative rights" rather than an objection to the concept. After extended discussion, Buddy Sipes made a motion seconded by Steve Hofer that the wording be changed to state that Region F supports retention of the Rule of Capture in groundwater while encouraging fair treatment of all stakeholders and recognizing that groundwater districts are the preferred method for management of Texas groundwater resources. The motion passed unanimously. Will Wilde made a motion seconded by Steve Hofer that the Region F Water Plan be adopted as written with the changes approved by the group at this meeting. The motion passed by the required margin with a final vote of 12-1. Ms. Cordry asked the Chair to send a transmittal letter stating that the plan had been adopted and would be forwarded to the TWDB by the January 5, 2006 deadline. She said the only

reason TWDB would reject the plan were if the consultant failed to include the required responses. Marilyn Egan made a motion seconded by Buddy Sipes that the WPG authorize the Executive Committee to address any minor comments or questions from the consultants or TWDB as the plan is completed. The motion carried.

Next Meeting Date

Mr. Grant said that barring a decision by the Executive Committee to call a meeting of the group to address unforeseen problems with submission of the plan, no meeting will be necessary until spring. April 24, 2006 was tentatively selected as the date of the next meeting of the Region F WPG.

Adjourn

There was no further discussion and the meeting adjourned.

Will Wilde, Secretary
Region F Water Planning Group

John Grant, Chair
Region F Water Planning Group