

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 140

Minutes of Regular Meeting of Board of Directors

June 19, 2018

The Board of Directors (the "Board") of Fort Bend County Municipal Utility District No. 140 (the "District") met in regular session, open to the public, on June 19, 2018, at 6:00 p.m., at Joy Lutheran Church, 717 FM 359, Richmond, Fort Bend County, Texas 77406, outside the boundaries of the District and in accordance with the duly posted notice of meeting, and the roll was called of the duly constituted members of said Board, as follows:

Harry Murray	President
Janice Suchyta	Vice President
Gene Tomas	Assistant Vice President
David Smith	Assistant Secretary
Suzan Orr	Secretary

and all of said persons were present, except Director Murray, thus constituting a quorum.

Also present during all or part of the meeting were Chris Skinner and Matthew Reed of Schwartz, Page, & Harding, L.L.P. ("SPH"); Ron Dechert, Steve Wilcox, and Chad Hablinksy of Costello, Inc. ("Costello"); Greg Lentz of Masterson Advisors LLC; Mike Arterburn of Utility Tax Service, LLC ("Utility Tax"); Jorge Diaz of McLennan and Associates, L.P.; Susan Lang of the City of Richmond ("City"); Josh Fort of Champions Hydrolawn, Inc. ("Champions"); Dan McDonald of McDonald & Wessendorff Insurance; Joel Cleveland and Olivia Galvan of Jeanne H. McDonald, P.C.; and those persons listed on the sign-in sheet attached hereto.

PUBLIC COMMENTS

The meeting was opened for public comments.

LID 22

This item was taken out of order. Mr. Cleveland introduced Chris Skinner and Matthew Reed of SPH as representatives of Levee Improvement District No. 7 ("LID 7"). Mr. Skinner then gave a presentation regarding a proposed joint project between the District, LID 7, Fort Bend County Municipal Utility District No. 145 ("FBMUD 145"), and other area stakeholders to establish Levee Improvement District No. 22 ("LID 22") for the purpose of providing regional flood protection from Brazos River flood events. Mr. Skinner reviewed various scenarios by which LID No. 22 could potentially be created and its intended projects financed. He also reviewed the various obstacles that would need to be addressed and overcome. In response to inquiries from the Board, Mr. Skinner stated that the interest of prospective parties is still being investigated and that a decision on the Board's participation is not necessary at this time. He stated, however, that LID 7 has received voter authorization to sell bonds to address weak points in its flood protection facilities. He stated that LID 7 is temporarily delaying moving forward with a project to address

its own flood protection needs while interest in this joint effort is being investigated; however, he indicated that LID 7 will not be able to wait long. He, therefore, asked the Board to consider at its July meeting whether it is willing to move forward with negotiating a partnership agreement with LID 7 and FBMUD 145 for the purpose of working together towards the creation of LID 22, with the goal of having the agreement executed by all parties by September 30, 2018. After discussion, the Board concurred to include an item on its July meeting agenda to consider the requested partnership.

### OPERATOR'S REPORT

This item was taken out of order. Ms. Lang presented the Operator's Reports for May, a copy of which is attached hereto. She reported 830 connections, 18 delinquent accounts, and no identify thefts for May 2018. Ms. Lang then presented two customer requests for bill adjustments for the Board's consideration. She reported that Ms. Dacosta, a District resident living at 215 River Bluff Lane, experienced a leak on her side of the meter in May. Ms. Lang next reported on a request for a billing adjustment from Ms. Emina Okic, a District resident living at 2514 Benbrook Springs Court, who experienced high usage in May. Ms. Lang then explained that the District has an established policy that it does not make bill adjustments for leaks or usage on the customer's side of the meter. After discussion, Director Smith moved to approve the Operator's Report; terminate service to those customers with delinquent accounts; deny Ms. Dacosta's adjustment request to her water bill; and deny Ms. Okic's request for adjustment to her water bill. Director Suchyta seconded the motion, which passed unanimously.

Ms. Lang also reported that she investigated the Board's comments to the preliminary Consumer Confidence Report and that the items identified by the Board were typographical errors and were corrected. She then presented a copy of the final Consumer Confidence Report.

### WATER CHARGES

This item was taken out of order. Ms. Lang reported that the City is completing a water rate study and will be contacting the District once the study is complete. Mr. Cleveland stated that this is being done, in part, due to the District's water supply contract with the City that calls for a recalculation of the District's water rates now that the Edgar Water Plant is online. This item was then tabled.

### RECYCLING

This item was taken out of order. Ms. Lang reported receipt of the District's request to obtain pricing for larger recycling bins and explained that she is still working with the City's vendor, Republic Services Inc., to determine the costs associated with the District's request. This item was then tabled.

### BOARD OF DIRECTOR

Mr. Cleveland informed the Board of the resignation of Director Murray, effective as of the meeting. He then explained that the Board may appointment a replacement director to fill the

remainder of the unexpired term in the position vacated by Director Murray (i.e., May 2020). Director Orr then suggested that a committee be established to review applicant submissions and present a recommendation for the Board's consideration. Director Suchyta then inquired if any Board member wished to be appointed to the Director Appointment Committee (the "Committee"). In response, Directors Orr and Tomas volunteered to serve on the Committee. The Board then discussed establishing a deadline for applicants to apply for the position and allow for review of all submissions by the Committee before the District's next Board meeting. The Board concurred to set a deadline of July 3, 2018, for receipt of applicant submissions. Mr. Cleveland then inquired if the Board wished to consider reorganizing and electing new officers. He noted that Director Murray's resignation left vacant the position of President. After discussion, Director Tomas moved to accept the resignation of Director Murray effective immediately; to create the Committee consisting of Director Orr and himself; for such Committee to review applicant submissions and present a recommendation at the Board's next meeting regarding filling the vacant position; to announce a deadline of July 3, 2018, to apply for the vacant position; and to appoint Director Suchyta as President, himself as Vice President, and Director Smith as Assistant Vice President, with all other positions remaining the same. Director Orr seconded the motion, which passed unanimously.

#### ENGINEER'S REPORT

Mr. Dechert presented the Engineer's Report dated June 19, 2018, a copy of which is attached hereto.

a. District's Rio Vista Berm:

Mr. Dechert reviewed the status of the project to reconstruct the District's Rio Vista Berm, reporting that the contractor, Solid Bridge Construction, LLC ("SBC"), has completed the project. He then presented and recommended approval of Pay Estimate No. 3 and Final in the amount of \$10,489.00, and he recommended acceptance of the Certification of Completion of the project. After discussion, Director Orr moved to approve payment of Pay Estimate No. 3 and Final in the amount of \$10,489.00 to SBC and to accept the Certificate of Completion for the project. Director Tomas seconded the motion, which passed unanimously.

b. Southern Berm:

Mr. Dechert reported on discussions with Mr. Rick Flores, a commercial property owner in the District, regarding obtaining an easement in connection with construction of the Southern Berm Project. He stated that Mr. Flores asked that the District's proposed berm alignment be adjusted to reduce the impact on his property. Mr. Dechert explained that, after considering the request, he believes the alignment needs to remain as currently proposed. Mr. Cleveland then explained the various means by which the District could obtain the necessary easement, and he requested direction from the Board on how it wished to proceed. Director Suchyta then suggested that the Board consider continuing negotiations with Mr. Flores and recommended that Director Tomas speak with him. In response, Director Tomas stated that he would be willing to meet with Mr. Flores to

negotiate an easement on behalf of the District and requested that the District's engineer and attorney provide the necessary documentation for the negotiations. After discussion, Director Suchyta moved to authorize Director Tomas to negotiate the requested easement. Director Smith seconded the motion, which passed unanimously.

c. Sluice Gate:

Mr. Dechert reported that Costello contacted Justin Ring, engineer for Pecan Grove Municipal Utility District ("Pecan Grove"), regarding installation of a sluice gate located on an outfall at FM 359 and Jones Creek. He reported that Mr. Ring is looking into the project to determine if Pecan Grove may have any objections to the project. Mr. Dechert stated that it is unlikely Pecan Grove will object to the project, but it is also unlikely that it will participate financially in the project. He also reported that Mr. Ring confirmed that he will present the District's sluice gate request at Pecan Grove's next Board meeting. No action was necessary.

d. Drainage Inlets:

Mr. Dechert reported that Costello is coordinating with Mr. Cleveland to obtain a drainage easement for the construction of the inlet. Director Smith then inquired if Mr. Dechert could contact Champions to conduct the drainage inlet work upon receipt of the drainage easement. In response, Mr. Dechert confirmed that he will contact Champions, as requested.

e. Emergency Flood Mitigation:

Mr. Dechert then reported on the status of the District's requests for proposals from operators regarding a stand-by contract for installation of the emergency materials in the event of a predicted high water event on the Brazos River. He reported that Costello has gone through great efforts to find a contractor willing to bid on the project but that no operator has yet been willing to accept the project. Mr. Cleveland also reported that details of the project were submitted to Ms. Lang and that the City of Richmond is still reviewing the project and a response is expected by the District's next meeting. After discussion, no action was taken.

f. NRCS Grant:

Mr. Cleveland stated that the District's request to the Natural Resources Conservation Service ("NRCS") to allow the District to negotiate a design/build contract with ER-Con Technologies, LLC on a sole source procurement basis was submitted. He stated that the NRCS is still reviewing the request. No action was necessary.

## DISTRICT BERM

### a. Report:

Mr. Dechert reported on the status of the competitive bidding process for the construction of the District DRS Berm. He reported that Costello has received several inquiries regarding the project and that the deadline to submit bids is Friday, June 22<sup>nd</sup>. No action was necessary.

### b. Condemnation:

Mr. Cleveland reported on the status of the condemnation proceedings in connection with obtaining the necessary land rights to construct the DRS Berm Project. He stated that the Special Commissioners' Hearing regarding the McCaslin tracts is scheduled for Friday, July 20, 2018. He stated that the special commissioners were appointed in the Gonzales case but that the hearing date is yet to be set. After discussion, no action was necessary.

## BOND ISSUE

Mr. Dechert reported that the District's Bond Application was submitted to the Texas Commission on Environmental Quality (the "TCEQ") and that the application has been declared administratively complete. Mr. Cleveland stated that he anticipates a response from the TCEQ to the District's request by the July Board meeting. No action was necessary.

## MINUTES

The Board next considered approving the minutes of its regular meeting held on May 15, 2018, and special meeting held on May 29, 2018. After discussion, Director Orr moved to approve the minutes of the May 15, 2018, regular meeting and May 29, 2018, special meeting as presented. Director Smith seconded the motion, which passed unanimously.

## TAX ASSESSOR-COLLECTOR'S REPORT

Mr. Arterburn distributed and reviewed with the Board the Tax Assessor-Collector's Report for May 2018, a copy of which is attached hereto. He reported that as of May 31, 2018, the District's 2017 taxes were 98.59% collected. Mr. Arterburn also reported that the Fort Bend Central Appraisal District completed Disaster Reappraisals in connection with Hurricane Harvey and that many refund adjustments will be sent out to District property owners. He also stated that a request to the District's bookkeeper was made for a transfer of \$46,000.00 from the General Fund in connection with the adjustment refunds. After discussion, Director Orr moved to approve the Tax Assessor/Collector's Report and payment of the bills. Director Smith seconded the motion, which passed unanimously.

## DELINQUENT TAX ATTORNEY

There was no report.

## BOOKKEEPER'S REPORT

Mr. Diaz distributed and reviewed with the Board the Bookkeeper's Report from May 16, 2018, through June 19, 2018, and Investment Report for May, copies of which are attached hereto. He reported a 15.29-month reserve in the District's operating account. After discussion, Director Smith moved to approve the Bookkeeper's Report, the Investment Report, and the payment of the bills. Director Suchyta seconded the motion, which passed unanimously.

## BUDGET

Mr. Diaz then presented a draft of the District's operating budget for fiscal year ending July 31, 2019. Mr. Cleveland suggested that consultants provide updated budget figures to the bookkeeper and that the bookkeeper then distribute the revised budget to the Directors for review prior to the July meeting. This item was then tabled.

## AUDITOR

This item was tabled.

## INSURANCE

Mr. McDonald then presented and reviewed with the Board a proposal to renew the District's insurance policies, as prepared by McDonald & Wessendorff Insurance. He pointed out that the total renewal premium is \$9,452.00, an increase of \$422.00 as compared to the previous years' premium. He also reported that the District's property policy is now with Hanover. After discussion, Director Tomas moved to approve the proposal to renew the District's insurance policies. Director Orr seconded the motion, which passed unanimously.

## WEBSITE

Mr. Cleveland reported that the District's website is live and inquired whether the Board has any inquiries or comments that he could relay to Shannon Waugh. Director Orr then suggested that the presentation by LID 7 be uploaded to the District's website for public review. In response, Mr. Cleveland requested authority to contact LID 7 for permission to post the presentation on the District's website. Director Orr also requested that the District's website be updated to address the vacancy on the Board and the deadline for applicants to submit interest in filling the vacancy. After discussion, Mr. Cleveland stated that he would relay the information to Ms. Waugh at Off Cinco, LLC.

## LICENSE AGREEMENT

Mr. Cleveland then presented and reviewed a proposed License Agreement between the District and John Perches, a District resident, for use of a portion of the District's nature park to facilitate access to his property in connection with the installation of a swimming pool. He stated that he reviewed the proposed License Agreement and found no objection as to form and that the District is being indemnified and added as an additional insured on the contractor's insurance policies. After discussion, Director Smith moved to approve the License Agreement. Director Suchyta seconded the motion, which passed unanimously.

## MAINTENANCE OF RECREATIONAL FACILITIES

- a. Report on work performed by Champions Hydrolawn, consider amending service contract to remove maintenance of District nature trail, consider approval of annual maintenance budget;

Mr. Fort presented the Detention and Drainage Facilities Report from Champions dated June 18, 2018, a copy of which is attached hereto. He reported no major issues and noted that the installation of fence plugs is complete. Mr. Fort then presented the annual maintenance budget for fiscal year 2019 from Champions for the Board's consideration. He reported the removal of the District's nature trail maintenance from the budget due to the closure of the nature park. After discussion, Director Suchyta moved to approve the annual maintenance budget for fiscal year 2019 from Champions as presented. Director Orr seconded the motion, which passed unanimously.

- b. Report on work performed by James King Construction;

There was no report.

- c. Report on work performed by Lake Management Services, L.P. and consider and approve a revised contract and annual budget for maintenance services; and

Mr. Cleveland next presented the annual maintenance budget for fiscal year 2019 from Lake Management Services, L.P. ("Lake Management") for the Board's approval. He requested authority to amend the District's contract with Lake Management to address items in the proposal. Director Suchyta moved to approve the maintenance budget for fiscal year 2019 from Lake Management Services, L.P. as presented and to authorize the District's attorney to revise the contract with Lake Management accordingly. Director Tomas seconded the motion, which passed unanimously.

- d. Report on work performed by Brazos River's Edge Community Association, Inc.

There was no report.

ARBITRAGE SERVICES

Mr. Cleveland next presented the Annual Compliance Report on the District’s outstanding bond issues as prepared by Arbitrage Compliance Specialists (“ACS”), a copy of which is attached hereto. He stated that the District does not owe and is not accruing liability to make payments to the Internal Revenue Service (“IRS”) under either arbitrage or yield restriction rules. Director Orr moved to approve the Annual Compliance Report. Director Tomas seconded the motion, which passed unanimously.

JULY MEETING LOCATION

Mr. Cleveland informed the Board that Joy Lutheran Church was not available for the District’s regularly scheduled meeting on July 17. He then asked the Board if it wished to change the meeting date/time or meet at another location. After discussion, Director Smith moved to hold the July Board meeting on July 24 at Joy Lutheran Church. Director Orr seconded the motion, which passed unanimously.

EXECUTIVE SESSION

The Board did not convene in executive session.

ACTION LIST

The Board then reviewed the action list.

PUBLIC COMMENTS

The meeting was again opened for public comments.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned.

(District Seal)



\_\_\_\_\_/s/ Suzan Orr\_\_\_\_\_  
Secretary

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## ACTION LIST

### ATTORNEY

Mr. Cleveland will prepare and negotiate any necessary easements for the District's emergency contingency measures.

Mr. Cleveland will prepare an easement regarding the installation of a District drainage inlet between the District and DRS property owner.

Ms. Galvan will notify Off Cinco of Board approved website updates.

### DIRECTORS

Director Tomas will meet with Mr. Rick Flores regarding an easement for the District's Southern Berm.

### COMMITTEES

#### *Director Appointment Committee*

Director Appointment Committee will commence review of applicant submissions for director position vacancy; conduct interviews, if applicable; and make a recommendation to the Board.

### OPERATOR

Susan Lang will follow-up on procurement of larger recycling bins for the District.

### ENGINEER

Costello will follow up with Pecan Grove regarding permission to construct the outfall at FM359 and Jones Creek.

Costello will coordinate meeting between FB145 consultants and Er-Con regarding Palisade presentation.

## NRCS GRANT ACTION LIST

### ATTORNEY

Mr. Cleveland will request proposals from consultants specializing in NRCS Grant administration and compliance.