

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 140

Minutes of Regular Meeting of Board of Directors

April 16, 2019

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 Tuesday, April 16, 2019, 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:

David Smith	President
Gene Tomas	Vice President
Barry Waites	Assistant Vice President
Suzan Orr	Secretary
Feryal Abdulkader	Assistant Secretary

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

Also present during all or part of the meeting were Vanessa Marsters of Brazos River's Edge Community Association, Inc. ("BRECA"); Ron Dechert of Costello, Inc. ("Costello"); Mike Arterburn of Utility Tax Service, LLC ("Utility Tax"); Jorge Diaz of McLennan and Associates, L.P.; Howard Christian 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.

MINUTES

The Board considered approving the minutes of its special meeting held on March 7, 2019, and regular meeting held on March 19, 2019. After discussion, Director Orr moved to approve the minutes of the March 7, 2019, special meeting and March 19, 2019, regular meeting as presented. Director Tomas seconded the motion, which passed unanimously.

OPERATOR

a. Report.

Mr. Christian presented the Operator's Report for March 2019, a copy of which is attached hereto. In response to questions from the Board, he stated that Ms. Lang is no longer with the City of Richmond and that he will be attending the District's meetings for the time being. He reported 863 connections, 24 delinquent accounts, and no identity thefts for March 2019. Action was taken below.

b. Annual Report.

Mr. Christian stated that the City submitted its new the Water Conservation Plan to Mr. Cleveland before the meeting for review. He also stated that the City is preparing the District's annual Consumer Confidence Report.

After discussion, Director Waites moved to approve the Operator's Report, and terminate service to those customers with delinquent accounts. Director Abdulkader seconded the motion, which passed unanimously.

WATER CHARGES

Mr. Cleveland then reported on the District's transition to new water rates pursuant to its contract with the City. He reported that the City Commission of the City of Richmond (the "Commission") approved new water rates for the District and a credit for previous overpayments by the District. He then explained that the water rates approved by the Commission are different than those previously presented to the District as the City has updated its calculations using updated budget number from its new fiscal year. He stated that the monthly fixed costs have increased by 2.5% to \$9,620, and the variable costs increased from 0.0008 to 0.0011 per gallon. He stated that the City confirmed that the fluctuation of the variable costs is due to regional subsidence mandates imposed by the Fort Bend Subsidence District and that the rate will stabilize.

Mr. Cleveland then reported on the method used to calculate the District's credit for previous overpayments by the District. He explained that the City provided a copy of the Certification of Final Completion for the Edgar Water Plant, dated December 7, 2016, which established the start date for the credit calculation as January 2017. He reported that, using the new water rates, the City calculated that a refund in the amount of \$342,631.12 is owed to the District. He stated that the Commission approved repayment to the District in the form of a credit against the amount the District owes the City for the construction of Phase II of the Edgar Water Plant ("Phase II"), resulting in a net balance of \$35,448.88 owed by the District. Discussion ensued regarding the City's method of calculating the District's refund. Director Orr proposed that further discussion on the District's refund be moved to executive session. This item was then tabled.

TAX ASSESSOR/COLLECTOR

Mr. Arterburn distributed and reviewed with the Board the Tax Assessor-Collector's Report for March 2019, a copy of which is attached hereto. He reported that as of March 31, 2019, the District's 2018 taxes were 97.50% collected. After discussion, Director Orr moved to approve the Tax Assessor/Collector's Report, and payment of the bills. Director Waites seconded the motion, which passed unanimously.

BOOKKEEPER

Mr. Diaz distributed and reviewed with the Board the Bookkeeper's Report from March 20, 2019, through April 16, 2019, and Investment Report for March 2019, copies of which are attached hereto. He reported a 14.56-month reserve in the District's operating account. Director

Orr then requested that the Board consider establishing a Budget Committee to work with the bookkeeper on the District's budget. Discussion ensued regarding the establishment of a Budget Committee to provide input and oversight on the District's annual budget. After discussion, Director Orr moved to approve the Bookkeeper's Report, the Investment Report, payment of the bills, and to establish a Budget Committee consisting of Directors Waites and Abdulkader. Director Smith seconded the motion, which passed unanimously.

MAINTENANCE OF RECREATIONAL FACILITIES

a. Report on work performed by Champions Hydrolawn;

Mr. Cleveland presented the Detention and Drainage Facilities Report from Champions dated April 2019, a copy of which is attached hereto. He also reported that the hole in the nature park was filled and will be monitored by Champions. No action was necessary.

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

The Board inquired on the status of the District's pickerel planting to help with erosion mitigation at the District's detention pond. In response, Mr. Cleveland stated that he was told by Lake Management that the pickerel was planted, but he stated he will confirm. No action was necessary.

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

Ms. Marsters then provided a report on landscaping activities by BRECA. Director Waites then requested that, going forward, a written report from BRECA be prepared and submitted to the Board for review before the meeting. No action was necessary.

PUBLIC COMMENTS

The meeting was opened for public comments. Ms. Marsters then inquired about the scope of work conducted by Champions on behalf of the District, specifically a small area near Section 6. In response, Mr. Cleveland acknowledged that Champions is contracted to mow the area in question, but that he would need to confirm the frequency of mowing by Champions. Director Orr then inquired about the need for the District's joint landscape maintenance agreement with West Fort Bend Management District and other area stakeholders and noted that she does not see a benefit in the services provided. She also noted that BRECA has stated that it is regularly providing mowing service to the right-of-way area covered by the District's existing agreement. She then requested an item on the agenda to discuss the agreement with West Fort Bend Management District.

ENGINEER

Mr. Dechert reviewed the Engineer's Report dated April 16, 2019, a copy of which is attached hereto.

a. Flap Gate:

Mr. Dechert reviewed the bid tabulations for installation of a flap gate at the outfall at Jones Creek and FM359 owned by Pecan Grove Municipal Utility District (“Pecan Grove”), noting that four bids were received and that the low bidder was Northtex Construction, LLC with a bid of \$20,210.00. He then made a recommendation to award the contract to Northtex Construction, LLC in the amount of \$20,210.00. Mr. Cleveland then reported that Pecan Grove approved the District’s proposed Agreement for Construction and Maintenance of Drainage Flap Gate and reviewed the final terms of the agreement with the Board. He then requested that the Board consider a Resolution to Release Funds from Escrow in connection with the project, noting that the District has \$40,000 escrowed for the project from the proceeds of its Series 2018 Bonds. After discussion, Director Orr moved to approve the Agreement for Construction and Maintenance of Drainage Flap Gate with Pecan Grove; approve a Resolution to Release Funds from Escrow in connection with the project; and award the contract for installation of the flap gate at the outfall to Jones Creek and FM359 to Northtex Construction, LLC in the amount of \$20,210.00. Director Tomas seconded the motion, which passed unanimously.

b. Emergency Flood Mitigation:

Mr. Dechert reported on the volunteer training event on the installation of Tiger Tubes with Fort Bend County staff held March 25, 2019, at the County fairgrounds. The Board then inquired about an updated estimate for the purchase of flood mitigation materials. In response, Mr. Dechert stated that he would follow up with Mr. Frank on an updated proposal. The Board also inquired regarding receipt of an educational video on the installation of Tiger Tubes prepared by Up In The Air Films, LLC. In response, Mr. Dechert stated that he has not received the video. The Board then directed the Bookkeeper to hold payment to Up In The Air Films, LLC pending receipt of the video.

c. NRCS Grant:

Mr. Dechert updated the Board on a meeting with representatives of the U.S. Army Corps of Engineers (“USACE”) and ER-Con Technologies, LLC (“ER-Con”) regarding the District’s proposed palisade option and the USACE’s own plan for bank stabilization on the Brazos River. He stated that ER-Con is setting up a meeting with representatives of the Galveston District USACE, the division of the USACE with oversight of the District’s project. After discussion, the Board requested that Costello obtain a cost estimate for the USACE’s bank stabilization option and update the Board once ER-Con schedules its meeting with representatives of the Galveston District USACE.

d. HMGP:

Mr. Dechert reported that Costello is waiting for the Texas Division of Emergency Management to announce its grant selections. No action was necessary.

e. Regional Drainage Analysis Study:

Mr. Dechert reported that Costello is updating the current river model to better reflect the dynamics of overflow and incorporating the design of the berm into the analysis. He further stated that preliminary levee analysis will be performed once the base model is complete, which is expected within 1 to 2 months. He also reported that once the initial modeling is complete, Costello will coordinate meetings with Fort Bend County Drainage District and the City of Richmond. No action was necessary.

f. Development:

There was no report.

After discussion, Director Orr moved to approve the Engineer's Report. Director Waites seconded the motion, which passed unanimously.

RATE ORDER

The Board then considered amending the District's Rate order. Director Waites then stated that he believes that the District should review its water rates. Discussion ensued regarding the need to review the District's water rates. After discussion, the Board concurred to table consideration of a change in water rates until October. No action was necessary.

WEBSITE

This item was tabled.

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 7:41 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 8:11 p.m.

DISTRICT BERM PROJECTS

b. Condemnation:

This item was taken out of order. Director Orr then moved to authorize settlement negotiations with McCaslin for an amount not to exceed \$1,057,915 for purchase of an easement over the bulk of her tract for the District's DRS Berm and bank stabilization projects, subject to the Board's approval of the final form of the easement. Director Waites seconded the motion, which passed unanimously.

WATER CHARGES

This item was revisited. Director Tomas moved to approve the new water rates as approved by the City of Richmond and accept the \$342,131.12 credit from the City as settlement and reimbursement of the District's overpayments for water supply from January 2017 to February 2019. Director Waites seconded the motion, which passed 4-1, with Director Orr against.

DISTRICT BERM PROJECTS

a. Report:

Director Smith moved to authorize the District's engineer to advertise for bids for construction of the flood mitigation berm on DRS properties north of the District. Director Tomas seconded the motion, which passed unanimously.

ACTION LIST

The Board then reviewed the action list.

PUBLIC COMMENTS

This item was revisited. Director Waites requested that an Attorney Report agenda item be added to future District agendas. He also requested confirmation of the status of the Board's membership to the Association of Water Board Directors ("AWBD").

LIST OF ATTACHMENTS TO MINUTES

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ACTION LIST

ATTORNEY

Mr. Cleveland will draft a Resolution Authorizing Application to the Texas Commission on Environmental Quality for Release of Escrowed Funds, a Change in Project Scope, and Use of Surplus Funds in connection with the DRS Berm for submission to the TCEQ.

Mr. Cleveland will confirm the status of the Lake Management's erosion mitigation project.

Mr. Cleveland will confirm the status of mowing conducted by the West Fort Bend Management District in connection with the FM 359 right of way.

Mr. Cleveland will include an Attorney Report to the District's meeting agendas.

Ms. Galvan will confirm the status of the Board's membership with the AWBD and follow up with the Bookkeeper to register Directors, if necessary.

BOOKKEEPER

Mr. Diaz will hold payment to Up In The Air Films, LLC until receipt of the District's training video is confirmed.

BRECA

Ms. Marsters will provide a written report for all future regular Board meetings and distribute same to the Board as requested.

CHAMPIONS

Champions will include half acre strip of land by Section 6 in its future reports.

ENGINEER

Costello will provide an updated cost estimate in connection with emergency flood mitigation materials.

Costello coordinate receipt of a cost estimate for the USACE's bank stabilization option.

Costello will update the Board on the scheduling of ER-Con's meeting with the USACE's Galveston District.

NRCS GRANT ACTION LIST

ATTORNEY

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