

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 140

Minutes of Regular Meeting of Board of Directors

March 21, 2017

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 March 21, 2017, at 12:00 p.m., at 600 Morton Street, City Hall Annex, Richmond, Texas 77469, 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:

Jack Morgan Brady	President
Gordon Yeatts	Vice President
Rosa Coward	Assistant Vice President
Arden Myers	Secretary
John Braswell	Assistant Secretary

and all of said persons were present with the exception of Director Yeatts, thus constituting a quorum.

Also present during all or part of the meeting were Ron Dechert, Greg Frank, and Stephen Wilcox of Costello, Inc. ("Costello"); Monica Pena of Utility Tax Service, LLC ("Utility Tax"); Jorge Diaz of McLennan and Associates; Susan Lang, Marika Fernandez, Howard Christian, and Scott Fajkus of the City of Richmond ("City"); Josh Fort of Champions Hydrolawn, Inc. ("Champions"); Les Newton of Planned Community Developers Ltd. ("PCD"); Greg Lentz of FirstSouthwest, a division of Hilltop Securities; Jeanne McDonald, Joel Cleveland, Olivia Galvan, and Sarah Vink of Jeanne H. McDonald, P.C; and members of the public listed on the sign-in sheet attached hereto.

PUBLIC COMMENTS

Director Brady welcomed everyone to the meeting.

TAX ASSESSOR-COLLECTOR'S REPORT

This item was taken out of order. Ms. Pena distributed and reviewed with the Board the Tax Assessor-Collector's Report for February 2017, a copy of which is attached hereto. She reported that as of February 28, 2017, the District's 2016 taxes were 97.51% collected. After discussion, Director Braswell moved to approve the Tax Assessor-Collector's Report and the payment of the bills. Director Coward seconded the motion, which passed unanimously.

## BERM CONSTRUCTION

- a. Report on status of storm sewer drainage along northern boundary of District and installation of additional drainage inlet;

Mr. Dechert reported that James King is still coordinating with David Smith (the homeowner) regarding installation of the additional drainage inlet on the back-property line of 622 Silver Creek Circle. No action was necessary.

- b. Receive report on installation of flap-gate at District's nature park outfall structure, approve pay estimates and change orders if necessary, and accept certificate of completion if appropriate;

Mr. Dechert reported that the contractor, Hurtado Construction Co., replaced a noncompliant manhole lid and that the project is complete. He stated that he is awaiting the contractor's final pay application. Mr. Dechert then explained the function of a flap-gate for the benefit of the members of the public attending the meeting. No action was necessary.

- c. Report on District efforts to reconstruct the berm, authorize submission of construction plans to Fort Bend County and other governmental entities for approval, authorize the advertising for or soliciting of competitive bids for construction of the berm, approve funds to cover Fort Bend County Municipal Utility District NO. 145's ("MUD 145") legal expenses for review of documents related to the berm project, approve a settlement and release agreement with MUD 145, and accept a drainage easement from MUD 145; and

Mr. Frank then reported on the status of the berm construction project, noting that Costello completed and submitted to MUD 145 a drainage report stating that constructing the berm will have no adverse impacts to the drainage of the property within the boundaries of MUD 145. Ms. McDonald reminded the Board that submitting the report was a prerequisite to obtaining MUD 145's approval of the berm project. She then reported that MUD 145's Board of Directors meets on Thursday, March 23 but that it may not be in a position to act on approval of the berm project at that time. Mr. Frank explained that MUD 145 will hire another engineering firm to review and comment on Costello's report, which will take time. In addition, Ms. McDonald stated that she submitted drafts of the proposed Flood Protection Easement (for the berm) and the proposed settlement and release agreement for review by MUD 145's attorney, which may also take time. She noted, however, that the Board could give all of the necessary approvals to allow the District to proceed with construction of the berm in the event that MUD 145 does approve the project on Thursday, even though approval will likely not happen until April. She stated that she would review the necessary documents and actions requiring Board approval in Executive Session later in the meeting. Action was delayed pending further discussion in Executive Session.

d. Consider scheduling a town hall meeting.

Ms. McDonald stated that she would prefer to wait until MUD 145 has approved the berm project before holding another town hall meeting given that there is still nothing definitive to report to the residents. After discussion, Director Brady moved to authorize Ms. McDonald to coordinate with the District's directors and consultants for the purpose of scheduling a town hall meeting once MUD 145 approves the berm project. Director Braswell seconded the motion, which passed unanimously.

LEVEE

Mr. Wilcox then gave a presentation concerning a proposed levee improvement district ("LID") that would encompass the District, DRS, MUD 145 and other communities. He reported on the process of creating a LID, noting that a petition signed by the owners of 50% of the surface area of the proposed LID would be required, in addition to a land survey that would cost roughly \$400,000. He stated that public stakeholder meetings are being scheduled to gauge the public's interest in the LID and to obtain the necessary signed petitions. He stated that if the LID were created, there would be an election to authorize the LID to sell bonds and levy a tax to fund the design and construction of the levee. He noted that a tax rate of roughly \$0.45 per \$100 of value would be required to implement the project plan and that the total project costs are estimated at \$160,000,000. He then explained that the levee improvements would be constructed in phases, with phase I providing protection to the District but not removing it from the floodplain for insurance purposes. He stated that removing the District from the floodplain maps would be accomplished in a later phase and would take approximately 8-10 years. Mr. Wilcox then noted that the District represents only 5% of the surface area of the LID but 20% of the taxable value.

Mr. Lentz then reported on the District's finances and what would be required for the District to lower its tax rate from \$1.25 to \$1.05 per \$100 of value, thereby allowing the LID to levy the \$0.45 per \$100 tax rate it would need to construct the levee. He reminded everyone that the overlapping tax rate of the District and the LID could not exceed \$1.50 per \$100. He explained that, over the next couple of years, it would be possible for the District to lower its tax rate the necessary amount. However, he cautioned that while a tax rate of \$1.05 would provide for a balanced budget, based on current budgeted expenditures and property values, it would not provide a cushion for unanticipated expenses or special projects. He stated that the District would likely have to resort to raising water and sewer rates if it became necessary to increase revenues due to unforeseen circumstances, as increasing its tax rate would no longer be an option.

Mr. Wilcox and other consultants then answered questions from the public regarding the proposed LID. After discussion, no action was necessary.

MINUTES

The Board next considered approving the minutes of its regular meeting held on February 21, 2017. After discussion, Director Myers moved to approve the minutes of the February 21, 2017, regular meeting as presented. Director Braswell seconded the motion, which passed unanimously.

## ACTION LIST

The action list was reviewed. No action was taken.

## DELINQUENT TAX ATTORNEY

There was no report.

## BOOKKEEPER

Mr. Diaz distributed and reviewed with the Board the Bookkeeper's Report from February 22, 2017, through March 21, 2017, and an Investment Report for February, copies of which are attached hereto. He reported a 15.60-month reserve in the District's operating account. After discussion, Director Braswell moved to approve the Bookkeeper's Report, the Investment Report, and the payment of the bills. Director Coward seconded the motion, which passed unanimously.

## OPERATOR'S REPORT

Ms. Lang next presented the Operator's Report for February 2017, a copy of which is attached hereto. She reported 758 connections, 33 delinquent accounts, and no identity thefts for February 2017. She then distributed a flyer regarding a spring cleanup event. After discussion, Director Myers moved to approve the Operator's report and terminate service to those customers with delinquent accounts. Director Coward seconded the motion, which passed unanimously.

## SURFACE WATER

Mr. Fajkus, the City's Utilities Coordinator, gave a presentation on the state of the City's Groundwater Reduction Plan and an update on the construction of the surface water treatment plant. He noted that the plant is about 60% complete, with final completion scheduled for January 2018. After discussion, no action was necessary.

## GROUNDWATER FACILITIES

Mr. Christian, the City's Public Works Director, reported that the Edgar Water Plant is online and that the contractor is working through the punch-list items. He also reported that the City is getting closer to identifying a site for the future elevated storage tank. No action was necessary.

## MAINTENANCE OF RECREATIONAL FACILITIES

### a. Report on work performed by Champions Hydrolawn:

Mr. Fort introduced himself as the District's new account representative. He then presented the Detention and Drainage Facilities Report dated March 21, 2017, a copy

of which is attached hereto. After discussion, no action was necessary.

- b. Report on work performed by James King Construction, and consider proposal to repair the District's Nature Trail;

Mr. Cleveland presented two proposals from James King for reconstruction of the District's nature trail. He explained that Mr. King is recommending that the trail be repaired in phases, with the first phase to include renovating 1500 feet of the south end of the trail (roughly 70% of the trail) and re-establishing drainage at a cost not to exceed \$24,500. He then reported that Phase II would rebuild the north section of trail and be constructed on top of the recent river deposits using compacted lime stabilized gravel at a cost of \$25,000. He stated that Mr. King is recommending that Phase II be postponed until summer when the ground is very dry. Discussion then ensued regarding whether to proceed with repairing the nature trail at this time. After discussion, Director Braswell moved to postpone repair of the nature trail for the time being. Director Myers seconded the motion, which passed unanimously.

- c. Report on work performed by Lake Management Services, L.P; and

There was no report.

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

Mr. Newton reported that the Brazos River's Edge Community Association, Inc. is installing a shade structure over its playground. No action was necessary.

#### ENGINEER'S REPORT

Mr. Dechert then presented for the Board's consideration an amended Rate Schedule, effective January 1, 2017, for certain of the services provided to the District by Costello. After discussion, Director Brady moved to approve the Rate Schedule as presented. Director Braswell seconded the motion, which passed unanimously.

#### DEVELOPER

Mr. Newton stated that Perry Homes and David Weekly are still buying lots and building homes. No action was necessary.

#### LEGAL UPDATE – EMBANKMENT REMOVAL

Ms. McDonald asked the Board to convene in Executive Session to discuss this matter.

EXECUTIVE SESSION TO DISCUSS: (A) PENDING OR CONTEMPLATED LITIGATION IN ACCORDANCE WITH SECTION 551.071 OF THE TEXAS GOVERNMENT CODE; (B) ACQUISITION OF REAL PROPERTY IN ACCORDANCE WITH SECTION 551.072 OF THE TEXAS GOVERNMENT CODE; (C) PERSONNEL MATTERS IN ACCORDANCE WITH

SECTION 551.074 OF THE TEXAS GOVERNMENT CODE; (D) TO RECEIVE INFORMATION FROM EMPLOYEES OR QUESTION EMPLOYEES IN ACCORDANCE WITH SECTION 551.075 OF THE TEXAS GOVERNMENT CODE; OR (E) ECONOMIC DEVELOPMENT NEGOTIATIONS OR OFFERS OF FINANCIAL INCENTIVES FOR ECONOMIC DEVELOPMENT IN ACCORDANCE WITH SECTION 551.087 OF THE TEXAS GOVERNMENT CODE.

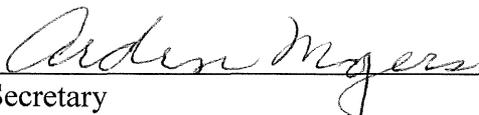
The Board convened into Executive Session at 1:30 p.m. pursuant to Section 551.071 of the Texas Government Code to discuss pending litigation.

RECONVENE IN OPEN SESSION: RECONVENE IN PUBLIC SESSION TO CONSIDER AUTHORIZING DISTRICT STAFF AND CONSULTANTS TO TAKE ANY ACTION NECESSARY WITH RESPECT TO (A) PENDING OR CONTEMPLATED LITIGATION; (B) ACQUISITION OF REAL PROPERTY; (C) PERSONNEL MATTERS; AND (D) RECEIVING INFORMATION FROM OR QUESTIONING EMPLOYEES; (E) ECONOMIC DEVELOPMENT NEGOTIATIONS OR OFFERS OF FINANCIAL INCENTIVES; AND (F) ANY OTHER MATTERS RELATIVE TO ANY OF THESE MATTERS WHICH WAS DISCUSSED IN EXECUTIVE SESSION.

The Board then reconvened into open session at 1:40 p.m. Director Myers moved to authorize submission of the berm construction plans to Fort Bend County for approval, authorize competitive bidding for construction of the berm upon project approval by all those with jurisdiction, approve funds to cover MUD 145's legal costs associated with reviewing documents related to the berm project, approve the proposed settlement and release agreement with MUD 145 pending final legal review, and approve and accept a Flood Protection Easement from MUD 145 for construction and maintenance of the berm pending final legal review. Director Braswell seconded the motion, which passed unanimously.

#### ADJOURNMENT

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

  
Secretary



LIST OF ATTACHMENTS TO MINUTES

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ACTION LIST

There was no action list.