

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

March 31, 2015

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 31<sup>st</sup> day of March, at the Pecan Grove Country Club, Highway 359 at Plantation Drive, Richmond, Texas, inside the boundaries of the District, and the roll was called of the members of the Board:

Chad Howard	President
Ryan Yokubaitis	Vice President
Buddy Kluppel	Secretary
Randy Vance	Assistant Vice President/ Assistant Secretary
Kirk Boyd	Assistant Vice President/ Assistant Secretary

and all of the above were present.

Also present at the meeting were residents of the District listed on Exhibit A attached hereto and Grady Turner and Scott Saenger of Jones & Carter, Inc. ("J&C"); Greg Ordeneaux of Tax Tech, Inc.; Mike Ammel, Clayton Galloway and Breah Campbell of Environmental Development Partners, L.L.C. ("EDP"); Pat Naff of CDC Unlimited, LLC; Shirley McLennan of McLennan & Associates, L.P.; Sergeant Jean Gobar and Deputy Jordan Kelly of Fort Bend County Sheriff's Office; Blake Kridel of Storm Water Solutions LLP; Marcus Campbell of Time and Season Property Management ("Time & Season"); Chief Joe Woolley, Chuck Bertrand and Mark Heath of Pecan Grove Volunteer Fire Department ("PGVFD"); and Lynne Humphries and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

REMARKS FROM THE BOARD PRESIDENT

Director Howard opened the meeting at 6:04 p.m. and welcomed attendees.

COMMENTS FROM THE PUBLIC

Mr. Paul Metcalf inquired regarding the status of the District's adoption of a fire plan and fire agreement and the probability of getting approval on the November, 2015 election ballot. Mr. Metcalf then left the meeting.

Ms. Wendy Erlich-Hale thanked the Board for posting of updated information regarding the status of drainage improvements in the District on the website and urged the Board to proceed with drainage improvements planned for Plantation, Sections 4 and 5 as soon as possible.

Paul Stanley and his daughter requested the Board consider developing an off leash dog park in the District and suggested a portion of Pecan Grove Park near the gravel parking lot.

Mr. Minchew inquired regarding making public comments during the Board's discussion of the District's proposed fire agreement with the PGVFD. He then discussed the history of the District's consideration and Board's deliberation of a proposed fire plan and fire agreement with the PGVFD and urged the Board to adopt both at this meeting with no further delays.

### CONSENT AGENDA

Director Howard offered Board members the opportunity to remove items from the consent agenda for individual discussion. Director Kluppel moved to approve all items on the consent agenda, with the exception of item i. Director Boyd seconded the motion, which passed by unanimous vote. Copies of all documents approved as part of the consent agenda are attached.

### GARBAGE COLLECTION AND RECYCLING SERVICES (item (i) from Consent Agenda)

The Board considered a notice from WCA Waste Corporation of Texas of an annual rate adjustment (consumer pricing index increase) of \$0.12 per residence beginning May 1, 2015. Following review and discussion, Director Kluppel moved to authorize ABHR to place an item on the April regular meeting agenda to consider an Amended Rate Order increasing the District's base sewer rate by \$0.12. Director Boyd seconded the motion, which passed unanimously.

### SECURITY AND PUBLIC SAFETY MATTERS

Sgt. Gobar reported on patrol and security since the Board's last regular meeting and reported recent meetings with the Vice Principal at Austin Elementary and Chief Joe Woolley to discuss traffic issues in and around Austin Elementary during peak school traffic hours and rearranging the school's traffic plan for better traffic flow during those times. Mr. Dickinson requested that Sgt. Gobar follow up regarding heavy truck traffic on Timothy Lane.

Chief Woolley discussed VFD activity since the last meeting and the upcoming Fireball Classic fund raising event.

Sgt. Gobar and Deputy Kelly left the meeting.

Directors Yokubaitis and Kluppel reported regarding recent discussions/meetings with the PGVFD Board and City of Richmond (the "City")

regarding the proposed Fire Protection Services Agreement and Fire Plan, including remaining questions regarding resident cost and service to both Pecan Lakes and Fort Bend Municipal Utility District No. 118 ("Waterside"). Discussion ensued between the Board and board members of the PGVFD regarding making sure District residents do not subsidize fire service to Waterside, appropriate contract language to either address Waterside's mandatory payment or removing service to Waterside. Director Kluppel noted the President of the Waterside Board has communicated to him that Waterside residents are not interested in a fire plan/fire agreement and expect fire service through Fort Bend County if PGVFD could or would not continue to serve Waterside. Mr. Heath and Chief Woolley requested additional time to further discuss the proposed fire agreement with Waterside and the Board then concurred to request that ABHR revise the proposed fire agreement to remove language regarding ISO ratings and include language requiring that PGVFD terminate service to Waterside if the fire plan passes at a District election and Waterside has not adopted a time plan to submit to the Texas Commission on Environmental Quality ("TCEQ"). Ms. Humphries then updated the Board regarding the City's consideration of a proposed fire services agreement and said the City is prepared to enter into a contract, similar to the City's other contracts to serve property along the Grand Parkway north of the District, to continue to serve Pecan Lakes and commercial properties in the District. Ms. Humphries discussed probable schedules for community meetings to discuss the fire plan and agreements and submission of the fire plan to the TCEQ assuming the City approves its proposed fire services agreement at its April 20, 2015 meeting. Director Kluppel moved to include in the fire agreement that PGVFD terminate service to Waterside if Waterside has not committed to a fire plan by the time District voters approve a fire agreement. Director Yokubaitis seconded the motion, which was unanimously approved.

The Board received additional comment from John Minchew urging the Board to commit service of the entire District, including Pecan Lakes, to the PGVFD. Directors Howard, Kluppel and Yokubaitis noted that the Pecan Lakes Homeowner's Association and Pecan Lakes residents attending the February, 2015 regular meeting and a fire committee meeting with the City requested continued fire service through the City. Mr. Minchew then left the meeting. Following discussion, the Board concurred to hold a special meeting on April 15, 2015 at 6:00 p.m. to further consider and adopt a final fire plan and fire agreement for submission to the TCEQ.

Representatives of PGVFD left the meeting.

### BULLHEAD BAYOU

Mr. Kridel discussed the water quality in Bullhead Bayou and significant reduction in vegetation following installation of the aerators. The Board discussed trash in and around Bullhead Bayou and concurred to request that CDC pick up the trash

when they mow. Mr. Kridel also discussed thermal overload of the fountains and requested EDP notify him if the fountain motors are not running.

#### DEVELOPMENT AND MAINTENANCE OF PARKS

Mr. Campbell reviewed a parks report, a copy of which is attached, updated the Board on maintenance and repairs in District parks and discussed reservations.

Mr. Campbell also requested the Board consider raising the hourly rate/fees paid for park oversight and maintenance.

Following review and discussion, Director Kluppel moved to (1) approve the parks report; and (2) approve Time & Season's proposal for increased fees and hourly rate, with the additional maintenance cost for Memorial Park to be effective May 1, 2015. Director Yokubaitis seconded the motion, which passed unanimously.

Additional discussion ensued regarding budgets and development of a future dog park.

Mr. Kluppel reported regarding recent meetings with new owners of the Pecan Grove Plantation Country Club golf course, which included discussions regarding potential land exchanges to move the golf course equipment barn next to Memorial Park between the levee and tree area.

#### OPERATION OF DISTRICT FACILITIES

Mr. Ammel reviewed the EDP operations report for the month of February, 2015, a copy of which is attached, and which was provided in advance to the Board.

Mr. Ammel reported the status of maintenance and repairs made during the month.

Ms. Campbell discussed and requested approval of the following:

1. a bid from Texas Fence Company in the amount of \$3,750 to replace the wood fence and two 12 foot gates along the east drainage channel; and
2. a bid from Texas Fence Company in the amount of \$12,080 to replace the wood fence and 2 wrought iron gates at water plant no. 3.

Following review and discussion, Director Boyd moved to approve the bids submitted by Texas Fence Company and authorize ABHR and the engineer to prepare a short form construction contract for same. The motion, which was seconded by Director Yokubaitis, passed unanimously.

Mr. Ammel reported regarding the flow meter at the surface water treatment plant and discussed meetings with the meter manufacturer to resolve flow testing issues. Mr. Ammel also discussed necessary piping modifications as part of the installation of the flow meter for waste leaving the surface water treatment plant.

Following review and discussion, Director Kluppel moved to approve the operations report. Director Boyd seconded the motion, which passed unanimously.

#### TERMINATION OF WATER AND SEWER SERVICE TO DELINQUENT CUSTOMERS

The Board next conducted a hearing on the termination of utility service to delinquent accounts. Mr. Ammel reported that the residents on the delinquent list included in the operator's report were mailed written notice prior to this meeting in accordance with the Rate Order, notifying them of the opportunity to appear before the Board to explain, contest or correct the utility service bill, and to show reason why utility service should not be terminated for reason of nonpayment. Director Kluppel moved that, because the customers on the termination list were not present at the meeting to address the Board, and did not submit a written statement on the matter, utility service for such customers should be terminated in accordance with the District's Rate Order. Director Boyd seconded the motion, which passed unanimously.

#### ENGINEERING MATTERS

Mr. Turner reviewed the engineering report, a copy of which is attached, and which had been distributed to the Directors in advance of the meeting.

Mr. Turner next reviewed two bids for improvements at water plant no. 2 and recommended that the Board award the contract to the lowest qualified bidder, W.W. Payton Corporation, in the amount of \$550,000, based on the engineers' recommendations, and because it would result in the best and most economical completion of the project. Mr. Turner also discussed supplemental items, including installation of a concrete fence in lieu of a chain link fence for \$48,500 and modifications to the pump station to allow for an access walkway for \$16,000. It was noted this project is funded from surplus construction (bond) funds. Director Kluppel moved to approve the award of the contract to the lowest qualified bidder, W.W. Payton Corporation, including supplemental items, based upon the recommendation of J&C and subject to review and approval of payment and performance bonds and insurance. Director Boyd seconded the motion, which passed unanimously. Director Howard requested that J&C get an estimate to add a mow strip to the bottom of the concrete fence. Director Howard also requested J&C follow up regarding any encroachments on the levee.

Mr. Turner next presented a proposal from Clements Fence in the amount of \$7,000 for fencing as part of the proposed additional security equipment proposed for the surface water treatment plant.

Ms. Humphries next updated the Board on development of the 22 acre Arenosa tract and said ABHR received notice/correspondence regarding archeological issues raised by a homeowner on Plantation Meadows (out of the District) to Fort Bend County, specifically regarding an alleged cemetery on the 22 acre tract. Ms. Humphries said the Fort Bend County Historical Commission and a specialist hired by Mr. Niles has already inspected the site and found no evidence of a cemetery, as alleged, and Fort Bend County has now signed the construction plans and a notice to proceed has been issued to the contractor. She added the notice was sent to the Texas Historical Commission before construction commenced by GTI Environmental, LLC, the specialist hired by Mr. Niles.

Mr. Turner next reported regarding the construction of the Pecan Lakes Flood Protection System and recommended the Board approve Change Order No. 9 in the amount of \$15,185 to repair slope failure along Jones Creek and Pay Estimate No. 20 in the amount of \$117,966.50, payable to Lecon, Inc. Director Howard requested that J&C instruct CDC to mow the levee area.

Mr. Turner next discussed improvements at lift station no. 2 and recommended the Board approve Pay Estimate No. 2 in the amount of \$72,900, payable to McDonald Municipal and Industrial. Mr. Dorger noted that the AT&T line for the SCADA system was exposed and running through a pedestal in his back yard. Ms. Campbell said she would follow up with the contractor to make sure the exposed line is buried.

Following review and discussion, upon a motion by Director Kluppel and a second by Director Boyd, the Board voted unanimously to (1) approve the engineer's report; (2) approve a proposal from Clements Fence in the amount of \$7,000 for fencing at the surface water treatment plant; (3) approve Change Order No. 9 in the amount of \$15,185 to repair slope failure along Jones Creek and Pay Estimate No. 20 in the amount of \$117,966.50, payable to Lecon, Inc., for the Pecan Lakes Flood Protection System; and (4) approve Pay Estimate No. 2 in the amount of \$72,900 improvements at lift station no. 2, payable to McDonald Municipal and Industrial.

#### DISTRICT WEBSITE AND NEWSLETTER

Director Yokubaitis and Ms. Campbell discussed planning for the next newsletter.

REPORTS FROM DIRECTORS, COMMITTEES, AND DISTRICT CONSULTANTS REGARDING CORRESPONDENCE AND/OR REPORTS RECEIVED DURING THE MONTH AND EVENTS AND ACTIVITIES ATTENDED DURING THE MONTH AND ATTORNEY'S REPORT

Director Kluppel reported regarding Brazos River Authority matters.

Ms. Humphries discussed with the Board amending the District's General Use Guidelines and Rules and Rental Policies for recreational facilities. Discussion ensued regarding previous reservation requests including and requesting permission for the service of alcohol. Following review and discussion, the Board concurred to place an item on the April meeting agenda to consider amendment of the District's General Use Guidelines and Rules and Rental Policies for recreational facilities, including language specifically addressing non-profit group sale of goods or services. The Board agreed use of alcohol in District recreational areas would continue to be prohibited.

Ms. Humphries next discussed with the Board options for maintaining documents, including disclosures, on the District website through the District's records management program that meets the requirements of the Local Government Records Act. Following review and discussion, the Board concurred to continue its current practice of removing disclosures no longer relevant from the website with the addition of new language instructing browsers to contact the District for access to previously filed disclosures which are part of the District's public records.

EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO (1) SEEK ADVICE ON PENDING OR CONTEMPLATED LITIGATION, INCLUDING CONDEMNATION PROCEEDINGS, AND (2) MATTERS IN WHICH THE DUTY OF THE ATTORNEY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT CONFLICT WITH CHAPTER 551 TEXAS GOVERNMENT CODE AND SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO (1) SEEK ADVICE ON PENDING OR CONTEMPLATED LITIGATION, INCLUDING CONDEMNATION PROCEEDINGS, AND (2) MATTERS IN WHICH THE DUTY OF THE ATTORNEY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT CONFLICT WITH CHAPTER 551 TEXAS GOVERNMENT CODE

Director Howard announced the Board would convene in executive session at 8:29 p.m. to conduct a private consultation with the District's attorney to seek advice on litigation matters. J&C consultants were also present during executive session.

RECONVENE IN OPEN SESSION AND AUHTHORIZE APPROPRIATE ACTION

The Board reconvened in open session at 8:47 p.m. No action was taken as a result of discussion in executive session.

EXECUTIVE SESSION PURSUANT TO THE SECTION 551.072, TEXAS GOVERNMENT CODE, TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY

The Board determined no executive session was necessary.

EXECUTIVE SESSION PURSUANT TO SECTION 551.076, TEXAS GOVERNMENT CODE TO DELIBERATE THE DEPLOYMENT, OR SPECIFIC OCCASIONS FOR IMPLEMENTATION, OF SECURITY PERSONNEL OR DEVICES

The Board determined no executive session was necessary.

There being no additional business to consider, the meeting was adjourned at 8:48 p.m.

  
Secretary, Board of Directors



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