

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 140

Minutes of Regular Meeting of Board of Directors

May 21, 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, May 21, 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.; Maritza Salazar and Mike Moody of the City of Richmond ("City"); Christie Leighton of Best Trash, LLC; 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 April 11, 2019, its regular meeting held on April 16, 2019, and its emergency meeting held on May 5, 2019. After discussion, Director Tomas moved to approve the minutes of the special meeting held on April 11, 2019, the regular meeting held on April 16, 2019 (as amended), and the emergency meeting held on May 5, 2019. Director Abdulkader seconded the motion, which passed unanimously.

OPERATOR

a. Report.

Ms. Maritza Salazar, City Finance Manager and Interim Financial Director, introduced herself. She then presented the Operator's Report for April 2019, a copy of which is attached hereto. She reported 863 connections, 23 delinquent accounts, and no identity thefts for April 2019. Action was taken below.

Ms. Salazar then presented the Public Works Monthly Report (the "PW Report") for April 2019, a copy of which is attached hereto. Action was taken below.

Ms. Salazar reported on a request for a billing adjustment from Mr. Russell Smolik, a District resident living at 2823 Garden Stream Court. Ms. Salazar explained that Mr. Smolik reported receipt of a substantially higher than normal water bill. She also reported that the City investigated Mr. Smolik's meter for accuracy and the City's line for leaks and found no issues; however, Mr. Smolik informed the City that he did run his sprinkler system during the period of high billing. The Board then considered Mr. Smolik's request and noted that the District has an established policy that it does not make bill adjustments for leaks or usage occurring on the customer's side of the meter. After discussion, Ms. Salazar stated that the City will offer to send a technician to investigate the resident's sprinkler system as a courtesy. Action was taken below.

b. Consumer Confidence Report.

Ms. Salazar then presented a preliminary Consumer Confidence Report. Mr. Cleveland then presented his comments to the preliminary Consumer Confidence Report. Director Orr then inquired regarding the accuracy of the Lead and Copper contaminants presented in the report. In response, Ms. Salazar stated that she will inquire with the department responsible for preparing the report and report back to the District's attorney regarding the Board's inquiries and comments. Mr. Cleveland then recommended that the Board consider delegating approval of the final form of the Consumer Confidence Report to ensure timely distribution to the District's customers. Action was taken below.

Mr. Cleveland then reported on the District's receipt of the City check in the amount of \$342,631.12 as credit for previous overpayments by the District for water supply. He also stated that the District will need to hold payment of its portion of the construction costs for Phase II of the Edgar Water Plant until receipt of the City's plans and specifications, per Texas Commission on Environmental Quality ("TCEQ") regulation. No action was necessary.

After discussion, Director Waites moved to approve the Operator's Report and PW Report; terminate service to those customers with delinquent accounts; approve the Consumer Confidence Report, subject to final approval by Director Smith; and deny Mr. Smolik's request for a billing adjustment. Director Abdulkader seconded the motion, which passed unanimously.

WATER CONSERVATION

Mr. Cleveland then presented and reviewed with the Board a draft Amended Water Conservation Plan (the "WCP") and Resolution adopting same. He stated that the WCP is legally required to be reviewed and approved at least every five years. Action was taken below:

Mr. Cleveland also presented and reviewed with the Board an Amended and Restated Drought Contingency Plan (the "DCP") and Order regarding same. He explained that the DCP is necessary to ensure that an adequate supply of water is maintained during drought conditions. He

also explained that the DCP is legally required to be reviewed and approved at least every five years. Action was taken below.

Mr. Cleveland explained that the WCP and DCP follow the City's Plans. After discussion, Director Orr moved to adopt the WCP and Resolution regarding same, and the DCP and Order regarding same. Director Tomas seconded the motion, which passed unanimously.

BEST TRASH

Ms. Leighton reported on garbage and recycling services within the District and asked if the Board had any comments or questions. In response, Director Orr commented on all of the good feedback from the community on the change in providers. No action was necessary.

TAX ASSESSOR/COLLECTOR

Mr. Arterburn distributed and reviewed with the Board the Tax Assessor/Collector's Report for April 2019, a copy of which is attached hereto. He reported that as of April 30, 2019, the District's 2018 taxes were 97.84% collected. He then reported that the District's preliminary value for 2019 is \$206,211,971, an increase of approximately 10% compared to the previous year. After discussion, Director Smith moved to approve the Tax Assessor/Collector's Report, and payment of the bills. Director Orr seconded the motion, which passed unanimously.

BOOKKEEPER

Mr. Diaz distributed and reviewed with the Board the Bookkeeper's Report from April 17, 2019, through May 21, 2019, and Investment Report for April 2019, copies of which are attached hereto. He reported a 15.32-month reserve in the District's operating account. Director Smith then confirmed receipt of an educational video on the installation of Tiger Tubes prepared by Up In The Air Films, LLC and authorized the Bookkeeper to release the check for same. After discussion, Director Orr moved to approve the Bookkeeper's Report, the Investment Report, and, payment of the bills. Director Waites seconded the motion, which passed unanimously.

BUDGET

Director Waites presented a draft of the Budget Committee's operating budget for fiscal year ending July 31, 2020. He stated that the draft budget is for the Board's review and comment in preparation for finalization and approval of the budget at the Board's July meeting. He also reported that updated budget projections are being obtained from the District's consultants. Director Waites then requested that Mr. Cleveland contact the District's condemnation attorney to provide anticipated legal fees for the District's condemnation cases and requested that Ms. Marsters provide projected budget numbers for anticipated requests from BRECA for the upcoming fiscal year. After discussion, this item was tabled.

INSURANCE

Mr. Cleveland 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 \$9,484, an increase of \$32 as compared to the previous years' premium. He also recommended that the Board consider obtaining additional coverage to the District's Property policy for borrowed equipment. He stated that the additional premium is \$200 and covers up to \$150,000 in borrowed equipment, such as Tiger Tubes. Director Orr inquired about the District's pollution policy. In response, Mr. Cleveland stated that the District's insurance broker would need to be contacted to answer Board questions concerning details of the policies. After discussion, Director Orr requested that the Board table approval until the June meeting with the expectation that a representative of McDonald & Wessendorff Insurance will attend. This item was tabled.

MAINTENANCE OF RECREATIONAL FACILITIES

a. Report on work performed by Champions Hydrolawn;

Mr. Cleveland presented the Detention and Drainage Facilities Report from Champions Hydrolawn ("Champions") dated May 2019, a copy of which is attached hereto. Discussion ensued regarding the work performed by Champions. Mr. Dechert stated he would contact Josh Fort regarding the half-acre strip of land behind Section 6.

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 and requested that evidence of the planting be provided to the Board by Lake Management Services, L.P.

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

Ms. Marsters presented a proposal for the removal of trees and installation of a Cypress Tree on District property by Native, a Yellowstone Landscaping Company, ("Native") in the amount of \$1,169.09. Discussion ensued regarding the need to move forward with the proposal. Director Waites stated that he believes that the requested proposal is an aesthetic issue, not a drainage issue. Director Waites then moved to deny payment of BRECA's proposal from Native but reiterated that BRECA could perform the work at its own expense. Director Tomas seconded the motion, which passed unanimously.

d. Report on work performed by the West Fort Bend Management District

Mr. Cleveland then stated that the Board requested that an item be placed on the agenda to discuss the work performed by the West Fort Bend Management District ("WFBMD") on behalf of the District. He reported that he contacted Ellen Hughes of WFBMD and confirmed that the contracted mowing area was being maintained per the contract; that the District has already paid for the services provided by the WFBMD through the fiscal

year; and that the contract did not permit early termination. Mr. Cleveland also stated that the District could consider not pursuing renewal of the maintenance agreement when it expires. Director Orr stated that she believes that the District does not receive a benefit from the services provided by WFBMD because BRECA already maintains the area. Mr. Cleveland then asked if the Board wished to notify WFBMD that it will not pursue a maintenance agreement in the future. Director Smith then inquired about the experiences of Pecan Grove Municipal Utility District (“Pecan Grove”) and Fort Bend County Municipal Utility District No. 145. (“FB 145”), partners in the agreement. He then stated that he and Mr. Cleveland will contact representatives of Pecan Grove and FB 145 to get their input on WFBMD’s performance. No action was necessary.

e. Receive report on 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. (“Cypress”) and that the vendor is willing to conduct additional sprayings. The Board then inquired about the chemicals used, what time Cypress is performing sprayings, and what route is being used. Director Smith noted that he has witnessed an increase in bugs after recent weather conditions. Mr. Cleveland reminded the Board that the District has delegated authority to the President of the Board to approve additional sprayings when necessary. Director Smith then stated that he would contact Cypress regarding the inquiries presented at the meeting.

PUBLIC COMMENTS

The meeting was opened for public comments. Mr. Harrigan then thanked the District for its response to the recent high water event and recommended the District create a written emergency response plan. There were no further public comments.

ENGINEER

Mr. Dechert reviewed the Engineer’s Report dated May 21, 2019, a copy of which is attached hereto.

a. Flap Gate:

Mr. Dechert reviewed the status of the project to install a flap gate at the outfall at Jones Creek and FM359 owned by Pecan Grove, reporting that the contractor, Northtex Construction, LLC (“Northtex”) was given Notice to Proceed on May 20, 2019. He also stated that Northtex estimates 12 weeks for fabrication and shipment of the 54” flap gate. No action was necessary.

b. Emergency Flood Mitigation:

Mr. Dechert reported on the deployment of 33 Tiger Tubes with help from Fort Bend County Drainage District staff and US Flood Control personnel during the recent high

water event. He also reported that Fort Bend County Levee Improvement District No. 7 provided Tiger Tubes on loan for use by the District, that the District was able to obtain temporary access to locate the Tiger Tubes on the McCaslin and Gonzalez properties in DRS Road, that a 4,000 GPM pump was delivered to the site, and that Hurtado Construction Co. was on standby to install a plug in the 48” culvert at the end of DRS Road if necessary.

The Board then inquired about an updated estimate for the purchase of flood mitigation materials. Director Smith stated that he received a proposal for flood mitigation materials from US Flood Control but that it did not include a trailer. He also reported that the costs incurred for deployment of Tiger Tubes and related expenses will be well under the \$350,000 approved at the District’s emergency meeting. After discussion, Director Waites moved to approve the purchase of Tiger Tubes and related equipment from US Flood Control, on a sole source basis, and to purchase a trailer for the equipment for a total cost not to exceed \$125,000. Director Abdulkader seconded the motion, which passed unanimously.

c. NRCS Grant:

Mr. Dechert updated the Board on a meeting with ER-Con Technologies, LLC (“ER-Con”) and representatives of the Galveston District U.S. Army Corps of Engineers (“Galveston USACE”) regarding the District’s proposed palisade option for bank stabilization on the Brazos River. He stated that ER-Con has coordinated a meeting with Galveston USACE for June 5th. In response to questions from the Board, Mr. Dechert explained that the Galveston USACE must approve the bank stabilization project. The Board then inquired regarding a cost estimate for the USACE’s proposed bank stabilization option. Mr. Dechert stated that he is still awaiting receipt of a cost estimate. The Board then requested that Costello inform the Board of the outcome of the meeting between ER-Con and Galveston USACE.

d. HMGP:

Mr. Dechert reported that Costello is waiting for the Texas Division of Emergency Management to announce its grant selections. Mr. Cleveland then provided an update from Mr. Royce Poinsett of Poinsett PLLC. No action was necessary.

e. Regional Drainage Analysis Study:

Mr. Dechert reported that Costello is continuing to work on updating the current river model to better reflect the dynamics of overflow and incorporating the design of the berm into the analysis. No action was necessary.

f. Development:

Mr. Dechert then reported on an inquiry he received before the meeting regarding televising certain storm sewers after the recent high water event. He reported that the

District has had the storm sewers inspected before but that it has not done so since the recent high water event. Director Smith then noted that drainage issues from DRS Road are still impacting homes along the northern boundary of the District. In response, Mr. Dechert suggested contacting Fort Bend County's Department of Road and Bridge ("R&B") to investigate the state of the ditches along DRS Road, and the Board concurred. Director Smith stated that he has photos that might be helpful when Costello contacts R&B.

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

RATE ORDER

Mr. Cleveland reported that the City, in its role as administrator of the regional Groundwater Reduction Plan ("GRP"), of which the District is a participant, notified the District that the City will be increasing the surface water fees charged to all GRP participants from \$2.20 to \$2.42 per 1,000 gallons effective June 1, 2019. He then asked the Board if it would like to pass through the fee increase to the District's customers by amending its Rate Order. After discussion, Director Waites moved to amend the District's Rate Order to increase its surface water rate from \$2.43 to \$2.78 per 1,000 gallons of water, which includes the District's 15% administrative fee, effective June 1, 2019. Director Orr seconded the motion, which passed unanimously.

WEBSITE

Mr. Cleveland inquired whether the Board has any comments regarding the website that he can relay to Shannon Waugh. After discussion, the Director Waites moved to authorize adding the District's emergency response chart prepared by Costello to the website after review by Director Smith. Director Smith seconded the motion, which passed unanimously.

DISTRICT BERM PROJECTS

a. Report:

Director Smith reported on the actions taken at the District's emergency meeting held May 5, 2019. He stated that the District has obtained a portion of the land rights necessary to move forward on construction of the flood mitigation berm on DRS properties north of the District.

Mr. Dechert then reported that only one bid was received for construction of the DRS Berm. He stated that the bid was from G.W. Phillips Construction, Inc. ("GW Phillips"), but Costello rejected the bid after receiving several unfavorable references. Mr. Dechert then requested that the Board ratify such action. Action was taken below.

Mr. Dechert also reported on dirt that the City has previously offered to the District for the berm project. He stated that the City has allowed people to take the dirt in small quantities for other projects but that a sufficient quantity of dirt is still available for the

District. He also reported that the City is requesting receipt of a formal letter of intent from the Board to continue to hold dirt on the District's behalf. Discussion ensued regarding the costs of purchasing dirt for the berm project. Action was taken below.

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 8:27 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 9:33 p.m.

DISTRICT BERM PROJECTS

a. Report:

This item was revisited. Director Orr then moved to authorize an addendum to the bid package for construction of the DRS Berm, with alternative bid options allowing construction in phases; ratify action rejecting all previous bids on the berm project; and submit a letter of intent to the City regarding dirt for the project. Director Tomas seconded the motion, which passed unanimously.

b. Condemnation:

No action was necessary.

DIRECTOR LOTS

Mr. Cleveland then reported that Houston River’s Edge Venture, L.P. offered to convey Director Lots to the District at no cost. Mr. Cleveland explained that the lots are located in the Nature Park. After discussion, Director Smith moved to approve and accept the deed conveying the Director Lots. Director Waites seconded the motion, which passed unanimously.

ATTORNEY’S REPORT

Mr. Cleveland presented a request to stock the District’s detention pond with fish. The Board concurred not to include the item on a future agenda. He also reported on a request for the purchase of a portion of the Nature Park. Mr. Cleveland then explained that the Board is not able to sell any portion of the Nature Park, due to its purchase with Bond proceeds. No action was necessary.

ACTION LIST

The Board then reviewed the action list.

ADJOURNMENT

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



/s/ Suzan Orr
Secretary

LIST OF ATTACHMENTS TO MINUTES

	Minutes
	<u>Page</u>
Meeting Sign-in Sheet	1
Operator's Report	1
PW Report	2
Tax Assessor/Collector Report	3
Bookkeeper's Report/Investment Report.....	3
Champions Report	4
Engineer's Report	5

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 follow up with Mr. Breeding on anticipated legal fees for the District's condemnation cases.

Mr. Cleveland will coordinate with representatives of Pecan Grove Municipal Utility District and Fort Bend County Municipal Utility District No. 145 regarding the right-of-way maintenance along FM 359.

Mr. Cleveland will update the Board on the outcome of ER-Con's meeting with the USACE's Galveston District.

Ms. Galvan will contact the District's Insurance Broker to request their attendance at the next Board meeting.

Ms. Galvan will coordinate a walkthrough with Lake Management and Director Waites in connection with the District's erosion mitigation plantings at the District's detention pond.

Ms. Galvan will follow up with BRECA regarding written reports for the District's Board meeting.

Ms. Galvan will coordinate the upload of the District's Emergency Response Plan to the District's website, upon receipt of final form from Costello.

BOOKKEEPER

Mr. Diaz will obtain annual numbers from the District's consultants to distribute to the Budget committee.

DIRECTORS

Director Waites will distribute a draft Budget to the Bookkeeper and Attorney.

Director Smith will coordinate a conference call with Mr. Cleveland and the District's mosquito spraying services provider.

Director Smith will distribute evidence of drainage issues along the northern boundary of the District to Costello.

ENGINEER

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

Costello will provide an Emergency Response Plan chart to Director Smith for review.

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

Costello will contact Fort Bend County's Department of Road and Bridge regarding DRS drainage ditches.

Costello will distribute additional plans and specifications in connection with the District's land acquisition easement with McCaslin to the District's condemnation attorney.

Costello will coordinate a meeting with Champions to walkthrough the District's contractual scope of services with Champions.

NRCS GRANT ACTION LIST

ATTORNEY

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