

## HARRIS-FORT BEND COUNTIES MUNICIPAL UTILITY DISTRICT NO. 3

### Minutes of Board of Directors Meeting February 25, 2019

The Board of Directors of Harris-Fort Bend Counties Municipal Utility District No. 3 met in regular session at the Board's regular meeting place on February 25, 2019, in accordance with the duly posted Notice of Public Meeting, and the roll was called of the duly constituted officers and members of said Board of Directors, as follows:

Ron Welch, President  
Cyndal Porter, Vice President  
W. Derrell Witt, Secretary  
Frank Anzalotti, Assistant Secretary  
James Barbarino, Assistant Secretary

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

Also present were Kayla Crigger of Municipal Accounts & Consulting, L.P. ("MA&C"); Ray Arce of Wheeler & Associates, Inc. ("Wheeler"); Cathy Falke of Environmental Development Partners, LLC ("EDP"); Tom Laseter of Van De Wiele & Vogler Incorporated ("Van De Wiele"); Debbie Shelton of Masterson Advisors LLC ("Masterson"); Mike Baker of Katy ABC Properties ("Katy ABC"); Jose Criollo, owner of Pastelitos Café ("Pastelitos") and 0.74 acre tract located adjacent to the District; and Abraham Rubinsky and Rachel Knight of Schwartz, Page & Harding, L.L.P. ("SPH").

In absence of the Board President, the Vice President called the meeting to order and declared same open for business as might properly come before it.

#### **APPROVAL OF MINUTES**

The Board considered approval of the minutes of its Board of Directors meeting held on January 28, 2019. Following discussion, Director Witt moved that the minutes of the Board of Directors meeting held on January 28, 2019, be approved as written. Director Barbarino seconded said motion, which unanimously carried.

#### **TAX ASSESSOR-COLLECTOR'S REPORT**

Mr. Arce presented and reviewed with the Board the Tax Assessor-Collector's Report dated as of January 31, 2019, attached hereto as **Exhibit A**, including the disbursements presented for payment from the Tax Account. Mr. Arce also presented a Delinquent Tax Roll dated as of January 31, 2019, a copy of which is included in the Tax Assessor-Collector's Report. After discussion, Director Barbarino moved that the Tax Assessor-Collector's Report be approved as presented, and that the disbursements from the District's Tax Account identified in said Report be authorized. Director Anzalotti seconded said motion, which carried unanimously.

## **DELINQUENT TAX COLLECTIONS REPORT**

The Board deferred consideration of a Delinquent Tax Collections Report, as no report was received this month from Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue Brandon"), the District's Delinquent Tax Collections Attorney.

## **BOOKKEEPER'S REPORT**

Ms. Crigger presented and reviewed with the Board the Bookkeeper's Report dated February 25, 2019, a copy of which is attached hereto as **Exhibit B**, including the disbursements presented for payment from the District's various accounts. After discussion, Director Barbarino moved that the Board approve the Bookkeeper's Report, including the disbursements presented for payment from the District's various accounts, except for check no. 6165, which was voided. Director Anzalotti seconded said motion, which unanimously carried.

Following an inquiry for the District's Bookkeeper and Auditor, Mr. Rubinsky reminded the Board of certain proceeds remaining from the \$6,270,000 Unlimited Tax Bonds, Series 2013 (the "Series 2013 Bonds") originally intended to be paid to OP1-I10-KM, LP ("OP1") and SHR Invests Corporation ("SHR"). Mr. Rubinsky noted that both entities lost their respective properties to foreclosure and that the District never received any notice of the assignment of said entities' reimbursables to any other party; therefore, the District has no way of determining to whom, if anyone, said funds should be paid. Moreover, Mr. Rubinsky reported that the District never received an executed Utility Development Agreement or Conveyance and Bill of Sale of Utility Facilities from either developer. After a thorough discussion of the situation, Mr. Rubinsky recommended the subject funds be reclassified as surplus construction funds, particularly given that the requirements that would have had to be satisfied in order for the District to properly distribute said funds have never been met. After discussion on the matter, Director Barbarino moved to authorize MA&C to reclassify the subject remaining proceeds of the Series 2013 Bonds as surplus construction funds. Director Anzalotti seconded said motion, which unanimously carried.

## **LIST OF QUALIFIED BROKERS**

The Board next considered adopting a list of qualified brokers authorized to engage in investment transactions with the District. Mr. Rubinsky advised that, pursuant to the Public Funds Investment Act and the District's Investment Policy, the Board is required to review and update, if necessary, such list at least annually. He presented and reviewed with the Board the attached Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District, and a list of financial institutions, brokers and dealers attached thereto, together with a comparison of the list submitted and the list previously adopted by the Board, copies of which are attached hereto as **Exhibit C**. Mr. Rubinsky further noted that the broker list presented is a list of potential institutions with which the District may engage in investment transactions compiled with the input of the District's Investment Officer, but that it is ultimately the Board's decision as to where the District's funds are actually placed. After discussion, Director Witt moved that: (i) the attached Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District be approved by the Board and the District, and (ii) that the Vice President and Secretary be authorized to execute same. Director Anzalotti seconded said motion, which unanimously carried.

## **STATUS OF AUDIT REPORT FOR FISCAL YEAR ENDED DECEMBER 31, 2018**

Mr. Rubinsky advised the Board that McGrath & Co., PLLC ("McGrath") is in the process of preparing the District's Audit Report for the fiscal year ended December 31, 2018, and that the draft Report will be presented for the Board's review and approval at a future meeting.

### **OPERATOR'S REPORT**

The Board next considered the Operator's Report. In connection therewith, Ms. Falke presented to and reviewed with the Board the Operator's Report dated January 28, 2019, a copy of which is attached hereto as **Exhibit D**. Ms. Falke discussed various matters contained in the Report and presented and reviewed the Utility Billing Summary, Utility Billing Detail Report, Connection Count, Water Quality Monitoring Report, Water Production Report, Commercial Consumption Report, Wastewater Plant Discharge Report, a Customer Service Report, Delinquent Notice/Service Disconnect Report, a Delinquent Accounts Report, and a Write-Off Report, as set forth therein. Ms. Falke noted that there were fifty (50) customer accounts listed on the Delinquent Accounts Report this month.

Ms. Falke next requested the Board's authorization to write off the three (3) delinquent accounts listed in her report, and to forward said accounts to PenCredit for further collection action on behalf of the District. After discussion, Director Witt moved that EDP be authorized to forward the three (3) subject delinquent accounts listed on the Write-Off Report to collections. Director Anzalotti seconded said motion, which carried unanimously.

Ms. Falke next presented and reviewed with the Board a Resolution Approving Submittal of the Water Smart Application for Inclusion in the Association of Water Board Directors Water Smart Partners Program, attached hereto as **Exhibit E**. After discussion, Director Anzalotti moved that (i) the attached Resolution Approving Submittal of the Water Smart Water Application be approved by the Board and the District, and (ii) that the Vice President and Secretary be authorized to execute same. Director Barbarino seconded said motion, which unanimously carried.

Ms. Falke next reported on the sinkhole discovered within the District along Katy Gap Road, near the District's Drainage Outfall Channel. She advised that EDP inspected same and determined that there was infiltration from said sinkhole into the District's storm sewer box culverts. Mr. Laseter noted that Van De Wiele performed a dye test and concluded the sinkhole was created due to the some sort of failure in the box culverts under Katy Gap Road. He then recommended that the District solicit proposals from an outside contractor to further investigate the matter and provide a recommendation as to how to repair the culvert. Following discussion, the Board concurred to authorize EDP and Van De Wiele to further evaluate the situation and solicit proposals for the repair of same, and requested an item be added to the agenda for the Board's March meeting to further address same.

Ms. Falke next reminded the Board of an appeal received from Harris County Emergency Services District No. 48 ("No. 48") in connection with the District's estimated non-taxable entity tap fee for No. 48's proposed Fire Station No. 1 to be constructed in the District. Mr. Rubinsky addressed the Board regarding the procedures used to calculate the tap fee for Katy Fellowship

Church, another Nontaxable Entity in the District. Following discussion, the Board i) concurred to defer consideration of No. 48's appeal of its tap fee until its next meeting, and ii) recommended Van De Wiele to review the tap fee calculations prepared in connection with the Katy Fellowship Church, to ensure that No. 48's tap fee has been calculated in a fair and consistent manner.

### **RENEWAL OF DISTRICT INSURANCE POLICIES**

The Board next considered the review of proposals for renewal of the District's insurance coverages for the term scheduled to expire March 31, 2019. In that regard, the Board discussed the renewal proposal received from the District's current insurance carrier, Arthur J. Gallagher & Co. ("AJG"), successor-in-interest to AquaSure, L.L.C., a copy of which proposal is attached hereto as **Exhibit F**. The Board then discussed a proposal received from McDonald & Wessendorff Insurance ("McDonald"), a copy of which is attached hereto as **Exhibit G**. Mr. Rubinsky advised that the related TEC Forms 1295 were provided to the District by both AJG and McDonald with originals of said proposals. After discussion on the matter, Director Witt moved that (i) the AJG proposal be accepted, (ii) the Vice President be authorized to execute same on behalf of the Board and the District, (iii) the District accept the TEC Form 1295 relative to the insurance proposal, and (iv) SPH be authorized to acknowledge receipt of the TEC Form 1295. Director Barbarino seconded said motion, which unanimously carried.

### **MAINTENANCE OF THE DISTRICT'S DETENTION AND DRAINAGE FACILITIES**

The Board considered the status of maintenance of the District's detention and drainage facilities by Seaback Maintenance, Inc. ("Seaback"). In that regard, Mr. Laseter reviewed with the Board two (2) proposals he had received from Seaback for (i) over seeding and fertilizing of all District-owned parts of the Drainage Outfall Channel and five Detention Ponds at a total cost of \$51,696.20 and (ii) removal of five (5) silt fencing structures at a cost of \$200.00 each. After discussion, Director Porter moved to approve the proposals from Seaback for (i) over seeding and fertilizing of all District-owned parts of the Drainage Outfall Channel and five Detention Ponds at a total cost of \$51,696.20 and (ii) removal of five (5) silt structures at a cost of \$200.00 each. Director Barbarino seconded said motion, which unanimously carried. Copies of the proposals from Seaback are attached hereto as **Exhibit H**.

In connection with the review of proposals from other maintenance companies for the maintenance of all of the District's drainage and detention facilities, Mr. Laseter presented and reviewed with the Board an updated bid tabulation of three (3) bids that were received on January 25, 2019, and compared said bids to the District's current rates through its Service Contract with Seaback. A copy of said bid tabulation of all proposals is attached hereto as **Exhibit I**. A lengthy discussion then ensued regarding the maintenance of the District's facilities. Following discussion, the Board concurred to defer consideration of proposals from other maintenance companies until its next meeting and requested that MA&C provide a comparison of Seaback's budgeted to actual expenses of its maintenance services of the District's drainage and detention facilities over the last three (3) years for its review.

## **ENGINEER'S REPORT**

Mr. Laseter presented and reviewed with the Board a written Engineer's Report dated February 25, 2019, a copy of which is attached hereto as **Exhibit J**, and discussed the status of various projects within the District.

In connection with the status of design of the proposed 0.320 MGD Expansion of the Permanent Wastewater Treatment Plant ("WWTP"), Mr. Laseter advised that the design of the aeration basin, clarifier, digester, and certain structural components are being prepared. He then requested authorization to perform an evaluation of the historical irrigation demands to establish a basis for effluent re-use capacity design in connection with same. Following discussion, Director Barbarino moved that the Board authorize Van De Wiele to perform an evaluation of the historical irrigation demands to establish a basis for effluent re-use capacity design in connection with the design of said projects. Director Witt seconded said motion, which unanimously carried. Mr. Rubinsky then reminded the Board that Van De Wiele and SPH prepared and presented (i) a proposal to Dr. Bing setting forth the options and related costs for the Bing Family's participation in the Permanent WWTP Expansion, and (ii) the Special Warranty Deed, the required Sanitary Control Easement, and a 10' Water Line Easement in connection with the proposed acquisition of the Water Plant No. 2 site and related property interests, and advised that SPH is working with Dr. Bing to finalize the form of language in said Special Warranty Deed, and is still waiting on receipt of Dr. Bing's signature and return of all documents.

In connection with the proposed 8-Inch Water Line Extension along Katy Gap Road, Mr. Laseter requested authorization to advertise for bids for said project. Following discussion, Director Barbarino moved that the Board authorize Van De Wiele to advertise for bids for the construction of an 8-Inch Water Line Extension along Katy Gap Road. Director Witt seconded said motion, which unanimously carried.

Mr. Laseter next advised the Board that the Texas Commission on Environmental Quality ("TCEQ") requires an elevated storage tank capacity of 100 gallons per connection for systems with more than 2,500 equivalent single-family connections ("ESFCs") and that the District is approaching 2,500 ESFCs. He noted that alternative methods of pressure maintenance may be proposed if the requirements are met. A discussion ensued regarding the terms and conditions that must be satisfied in order to obtain the TCEQ's approval of a request for waiver of its elevated storage tank requirements. Following discussion, Director Barbarino moved that the Board authorize Van De Wiele to proceed with an application to the TCEQ for waiver of the elevated storage tank requirements. Director Witt seconded said motion, which unanimously carried.

## **ANNUAL REVIEW OF SURVEY OF WAGE RATE SCALES AND ADOPTION OF RESOLUTION ADOPTING PREVAILING WAGE RATE SCALE FOR CONSTRUCTION PROJECTS**

The Board considered the review of an annual survey of prevailing wage rates for construction projects and the adoption of a Resolution in connection therewith. In that regard, Mr. Rubinsky advised the Board that, as required pursuant to Section 2258.022 of the Texas Government Code, the District has previously adopted the applicable United States Department

of Labor ("DOL") wage rate scales as the general prevailing wage rates for construction projects by or on behalf of the District. Mr. Rubinsky further advised that the DOL's applicable wage rate scales have been amended. After discussion on the matter, Director Witt moved that the new DOL wage rate scales (comprised of three DOL wage determination scales for each project type) be adopted as the District's prevailing wage rate scales for construction projects, and that the Resolution Adopting Prevailing Wage Rate Scale for Construction Projects attached hereto as **Exhibit K** be adopted by the Board. Director Barbarino seconded said motion, which unanimously carried.

### **DEVELOPERS' REPORTS**

The Board next considered the Developers' Reports. In connection therewith, Mr. Baker provided a detailed update regarding the status of various projects within Katy ABC's Katy Ranch Crossing development.

### **UTILITY COMMITMENTS**

The Board next considered the issuance of utility commitments. In connection therewith, Mr. Rubinsky reminded the Board of a request from Jose Criollo for water and sewer service and interest in potentially requesting the District to annex a 0.74 acre tract of land located at the northwest corner of Kingsland Boulevard and Roesner Road (the "Tract"). Mr. Criollo then addressed the Board and advised that he has owned and operated a restaurant in the Houston area for many years, and purchased the 0.74 acre tract in order to construct his own building to house his restaurant and some offices. He discussed the current status of his development plans for the Tract, and queried Mr. Rubinsky and Mr. Laseter regarding various issues related to annexation procedures and obtaining water and sewer services from the District, including the costs associated therewith. Mr. Rubinsky advised Mr. Criollo that Van De Wiele will need to perform an annexation feasibility study for the Tract, subject to the receipt of a \$10,000 deposit to cover the costs of same, before water and sewer service can be provided to the Tract by the District. Mr. Baker then recommended that Mr. Criollo engage a civil engineer before moving forward with the District's annexation feasibility study in order to have an informed party fully inspect the Tract and predict future costs to be incurred through Harris County or the City of Houston for developing same, including permits, a certified plat of the Tract, installation of driveways and curb cuts, and construction of a sanitary sewer line. Following discussion on the matter, Mr. Criollo advised the Board that he is not ready to move forward with the annexation feasibility study at this time, but will return at a future date to further discuss annexation options after his development plans have progressed further.

### **STATUS OF COMMUNICATIONS WITH THE GRAND HARBOR HOMEOWNERS' ASSOCIATION ("HOA")**

Mr. Rubinsky advised there is no update regarding the status of communications between the District and the HOA regarding the proposed improvement of park and recreational facilities and other common areas within the boundaries of the District.

**ENGAGEMENT OF CONDEMNATION COUNSEL**

In connection with the proposed acquisition of Restricted Reserve "E" in Lakes of Grand Harbor, Section Three by the District for a Park Site, Mr. Rubinsky reminded the Board of its previous discussions regarding the possibility of the District acquiring said tract through the exercise of its powers of eminent domain. In that regard, Mr. Rubinsky presented and reviewed with the Board an engagement letter from Hunton Andrews Kurth ("Andrews Kurth") to represent the District in acquiring the tract from the HOA through condemnation, a copy of which is attached hereto as **Exhibit L**. The Board next considered the adoption of a Resolution Declaring the Existence of a Public Necessity for the Establishment, Development, and Maintenance of Recreational Facilities and the Acquisition, by Donation, Purchase or Exercise of the Power of Eminent Domain of Property Interests Required for that Project; Authorizing the Acquisition of Such Property Interests; Delegating Authority to the Board President; and Resolving Matters Incidental and related thereto (the "Resolution"), attached hereto as **Exhibit M**. Following discussion, Director Witt moved that the Board (i) adopt the Resolution, (ii) that the Vice President and Secretary be authorized to execute the Resolution on behalf of the Board and the District, and (iii) that Andrews Kurth be engaged as condemnation counsel for the District. Director Barbarino seconded the motion, which unanimously carried.

**STATUS OF MASTER PARKS PLAN PREPARED BY TALLEY LANDSCAPE ARCHITECTS, INC. ("TALLEY")**

A brief discussion followed regarding the draft proposal for the design of the Park Site and Middle Basin East projects listed in Priority I of the Master Parks Plan ("Phase I"), previously received from Talley. The Board concurred to defer consideration of approval of Phase I of Priority I of the Plan until the Park Site has been acquired by the District from the HOA.

**HARRIS COUNTY SHERIFF'S OFFICE SECURITY REPORT**

The Board next reviewed the Harris County Sheriff's Office's ("HCSO") Contract Report for January 2019, a copy of which is attached hereto as **Exhibit N**. Director Barbarino queried why there is only one (1) neighborhood check at Towns at Seville. Mr. Rubinsky advised the Board that SPH would contact HCSO and provide an update regarding same at its next meeting. No action was required of the Board at this time.

**LAW ENFORCEMENT SERVICES**

The Board deferred consideration of an Amendment to Law Enforcement Services Funding Agreement between the District and Harris-Fort Bend Counties Municipal Utility District NO. 1 until its next meeting.

**DISTRICT WEBSITE**

Mr. Rubinsky advised that there was no update regarding the status of the District's website at this time.

**ATTORNEY'S REPORT**

The Board next considered the attorney's report. Mr. Rubinsky reported that he had nothing further to report to the Board other than the items previously discussed.

**REVIEW OF DISTRICT CONSULTANTS' CONTRACTS**

The Board deferred discussion regarding review of the District's consultants' contracts.

**EXECUTIVE SESSION**

The Board concurred that a Closed Session would not be required in connection with the matters discussed at today's meeting.

**ADJOURNMENT**

There being no further business to come before the Board, upon motion made by Director Witt, seconded by Director Barbarino and unanimously carried, the meeting was adjourned.



  
Secretary

## LIST OF EXHIBITS

Exhibit A	Tax Assessor/Collector's Report
Exhibit B	Bookkeeper's Report
Exhibit C	Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District
Exhibit D	Operator's Report
Exhibit E	Resolution Approving Submittal of the Water Smart Application for Inclusion in the Association of Water Board Directors Water Smart Partners Program
Exhibit F	Insurance Proposal for term 2019-2020 prepared by Arthur J. Gallagher & Co.
Exhibit G	Insurance Proposal for term 2019-2020 prepared by McDonald & Wessendorff Insurance
Exhibit H	Proposals prepared by Seaback Maintenance, Inc.
Exhibit I	Bid Tabulation prepared by Van De Wiele & Vogler Incorporated
Exhibit J	Engineer's Report
Exhibit K	Resolution Adopting Prevailing Wage Rate Scale for Construction Projects
Exhibit L	Engagement Letter with Hunton Andrews Kurth LLP
Exhibit M	Resolution Declaring the Existence of a Public Necessity
Exhibit N	Harris County Sheriff's Office's Contract Report