

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 140

Minutes of Regular Meeting of Board of Directors

July 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, July 16, 2019, at 6:00 p.m., at Sugar Land Town Square, 2277 Plaza Drive, Downstairs Suite, Sugar Land, Fort Bend County, Texas 77479, 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"); Josh Fort of Champions Hydrolawn, Inc. ("Champions"); Ron Dechert and Stephen Wilcox of Costello, Inc. ("Costello"); Mike Arterburn of Utility Tax Service, LLC ("Utility Tax"); Mary Lutz of McLennan and Associates, L.P.; Maritza Salazar 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 regular meeting held on June 18, 2019. After discussion, Director Orr moved to approve the minutes of the regular meeting held on June 18, 2019 as presented. Director Tomas seconded the motion, which passed unanimously.

OPERATOR

Ms. Salazar presented the Operator's Report for June 2019, a copy of which is attached hereto. She reported 866 connections, 25 delinquent accounts, and no identity thefts for June 2019. Ms. Salazar also presented the Public Works Monthly Report (the "PW Report") for June 2019, a copy of which is attached hereto. Action was taken below.

Ms. Salazar then presented a list of delinquent District accounts eligible to be written off, and she provided background on the historical write-off of delinquent accounts from the Operator's utility billing system. Mr. Cleveland reported that his office investigated the feasibility of hiring a collections agency to pursue the District's outstanding delinquent accounts, but, due to the age and small volume of delinquent accounts, the collection agencies contacted are not interested at

this time. Ms. Salazar then requested that the District consider writing off all or a portion of the delinquent accounts from the list presented. Action was taken below.

After discussion, Director Waites moved to approve the Operator's Report, approve the PW Report, terminate service to those customers with delinquent accounts, and write-off accounts that have been delinquent for two years or more from the Operator's utility billing system. Director Tomas seconded the motion, which passed unanimously.

TAX ASSESSOR/COLLECTOR

Mr. Arterburn distributed and reviewed with the Board the Tax Assessor/Collector's Report for June 2019, a copy of which is attached hereto. He reported that as of June 30, 2019, the District's 2018 taxes were 98.81% collected. In response to questions from the Board, Mr. Arterburn stated that the certified rolls are expected soon. After discussion, Director Orr moved to approve the Tax Assessor/Collector's Report and payment of the bills. Director Abdulkader seconded the motion, which passed unanimously.

BOOKKEEPER

Ms. Lutz distributed and reviewed with the Board the Bookkeeper's Report from June 19, 2019, through July 16, 2019, and Investment Report for June 2019, copies of which are attached hereto. She reported a 14.37-month reserve in the District's operating account. Director Waites then requested that the General Fund be reimbursed from the Capital Projects Fund for the payment of the Special Commissioners' award in the Gonzalez matter. After discussion, Director Waites moved to approve the Bookkeeper's Report, the Investment Report, and payment of the bills. Director Orr seconded the motion, which passed unanimously.

BUDGET

Director Waites presented an updated draft of the Budget Committee's Operating Budget for fiscal year ending July 31, 2020. After discussion, this item was tabled. [See further discussion and action on page 8]

BEST TRASH

The Board then considered a proposal for holiday garbage collection services by Best Trash. Mr. Smith noted that the District would incur an additional cost of approximately \$1,500 per holiday that is outside Best Trash's current scope of work. After discussion, the Board concurred not to pursue holiday collection at this time.

MAINTENANCE OF RECREATIONAL FACILITIES

a. Champions:

Mr. Fort presented the Detention and Drainage Facilities Report from Champions dated July 2019, a copy of which is attached hereto. He noted that no issues were identified. No action was necessary.

Mr. Fort then presented an annual budget for maintenance services and proposals for annual maintenance services of Ponds 1 and 2 for the Board's consideration. Action was taken below.

b. Lake Management:

Mr. Cleveland stated that he had nothing to report regarding Lake Management. No action was necessary.

c. BRECA:

Ms. Marsters reviewed the report on the work performed by BRECA since the last meeting. No action was necessary.

Director Orr then reviewed with the Board the recommendations of the District Committee (the "Committee") established to review and make recommendations to the Board regarding the District's Maintenance Agreement with BRECA. She reported that the Committee is recommending that the District continue to contract with BRECA for maintenance services, and she reviewed with the Board two options for the continuation or expansion of such services. She stated that option one ("Option One") consists of continuing maintenance of the District property currently being maintained by BRECA at a monthly cost of \$5,142.25 for mowing and general landscaping, weekly cleaning of the Party Barn at a monthly cost of \$168.50, and miscellaneous expenses associated with the maintenance of the District's recreational facilities at a monthly cost of \$625.00, for a total monthly cost of \$5,935.75. She then reviewed option two ("Option Two") consisting of all the maintenance services included in Option One with the addition of the maintenance areas currently being maintained by Champions, at an additional monthly cost of \$3,949.00, for a total monthly cost of \$9,884.75. She stated that Option Two would provide a savings to the District of \$563.97 annually because the contract with Champions would no longer be necessary.

She also explained that with either option, the \$625.00 per month fee would cover all miscellaneous maintenance expenses, and, therefore, BRECA would no longer request District reimbursement for miscellaneous maintenance expenses. She stated that BRECA would only come back to the Board for additional maintenance funds in the event of an unforeseeable traumatic event, such as a hurricane, etc. otherwise, she reported that, as in the past, BRECA could undertake additional maintenance at its own cost.

She also reported that the Committee recommends that the District take over quarterly pest control for the District's Party Barn going forward.

Director Orr then asked if the Board had any questions or comments regarding the Committee's recommendations. Discussion ensued regarding the recommendations of the Committee. Several directors expressed a preference for Option One, as they preferred to continue maintenance services through Champions for those areas currently being maintained by Champions. Director Smith then requested the preparation of a more detailed breakdown of BRECA's expenditures and costs. He also inquired regarding the significant increase from the District's current fees for maintenance services and the recommendation presented to the Board. In response, Ms. Marsters stated that BRECA presented the Committee with the actual costs for the monthly mowing of the District's maintenance area and cleaning of the District's Party Barn. She also stated that BRECA has not requested an increase in ten years. Director Waites then inquired how the monthly maintenance fund item was calculated (i.e., the \$625.00). In response, Director Orr stated that the Committee met as delegated by the Board and conducted its due diligence in establishing its recommendations. She also stated that she believes that Board members were given the opportunity to participate in a detailed review of the maintenance expenditures when a call for Board members to serve on the Committee was presented at the last Board meeting. Ms. Marsters then stated that BRECA will discontinue its maintenance services to the District if the District will not accept the recommendations as presented. In response, Director Smith stated that he wishes to table action until the Board is provided with a more detailed breakdown of the maintenance costs. Director Orr then stated that she believes that the Board has deferred action on maintenance services provided by BRECA for several meetings and that the Board should take action on the Committee's recommendations. After discussion, Director Orr moved to approve Option One at a monthly cost of \$5,935.75 and approve preparation of an Amended and Restated Maintenance Agreement between the District and BRECA, with the final form of the agreement to be presented for Board approval at its August meeting. Director Abdulkader seconded the motion, which passed unanimously, with the exception of Directors Smith and Waites who abstained.

a. Champions:

The Board then revisited this item. After discussion, Director Waites moved to approve the annual maintenance budget for fiscal year 2020 from Champions, as presented, and to reject the proposals for maintenance of District Ponds 1 and 2. Director Orr seconded the motion, which passed unanimously.

d. Cypress Creek:

The Board then considered the frequency of the District's mosquito spraying and additional pest control services for the District's Party Barn. Mr. Cleveland reported that the District increased mosquito spraying services from Cypress Creek Mosquito Control, Inc. ("Cypress") due to recent weather conditions and reminded the Board that the

District delegated authority to the President of the Board to approve additional sprayings when necessary. The Board concurred that current weather conditions no longer necessitate additional spraying. After discussion, Director Orr moved to reduce the number of mosquito sprayings conducted by Cypress to once a week and include quarterly pest control services for the District's Party Barn. Director Abdulkader seconded the motion, which passed unanimously.

PUBLIC COMMENTS

The meeting was opened for public comments.

ENGINEER

Mr. Dechert reviewed the Engineer's Report dated July 16, 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") has ordered the 54" flap gate and is awaiting shipment. No action was necessary.

b. Emergency Flood Mitigation:

Mr. Dechert reported that Levee Management Services, LLC notified Costello that the District's Tiger Dams have arrived and are being stored in Greatwood until the District's trailer is fabricated. He reported that the District's trailer is anticipated to be delivered to the District by September 1st. Discussion ensued regarding a storage location for the District's emergency flood mitigation equipment. No action was taken.

c. HMGP:

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

d. Regional Drainage Analysis Study:

Mr. Wilcox 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.

e. Development:

There was no report.

NRCS GRANT

a. Project Agreement:

Mr. Cleveland then reported on his conversations with Mr. Northcut of the Natural Resources Conservation Service (“NRCS”), United States Department of Agriculture. He informed the Board that the NRCS is ready to move forward with the District’s Project Agreement and associated grant documents. Mr. Cleveland reminded the Board of the funding obligations of NRCS grant recipients. He also reminded the Board that the grant requires the project to be completed within 220 days of finalization of the Project Agreement and that the District will require an extension, which has already been discussed with the NRCS.

Mr. Cleveland then reviewed the terms of the Project Agreement with the Board. He then explained that the Board needs to appoint a representative and delegate to such representative the authority to sign documents required to be submitted as part of the approval process for the Project Agreement. After Discussion, Director Orr moved to approve the Project Agreement between the District and the NRCS and appoint Director Smith as the District’s authorized representative in connection with the NRCS Grant. Director Tomas seconded the motion, which passed unanimously.

b. NRCS Grant Documents:

Mr. Cleveland explained to the Board that there are numerous documents that need to be prepared and delivered to the NRCS in connection with the grant. After discussion, Director Orr moved to authorize the District’s consultants to take all necessary action to complete and deliver all documentation required to be submitted as part of the approval process for the Project Agreement and grant. Director Waites seconded the motion, which passed unanimously.

c. ER-Con Technologies:

Mr. Wilcox updated the Board on an alternate design proposal from ER-Con Technologies, LLC (“ER-Con”) that would remove the palisade project from U.S. Army Corps of Engineers (“USACE”) jurisdiction and, therefore, not require a USACE permit. He stated that although this would speed up the permitting process, this alternative would be significantly more expensive and would result in the loss of additional land along the riverbank before the system would begin to work. Mr. Cleveland then recommended that the Board revisit this item after executive session. This item was tabled. [See further discussion and action on page 8]

d. Other:

No action was necessary.

DISTRICT BERM PROJECTS

a. Report/Design:

Mr. Dechert reported that Costello submitted a formal request for the use of the City's remaining fill dirt, as previously authorized by the Board. No action was necessary.

b. DRS Berm Construction:

Mr. Dechert reviewed the status of the project to construct the District's DRS Berm, reporting that the contract documents with the contractor, Environmental Allies, Inc. have been reviewed by the District's attorney. He stated that a preconstruction meeting will be held with the contractor prior to issuing a notice to proceed with construction. No action was necessary.

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 8:29 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 9:20 p.m.

DISTRICT BERM PROJECTS

c. Condemnation:

No action was necessary.

BUDGET

This item was revisited. The Board considered amending the proposed Budget presented by Director Waites to include BRECA's maintenance services as approved by the Board during the meeting. After discussion, Director Orr moved adopt the operating budget for fiscal year ending July 31, 2020, as amended. Director Smith seconded the motion, which passed unanimously.

NRCS GRANT

c. ER-Con Technologies:

This item was revisited. The Board then considered moving forward with Er-Con's alternative design or authorizing Er-Con to immediately begin the permitting process with the USACE for the project as designed (i.e., obtain an Individual Permit). The Board then decided to move in parallel paths while the alternative design is further evaluated. After discussion, Director Orr moved to authorize Er-Con to pursue permitting for the project, including the Individual Permit from the USACE, at a cost not to exceed \$25,000. Director Waites seconded the motion, which passed unanimously.

ARBITRAGE

Mr. Cleveland presented an engagement letter for the Board's consideration from Arbitrage Compliance Specialists ("ACS") for the preparation of the five-year arbitrage rebate calculations report regarding the District's \$4,920,000 Unlimited Tax Refunding Bonds, Series 2015 at a cost of \$2,950.00. Director Orr moved to approve the engagement letter with ACS for the preparation of the rebate calculations report regarding the District's \$4,920,000 Unlimited Tax Refunding Bonds, Series 2015. Director Smith 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. Director Orr then requested that Off Cinco provide additional notice via the District's website and email alerts of future changes to the time or location of Board meetings (i.e., when meetings are to be held at a time or location other than the time and location of the District's regular monthly meeting), and the Board concurred.

ATTORNEY'S REPORT

Mr. Cleveland then reviewed constituent correspondence received by his office. 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.

(District Seal)



/s/ Suzan Orr
Secretary

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 coordinate a conference call 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.

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.

Ms. Galvan will coordinate with Cypress to update the District's spraying schedules.

CHAMPIONS

Mr. Fort will update the Board on invoicing for maintenance service on DRS.

DIRECTORS

Director Smith will coordinate with the Fort Bend County Road and Bridge on the status of invoicing for personnel time regarding the high water event in May.

Director Waites will coordinate with the City and the District's Bookkeeper to update the City's invoice detail on District invoices.

ENGINEER

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

Costello will contact Fort Bend County regarding the maintenance schedule for drainage ditches near the District's soccer fields.

NRCS GRANT ACTION LIST

ATTORNEY

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