

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 238

Minutes of Meeting of Board of Directors January 26, 2016

The Board of Directors ("Board") of Harris County Municipal Utility District No. 238 ("District"), met at 18702 Kieth Harrow Boulevard, Houston, Texas, 77084 a designated meeting place of the District, on January 26, 2016, in accordance with the duly posted notice of meeting, and the roll was called of the duly constituted officers and members of said Board, as follows:

Michael McGlaughlin, President
Randy Love, Vice President
Patricia Richardson, Secretary
C.L. "Steve" Crane, Assistant Secretary
Damon Sachs, Assistant Secretary

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

Also present were Cathy Wheeler of Wheeler & Associates, Inc. ("Wheeler"); Cynthia Colondres of Municipal Accounts & Consulting, L.P. ("MA&C"); Jeff Vogler of Van De Wiele & Vogler, Inc., ("VVI"); Frank Garcia of Gulf Utility Service, Inc. ("GUS"); Spencer Nealy of Champions Hydro-Lawn, Inc. ("Champions"); Jonathan Roach and Frank Mitchell of Roach & Mitchell, PLLC ("RMPLLC"); Jeremy Roach of Apollo IT Consulting, LLC ("Apollo"); and residents Gary Nelson, Gary Tober, and Cory Love.

The President called the meeting to order and declared it open for such business as might come before it.

APPROVE MINUTES

The Board considered for approval the minutes from the special meeting held on January 8, 2016. Director Crane asked for confirmation of the assistant secretary positions listed in the minutes. Director Love then made a motion to approve the minutes as presented, subject to revision of the officer positions if and as needed. The motion was seconded by Director McGlaughlin and passed unanimously.

PUBLIC COMMENTS

The members of the public present had no comments for the Board at this time.

TAX ASSESSOR COLLECTOR REPORT

Ms. Wheeler presented the Tax Assessor Collector Report for the month of December 2015, a copy of which is attached as Exhibit A. After no questions, Director Crane moved to approve the

Tax Assessor Collector Report. Director Love seconded the motion which carried unanimously.

DELINQUENT TAX COLLECTIONS ATTORNEY REPORT

Ms. Wheeler reviewed the Delinquent Tax Collections Attorney Report. She noted one installment account that is in good standing and one existing delinquent personal property account on which the tax attorney has indicated he has exhausted all avenues of collection. After discussion, Director McGlaughlin made a motion to move the subject account to the non-collectible roll but authorize the tax attorney to continue pursuing collection if and when appropriate. Said motion was seconded by Director Crane and passed unanimously.

RESOLUTION GRANTING EXEMPTIONS FROM TAXATION FOR 2016

Ms. Wheeler explained to the Board the various tax exemptions that could be approved by the District for 2016 and presented an analysis of options for same. After much discussion, Director Crane made a motion to maintain the current 7% general homestead exemption and the \$3,000 exemption for individuals who are over 65 years of age and/or disabled for purposes of the federal disability statutes, and to adopt a Resolution accordingly. The motion was seconded by Director Sachs and passed by a three-to-one (3-1) vote with Director McGlaughlin opposed and Director Richardson not present for the vote.

Director Richardson left the meeting during the exemption discussion due to an emergency.

RESOLUTION AUTHORIZING AN ADDITIONAL PENALTY ON DELINQUENT PERSONAL PROPERTY TAXES

Mr. Roach next advised the Board it is authorized pursuant to the Texas Property Tax Code to impose, under certain conditions, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on personal property taxes that become delinquent as of February 1 of a year and that remain delinquent sixty (60) days after said date, in order to defray the costs of collection of said delinquent taxes, in accordance with the Code as amended. The Board then considered the adoption of a resolution authorizing such additional penalty. After discussion, it was moved by Director McGlaughlin, seconded by Director Crane and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes be adopted.

STATUS OF ARBITRAGE COMPLIANCE REPORTING REQUIREMENTS

Mr. Roach explained that as discussed at the last Board meeting Arbitrage Compliance Specialists Inc. ("ASCI") is working to finalize the necessary arbitrage reports for the District. There was no Board action required at this time.

BOOKKEEPER'S REPORT

Ms. Colondres presented the Bookkeeper's Report, a copy of which is attached hereto as

Exhibit B. She noted no unusual expenses or issues for the month. Ms. Colondres also noted that the District received a check from Harris County Flood Control District (“HCFCDD”) for the full amount of mowing expense reimbursement due under the prior interlocal agreement. After no questions regarding the report, Director Crane then moved to approve the Bookkeeper’s Report and payment of checks presented. Director Love seconded the motion which passed unanimously.

ENGINEER’S REPORT

Mr. Vogler presented a written Engineer’s Report dated January 2016, a copy of which is attached hereto as **Exhibit C.** Mr. Vogler stated that the Dulaney Road easement project is still underway with title research being conducted. He stated that the Morton Road project plans are at the City and County for approval. He advised that he still has not heard back from Harris County regarding the alleged unauthorized discharge from the G.O. Weiss landfill. He noted that the Google earth mapping project is being fine-tuned before release for use. Director Love inquired about the ongoing siltation in the pilot channel and whether the District can request authority from Harris County to remedy the situation, with one option possibly being to install something to help prevent the silting. Mr. Vogler noted that he will follow up with Harris County to see what can be done.

MAYDE CREEK MUNICIPAL UTILITY DISTRICT (“Mayde Creek MUD”) AGREEMENT FOR DRAINAGE IMPROVEMENTS

Mr. Vogler noted that the project is still under construction at this time.

REPORT FROM CHAMPIONS HYDRO-LAWN, INC.

Mr. Nealy presented a written report including several photographs depicting various detention/drainage facilities within the District and a list of proposed maintenance projects, a copy of which is attached hereto as **Exhibit D.** He presented a maintenance plan with some additional proposed projects and estimated costs. There was some question by the Board whether the herbicide application previously billed had actually been completed, and Mr. Nealy stated he would check into it. After discussion, Director Sachs made a motion to approve the additional maintenance projects numbered 1, 2, 3, 4, 5 and 7 on the proposed list. The motion was seconded by Director Crane and passed unanimously.

RENEWAL AND EXTENSION OF INTERLOCAL AGREEMENT WITH HARRIS COUNTY FLOOD CONTROL DISTRICT FOR MOWING REIMBURSEMENT

Mr. Roach noted that the interlocal agreement with the HCFCDD was approved by Commissioners Court with the 6% cost increase requested by the Board, increasing the mowing reimbursement from \$114/acre to \$120.92/acre for a total receivable of \$17,956.62 over the course of the new 3-year agreement. Mr. Roach noted additional provisions of the agreement of which the Board should be aware, including but not limited to insurance requirements, indemnity provisions and relater matters. After discussion, Director McGlaughlin made a motion to approve the new interlocal agreement as presented. The motion was seconded by Director Love and after a vote, passed unanimously.

OPERATIONS AND MAINTENANCE REPORT

Mr. Garcia presented the written operations report to the Board, a copy which is attached as **Exhibit E**. Mr. Garcia noted a few leak repairs that had been made in the District. He noted the wastewater treatment plant thickener clarifier motor had tripped and had to be cleared and reset but is properly working now. He noted a fracture in a sanitary sewer line near 18618 Evergreen Falls Drive where it appears the homeowner had attempted to make repair, and advised that the line feeds directly into the sanitary sewer manhole which is not typically an authorized installation. After discussion, the Board requested GUS to send a letter advising the homeowner that the responsibility for any future repairs to that line will be solely on the homeowner. There was no further action required at this time in connection with the operations report.

Ms. Love and Ms. Wheeler exited the meeting during the discussion about the operations report.

IT CONSULTANT REPORT

Mr. Jeremy Roach presented the IT report and discussed updates to the District website and Director e-mails. Director McGlaughlin asked that he check with Director Crane to try and get certain e-mail issues resolved. Director McGlaughlin also asked that the West Harris County Regional Water Authority fee information be corrected on the website.

REVIEW CODE OF ETHICS AND RELATED POLICIES

Mr. Roach asked that the Board defer on this item until some additional research can be completed on HB1295.

AUTHORIZE SOLICITATION OF INSURANCE PROPOSALS

Mr. Roach noted that the District's current insurance policies are scheduled to expire on March 31, 2016. After discussion, Director McGlaughlin made a motion to authorize solicitation of insurance proposal for the District to be considered at the next Board meeting. The motion was seconded by Director Love and passed unanimously.

ATTORNEY'S REPORT

Mr. Roach provided the Board with an update on the electronic records and related policies underway. He also noted that government entities, including the District, that have eminent domain powers are now required to file with the State Comptroller an annual report by February 1 in order to retain the eminent domain powers. Director McGlaughlin then made a motion to authorize Mr. Roach to file the required report. The motion was seconded by Director Crane and passed unanimously. Mr. Roach stated that Severn Trent had executed the settlement agreement and the District's bookkeeper had issued a stop payment on the old check and issued a new check for the final invoiced amount. Mr. Roach also noted there have been a number of updates made to the District's master calendar for 2016 and asked the Directors to review same. Finally, Mr. Roach advised that he

is continuing to review options for the ongoing action item list requested by Director McGlaughlin.

REVIEW 2016 DIRECTORS ELECTION TIMELINE AND SUPPLEMENTAL AGENDA

Mr. Roach gave an update on the upcoming dates for the 2016 Directors Election, noting that Directors Love and Sachs are up for re-election. As of today, he advised that his office has received inquiries from six (6) people regarding the necessary election filings. Mr. Roach explained all of the requirements for the election process and noted that it could cost between approximately \$15,000 and \$20,000 to hold the election. Director Love asked the two members of the public present to discuss their interest in running for the Board. Mr. Tober responded that he is interested in the operations and management of the affairs of the District. Mr. Nelson indicated that he was interested in providing his name as an alternative for the residents to elect. Director Love then noted some of the major achievements of the District during his tenure on the Board. After further discussion, Director McGlaughlin made a motion to adopt an Order calling the election, appoint RMPLLC as the election agent, and approve compensation of \$10/hour for the election officials. The motion was seconded by Director Sachs and passed unanimously (4-0).

ADDITIONAL COMMENTS FROM THE PUBLIC

Mr. Nelson inquired about tax exemptions and assessments. Directors Crane and Sachs and Mr. Roach responded to the inquiry.

ANNUAL DISTRICT UPDATE/NEWSLETTER

Directors Crane and Love noted they are currently finalizing a draft of the annual newsletter to be distributed to District residents and should have it ready by the next meeting.

EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.071, 551.074, ET. SEQ.

The Board entered executive session at 2:58 p.m.

RECONVENE IN OPEN SESSION, AND AUTHORIZE ANY ACTION RESULTING FROM EXECUTIVE SESSION

The Board reconvened in open session at 3:20 p.m. and there was no action to be taken.

DISCUSS PENDING BUSINESS AND MATTERS FOR FUTURE AGENDAS

The Board discussed options regarding the timing of implementation of the new West Harris County Regional Water Authority fee, previously approved by the Board, considering the billing cycle does not fall at the end of a particular calendar month. The Board concurred to defer implementation for the first two weeks of the latest billing cycle, thereby effectively providing a 'credit' of sorts for District customers for that time period.

ADJOURNMENT

There being no further matters to come before the Board, Director Crane moved that the meeting be adjourned. The motion was seconded by Director Love and carried by unanimous vote, and the meeting was adjourned.

Secretary,
Board of Directors

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LIST OF EXHIBITS

- Exhibit A Tax Assessor Collector Report
- Exhibit B Bookkeeper's report
- Exhibit C Engineer's report
- Exhibit D Champions Hydro-Lawn Report
- Exhibit E Operator's Report

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