

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 140

Minutes of Regular Meeting of Board of Directors

July 24, 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 July 24, 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:

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

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

Also present during all or part of the meeting were Ron Dechert, Steve Wilcox, and Greg Frank of Costello, Inc. (“Costello”); Greg Lentz of Masterson Advisors LLC; Mark McGrath of McGrath & Co., PLLC; Loren Smith of Olson & Olson, L.L.P.; JoAnn Ramos of Utility Tax Service, LLC (“Utility Tax”); Jorge Diaz of McLennan and Associates, L.P.; Susan Lang of the City of Richmond (“City”); 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.

BOARD OF DIRECTORS

In response to Director Murray’s resignation from the Board effective as of the District’s June 19th meeting, the Board considered the appointment of a new director to fill the vacancy. Director Orr then stated that the Director Appointment Committee recommends Mr. Barry Waites due to his previous experience as a MUD Director and his availability as a retiree. She also thanked all of the residents who submitted resumes. Director Suchyta then announced that she anticipates resigning from the Board after the September meeting due to work commitments that will not allow her to regularly attend to District business. She then requested that the Director Appointment Committee consider making an additional recommendation from the candidates who previously submitted resumes to fill her position after the September meeting. After discussion, Director Suchyta moved to appoint Barry Waites to the position vacated by Director Murray, effective immediately; approve a new District Registration Form; and approve the Bond, Oath, and Sworn Statement of Director Waites. Director Smith seconded the motion, which passed unanimously.

LID 22

The Board then considered pursuing a partnership with Fort Bend County Levee Improvement District No. 7 (“LID7”) and Fort Bend County Municipal Utility District No. 145 (“FB145”) for the purpose of working jointly to create Fort Bend County Levee Improvement District No. 22 with the goal of providing regional flood protection. Mr. Cleveland reminded the Board that several factors still need to be addressed for the joint partnership to meet its primary goal but that the first step will be to confirm the participation of all parties approached for the joint partnership. In response to a question from the Board, Mr. Cleveland stated that the District will not be bound or obligated to move forward with the partnership or incur significant costs related thereto unless and until it signs the partnership agreement to be presented for approval at the District’s September meeting. After discussion, Director Smith moved to pursue the joint partnership with LID7 and FB145. Director Suchyta seconded the motion, and it passed by a vote of 4-1, with Director Orr voting against approval.

ENGINEER’S REPORT

Mr. Dechert presented the Engineer’s Report dated July 24, 2018, a copy of which is attached hereto.

a. Southern Berm:

This item was tabled pending discussion in Executive Session.

b. 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 Costello requested authority to inspect the existing headwall around the existing 54” pipe and authority to proceed with the District’s sluice gate installation. Mr. Ring informed Costello that he would present the District’s request at Pecan Grove’s next board meeting. No action was necessary.

c. Drainage Inlets:

Mr. Dechert reported that Costello completed a survey of Mr. Tran’s property, a DRS resident living at 2411 DRS Drive, and that a metes and bounds description was also completed. Mr. Dechert then inquired regarding the District’s receipt of a response from the property owners of the vacant DRS lot directly behind Director Smith’s property (the “DRS owners”). In response, Mr. Cleveland reported that his office mailed letters to the DRS owners, but no response was received. Mr. Dechert then inquired if contact with the DRS owners could be attempted again because, after visiting the site, it is clear that the water is pooling on the vacant lot, not Mr. Tran’s property. In response, Mr. Cleveland stated that his office will resend letters to the DRS owners.

d. 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 the District received a response from the City of Richmond, and the City has declined to provide the services. After discussion, no action was taken.

e. 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 is still being reviewed. He also stated that the NRCS has not yet sent the proposed Project Agreement. After discussion, no action was necessary.

DISTRICT BERM

This item was tabled pending discussion in Executive Session.

BOND ISSUE

Mr. Cleveland reported that the Texas Commission on Environmental Quality sent copies of its draft memorandum and draft order approving the District's projects and bonds for review and the final order approving the bonds should be received any day. Mr. Lentz then reviewed with the Board the procedure for selling the bonds and presented an action calendar in connection with the District's Series 2018 Bonds, a copy of which is attached hereto. No action was necessary.

MINUTES

The Board next considered approving the minutes of its regular meeting held on June 19, 2018. After discussion, Director Orr moved to approve the minutes of the June 19, 2018, regular meeting as presented. Director Smith seconded the motion, which passed unanimously.

TAX ASSESSOR-COLLECTOR'S REPORT

a. Report:

Ms. Ramos distributed and reviewed with the Board the Tax Assessor-Collector's Report for June 2018, a copy of which is attached hereto. She reported that as of June 30, 2018, the District's 2017 taxes were 98.88% collected. Action was taken below.

b. Tax Account:

Ms. Ramos then requested that the Board consider entering into a new Depository Pledge Agreement with Central Bank regarding the security of District funds in its tax

account. She explained that the District's tax account is currently with Wells Fargo, Bank, N.A., but Utility Tax is asking all of its clients to switch to Central Bank in light of new fees and policies at Wells Fargo Bank, N.A. Action was taken below.

After discussion, Director Orr moved to approve the Tax Assessor/Collector's Report, payment of the bills, and to approve the Depository Pledge Agreement with Central Bank and the moving of the District's tax account to such bank, subject to attorney review. Director Smith seconded the motion, which passed unanimously.

DELINQUENT TAX ATTORNEY

There was no report.

BOOKKEEPER'S REPORT/BUDGET

Mr. Diaz distributed and reviewed with the Board the Bookkeeper's Report from June 20, 2018, through July 24, 2018, and Investment Report for June, copies of which are attached hereto. He reported a 14.60-month reserve in the District's operating account. Mr. Diaz then presented a second draft of the District's operating budget for fiscal year ending July 31, 2019. Director Orr then inquired regarding the accuracy of certain line items presented on the draft operating budget and requested that the Board consider establishing a Budget Committee to review and present a recommendation to amend the District's budget. In response, Mr. Cleveland explained that the operating budget would need to be adopted at this meeting but that the Board could amend the budget at any time. Director Suchyta then inquired if any Board member wished to participate on the Budget Committee. In response Directors Orr and Waites stated that they would participate. After discussion, Director Waites moved to approve the Bookkeeper's Report; the Investment Report; the payment of the bills; adopt the operating budget for fiscal year ending July 31, 2019, as presented; and establish the Budget Committee consisting of Directors Orr and Waites, to review and make recommendations regarding amending the budget at the Board's August meeting. Director Suchyta seconded the motion, which passed unanimously.

AUDITOR

Mr. McGrath presented for the Board's consideration an engagement letter from McGrath & Co., PLLC to perform the District's annual audit. He reported that the proposed fee is \$10,750 and is the same as the previous year's fee. He also explained that his firm is presenting a new engagement letter due to the inclusion of additional regulatory compliance language. Director Orr moved to approve the engagement of McGrath & Co., PLLC to perform the District's audit services. Director Waites seconded the motion, which passed unanimously.

OPERATOR

Ms. Lang presented the Operator's Reports for June, a copy of which is attached hereto. She reported 832 connections, 16 delinquent accounts, and no identify thefts for June 2018. Director Orr then inquired about the large delinquency accrued by Ms. Carolyn P. Bush. In response, Ms. Lang explained that the account had been supplied notice of delinquency, water

service was disconnected per the District's Rate Order, and the Operator was forced to physically remove the connection. She then explained that the customer tampered with the locked meter and restored service illegally, more than once, most recently by installing a straight pipe. She then inquired as to what action the District wished to pursue regarding this account. After discussion, Director Orr moved to approve the Operator's report, terminate service to those customers with delinquent accounts, and authorize the District's operator and attorney to investigate what action the District may take regarding the theft of District water. Director Tomas seconded the motion, which passed unanimously.

WATER CHARGES

Mr. Cleveland reported that the City continues to work on a water rate study in connection with new water supply fees to be charged to the District pursuant to the District's water supply contract with the City. This item was then tabled.

RECYCLING

Mr. Cleveland then reported on a call with Ms. Terri Vela, City Manager, City of Richmond, regarding the District's request to obtain pricing for larger recycling bins. He explained that the City's vendor, Republic Services Inc., informed the City that it would fulfil the District's request on the condition that the City enter a long term extension for garbage services. Mr. Cleveland also explained that the Ms. Vela conveyed that the City would be understanding if the District wished to consider obtaining proposals for garbage collection services. After discussion, the Board concurred to obtain proposals for garbage and recycling collection services.

WEST FORT BEND MANAGEMENT DISTRICT

This item was taken out of order. Ms. Ellen Hughes, Executive Director of the West Fort Bend Management District ("WFBMD"), introduced herself to the Board. She then provided a brief history of the joint landscape maintenance agreement between WFBMD, Pecan Grove, the District, and FB145, regarding the median along FM 359. Ms. Hughes stated that WFBMD is proposing an amendment to the number of annual mowings from 19 to 22, in addition to the three performed by the Texas Department of Transportation, at no additional charge to the participants. She then presented an amended Exhibit "C" increasing the number of mowings as discussed. After discussion, Director Suchyta moved to approve the amended Exhibit "C" to the joint landscape maintenance agreement for the median along FM 359. Director Tomas seconded the motion, which passed unanimously.

MAINTENANCE OF RECREATIONAL FACILITIES

a. Report on work performed by Champions Hydrolawn;

Mr. Cleveland distributed the Detention and Drainage Facilities Report from Champions dated July 20, 2018, a copy of which is attached hereto.

b. Report on work performed by James King Construction;

There was no report.

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

There was no report.

d. Report on work performed by Brazos River's Edge Community Association, Inc., consider proposal for new soccer goal nets; and

Mr. Cleveland then presented a proposal from McKenna Contracting, Inc. in the amount of \$495.00 for replacement of one pair of soccer goal nets. Ms. Marsters then requested future discussion with the Board to consider entering into a maintenance contract with the Brazos River's Edge Community Association, Inc. ("BRECA") to address maintenance issues with the District's recreational facilities. Action was taken below.

Ms. Marsters also reported on drainage issues caused by a new home builder's building practices within the District. She then inquired as to the enforcement powers the District may have to remedy the drainage issues caused by the new home builder. In response, Mr. Cleveland stated that the District has limited enforcement powers and that the matter would need to be investigated. In response, Mr. Dechert stated that the County generally regulates developments under their authority via permits. He also stated that this matter would regularly be addressed at the County level. Action was taken below.

e. Discuss and act on water leak adjacent to District Party Barn.

Ms. Marsters also reported that a water leak was observed and reported to the District's Operator along the circle drive and adjacent to the District's Part Barn. She also reported that BRECA inspected its facilities and irrigation system to confirm the source of the water leak and stated that BRECA's inspectors concluded that BRECA's facilities and systems were not the source of the leak. In response, Ms. Lang confirmed that the water leak was reported to the City but that she received conflicting information regarding the source of the leak and would need to confirm with her office the status of the matter. The Board then discussed repairing the water leak and setting a not to exceed amount for repairs. Action was taken below.

After discussion, Director Orr moved to approve the proposal from McKenna Contracting, Inc. in the amount of \$495.00 for replacement of one pair of soccer goal nets and authorize repair of the water leak adjacent to the District's Party Barn in an amount not to exceed \$5,000.00. Director Smith seconded the motion, which passed unanimously.

MOSQUITO SPRAYING

The Board then considered increasing the frequency of the District's mosquito spraying. Mr. Cleveland reported that the District currently receives mosquito spraying services from Cypress Creek Mosquito Control, Inc. and that the vendor is willing to conduct additional sprayings at an additional cost of \$72 per week. Director Orr noted that current weather conditions do not necessitate additional spraying; however, she asked that the Board consider delegating authority to Director Suchyta to approve additional sprayings should conditions change. After discussion, Director Waites moved not to pursue additional mosquito spraying services and delegate authority to Director Suchyta to increase mosquito spraying services, if necessary. Director Suchyta seconded the motion, which passed unanimously.

WEBSITE

Mr. Cleveland inquired whether the Board has any comments regarding the website that he could relay to Shannon Waugh. Director Orr then inquired about the distribution status of the District's post cards notifying residents of the District's website. She stated that she has yet to receive her copy and inquired whether other members of the Board have received a copy. In response, Mr. Cleveland stated that he would relay Director Orr's inquiry to Ms. Waugh at Off Cinco, LLC.

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 7:39 p.m. pursuant to Section 551.071 and Section 551.072 of the Texas Government Code to discuss anticipated litigation and acquisition of real property.

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 RECONVENE IN OPEN SESSION.

The Board then reconvened into open session at 9:02 p.m. No action was taken.

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 send additional letters to DRS owners regarding regrading along the northern boundary of the District and DRS to improve drainage conditions along the boundary.

Mr. Cleveland will investigate additional action that can be taken against a resident stealing District water.

Ms. Galvan will notify Off Cinco of Board inquiry regarding post card delivery.

COMMITTEES

Director Appointment Committee

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

Budget Committee

Budget Committee will commence review of the District's budget for fiscal year end 7/31/19; work with the Bookkeeper to conduct review of revenues and expenses; and make a recommendation to the Board.

ENGINEER

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

NRCS GRANT ACTION LIST

ATTORNEY

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