

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 140

Minutes of Regular Meeting of Board of Directors

October 15, 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, October 15, 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 except for Director Abdulkader, 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.; Justin Alderte and Clifton Holik 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 September 17, 2019. After discussion, Director Tomas moved to approve the minutes of the regular meeting held on September 17, 2019, as presented. Director Orr seconded the motion, which passed unanimously.

OPERATOR

Mr. Alderte then presented the Operator’s Report for September 2019, a copy of which is attached hereto. He reported 871 connections, 74 delinquent accounts, and no identity thefts for September 2019. Action was taken below.

Mr. Holik then presented the Public Works Monthly Report (the “PW Report”) for September 2019, a copy of which is attached hereto. He reported that after discussions with Scott Fajkus, Utilities Coordinator at the City, additional sampling sites are now included in the District’s chlorine sampling (9 sample sites in total). No action was necessary.

Mr. Alderte then reported on a letter request for a billing adjustment from Keith and Joanne Martin, new District residents. He stated that the Martins’ received substantially higher than

normal water bills. He reported that the City investigated the Martins' water meter for accuracy, checked the City's line for leaks, and ultimately could find no leaks or issues with the District's facilities or equipment. He stated, however, that the Martins' water meter was replaced at their request. Mr. Martin then addressed the Board directly concerning his request. After discussion, the Board informed the Martins that the District has an established policy that it does not make billing adjustments due to leaks or usage occurring on the customer's side of the meter because the District is required to pay for that water pursuant to its contract with the City. The Board then asked if the Operator could recommend next steps to address the issue, and Mr. Holik responded that the Martins should have a plumber determine the source(s) of a leak and have it repaired.

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

TAX ASSESSOR/COLLECTOR

Mr. Arterburn distributed and reviewed with the Board the Tax Assessor/Collector's Report for September 2019, a copy of which is attached hereto. He reported that as of September 30, 2019, the District's 2018 taxes were 99.37% collected. In response to a question from Director Orr, he confirmed that the District did not pay for the re-publishing of the District's Notice of Public Hearing. After discussion, Director Waites moved to approve the Tax Assessor/Collector's Report and payment of the bills. Director Orr seconded the motion, which passed unanimously.

PUBLIC HEARING ON 2019 TAXES

Mr. Cleveland opened the public hearing for comments. Mr. Stanley Lopez, a District resident then inquired regarding the impact of the District's proposed tax rate on the District's capital projects. In response, Director Waites stated that the District's tax revenue will increase even with a reduced tax rate due to the increase in property values within the District. There were no additional public comments, and the hearing was closed.

LEVY 2019 TAXES

Next, Mr. Cleveland stated that the Board needed to consider levying the District's 2019 taxes. He reminded the Board that at its meeting on August 20, 2019, it approved publishing notice of a combined tax rate of \$1.24 per \$100 of assessed value, consisting of proposed rates of \$0.83 for debt service and \$0.41 for maintenance and operations (although only the combined tax rate is published). Mr. Cleveland stated that this represents a decrease of \$0.01 compared to the District's 2018 tax rate. He then presented for the Board's consideration the Order Levying Taxes for 2019 and an Amended District Information Form. Director Waites then stated that he believes the District can afford to further lower the tax rate for 2019. He then requested that the Board consider setting the District's combined tax rate at \$1.20 per \$100 of assessed value. Director Orr then stated her concerns with lowering the District's tax rate due to the uncertainty of the District's capital project expenses, maintenance expenses, and new legislation impacting the District's ability to adjust its tax rate in the future. She then stated that she is in favor of a combined tax rate of \$1.24 for 2019. After discussion, Director Smith moved to adopt an Order Levying Taxes for

2019 providing for a total combined tax rate of \$1.22 per \$100 of assessed value, with a rate of \$0.83 for debt service and \$0.39 for maintenance and operations; and approve and authorize recordation of the Amended District Information Form. Director Tomas seconded the motion, which passed unanimously, with the exception of Director Waites, who abstained.

BOOKKEEPER

Mr. Diaz distributed and reviewed with the Board the Bookkeeper's Report from September 18, 2019, through October 15, 2019, and Investment Report for September 2019, copies of which are attached hereto. He reported a 16.73-month reserve in the District's operating account. Director Waites then inquired regarding a District deficit in connection with the Groundwater Reduction Plan fees paid to the City and collected from the District's customers. In response, Mr. Diaz suggested that it may be a timing issue in reporting, and he stated that he will investigate the 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.

MAINTENANCE OF RECREATIONAL FACILITIES

a. Champions:

The Detention and Drainage Facilities Report from Champions dated October 2019 was distributed to the Board, a copy of which is attached hereto. Discussion ensued regarding additional District maintenance and reconnaissance obligations in connection with the District's berm projects, currently in various phases of design or construction. Mr. Cleveland stated that Champions will be asked to provide proposals for such maintenance and reconnaissance services as those projects are completed.

The Board further requested that Fort Bend Municipal Utility District No. 145 be contacted regarding its willingness to allow the District to assume maintenance of the Rio Vista Berm.

b. Lake Management:

The Board requested that Lake Management be contacted to provide updates on the status of the District's pickerel plantings and water fountain repairs.

c. BRECA:

Ms. Marsters presented a report on the work performed by BRECA since the last meeting. She reported that a water leak along Circle Drive is being repaired by BRECA, a lighting issue at the District's Party Barn is being investigated, new soccer nets were ordered, and that a non-District resident is mowing a section of land adjacent to Blaisdale Road that is supposed to be mowed by Champions. Ms. Marsters also stated that BRECA is ready to continue negotiations with the District regarding their Maintenance

Agreement. She noted that BRECA's landscaper is not increasing its rates for 2020. After discussion, no action was taken.

d. Encroachments:

This item was tabled for discussion later in the meeting.

PUBLIC COMMENTS

The meeting was opened for public comments.

Mr. Jon Longerbone, a District resident, then presented and reviewed a letter he submitted to the Board, through the District's attorney, on October 10, 2019, regarding proposed District action to remove or require the removal of steps behind his home, which are located on District property. Mr. Longerbone stated that he is opposed to removal of the steps.

Mr. Kurtis Hout, a District resident, then addressed the Board regarding safety concerns if his steps are removed, and he stated his desire to keep his steps as well.

Ms. Mary Ann Escandon, a District resident, then expressed her concerns with the District not having established standards for encroachment issues and the impact on property values.

Mr. Stanley Lopez, a District resident, then commented FEMA efforts to revise flood plain maps in Fort Bend County.

ENGINEER

Mr. Dechert reviewed the Engineer's Report dated October 22, 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 Municipal Utility District, reporting that the contractor, Northtex Construction, LLC ("Northtex") has completed the project and a final inspection with Pecan Grove will be held on October 22, 2019. No action was necessary.

b. Emergency Flood Mitigation:

Mr. Dechert reported that the District's trailer, Tiger Tubes, and associated equipment will be inspected by Directors Waites and Smith prior to their delivery and storage at the District's Lift Station No. 1. In response to questions from the Board, Mr. Dechert stated that he will coordinate with the City regarding delivery and storage of the trailer at the District's Lift Station No. 1.

c. Emergency Response Plan:

Director Smith then reported on comments to the draft Emergency Response Plan. After discussion, this item was tabled.

d. NRCS Grant/ER-Con Technologies LLC:

Mr. Cleveland then reported on the status of the District's Project Agreement with the Natural Resources Conservation Service ("NRCS"), United States Department of Agriculture. He reported that the District signed the agreement and that he anticipates that the NRCS will sign it any day now, which will initiate the start of the initial 220-day time frame for completion of the project.

Mr. Cleveland then provided an update on the status of the proposal from ER-Con Technologies, LLC's ("ER-Con"), reporting that ER-Con incorporated all attorney comments to the proposal for geotechnical, field survey, preliminary engineering design, and permitting services in connection with the palisade project (the "Proposal"). He recommended that the Proposal be approved, provided that the NRCS has no objections. Action was taken below.

e. Survey:

This item was tabled.

f. HMGP:

Mr. Cleveland then reported on his conversations with the Texas Division of Emergency Management ("TDEM") regarding the District's status as an alternate grant recipient. He informed the Board that decisions are still being made and the District's project is still being considered for funding. No action was necessary.

g. 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.

h. Development:

There was no report.

After discussion, Director Waites moved to approve the Engineer's Report and to approve the Proposal from ER-Con. Director Smith seconded the motion, which passed unanimously.

DISTRICT BERM PROJECTS

a. Report/Design:

There was no report.

b. DRS Berm Construction:

Mr. Dechert then reviewed the status of the construction of the DRS Berm. He presented and recommended approval of Pay Estimate No. 1 in the amount of \$21,825.00 to the contractor, Environmental Allies, Inc. After discussion, Director Waites moved to approve payment of Pay Estimate No. 1 in the amount of \$21,825.00 to Environmental Allies, Inc. Director Orr seconded the motion, which passed unanimously.

c. Condemnation:

This item was tabled for discussion later in the meeting.

WEBSITE/BOARD EMAILS

Mr. Cleveland then reviewed a proposal from Off Cinco to establish new Director email addresses. He reminded the Board that the new addresses will assist the District with future public information requests and make compliance with newly enacted legislation easier and more streamlined. After discussion, Director Tomas moved to approve the proposal from Off Cinco to establish new Director email addresses and establish an SSL Certificate for the District's website. Director Smith seconded the motion, which passed unanimously.

MEETING SPACE

Mr. Cleveland then provided an update on discussions with Joy Lutheran Church regarding compensation for use of its meeting space. After discussion, no action was necessary.

ATTORNEY'S REPORT

There was no report.

ARBITRAGE

Mr. Cleveland presented the Final Report for the District's \$4,620,000 Unlimited Tax Bonds, Series 2007, as prepared by Arbitrage Compliance Specialists, Inc., a copy of which is attached hereto. He then informed the Board that no arbitrage rebate payment is due to the United States Treasury, Internal Revenue Service with respect to such bonds. 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 7:55 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 9:00 p.m.

MAINTENANCE OF RECREATIONAL FACILITIES

d. Encroachments:

Director Tomas moved to allow currently existing steps/walkways (constructed by property owners to provide access from their yards to the District's drainage and amenity lakes (the "Encroachments") to remain in place provided that affected property owners sign a consent to encroachment to be recorded in the real property records of Fort Bend County, with the form of such consent to encroachment to be approved by the Board at a future meeting; and authorize the District's attorney to draft proposed procedures allowing for similar encroachments to be considered for approval by the District in the future. Director Waites seconded the motion, which passed unanimously.

DISTRICT BERM PROJECTS

c. Condemnation:

Director Tomas then moved to approve a revised settlement agreement with Courtney McCaslin in connection with the condemnation proceedings. Director Waites seconded the motion, which passed unanimously.

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

(District)



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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 contact the attorney for Fort Bend County Municipal Utility District No. 145 regarding mowing of the Rio Vista Berm.

Mr. Cleveland will prepare form consent to encroachment and procedures for permitting future encroachments for the Board's consideration.

Ms. Galvan will follow up with Lake Management regarding the status of the District's fountain and pickerel plantings.

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 and coordinate inspection and protocol for the deployment of emergency flood materials.

Directors Smith and Waites will conduct an inspection of the District's trailer and emergency flood materials, upon which delivery of the trailer will be coordinated by Costello.

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

Director Smith will coordinate with residents of DRS Drive regarding participating in the funding of survey work for drainage ditches along DRS Drive.

Director Smith will follow up with Off Cinco regarding director email setup options.

ENGINEER

Costello will coordinate with the City of Richmond regarding the storage of the District's emergency materials and trailer at the District's Lift Station No. 1.

Costello will prepare a capital reserve study of the District's water, sewer, and drainage facilities.

LAKE MANAGEMENT

Lake Management will investigate status of pickerel plantings.

OPERATOR

Mr. Alderte will provide an update on the status of Mr. Martin's high usage billing inquiry at the next Board meeting.