

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

August 30, 2011

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 30th day of August, 2011, 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:

Joe Taylor	President
Richard Stolleis	Vice President
G. E. Kluppel	Secretary
John Minchew	Assistant Vice President/ Assistant Secretary
Kevin Krahn	Assistant Vice President/ Assistant Secretary

and all of the above were present, thus constituting a quorum.

Also present at the meeting were Mr. and Mrs. C. K. Dickenson, Jim Ashmore, Lee Dorger, Paul Metcalf, Conley Shepherd, Kirk Boyd, Lydia Giordano, Chase Giordano, Sharon Dozier, Doug Strand, Robert Barta, and Fred Ross, residents of the District; Ken Stringer of LEM Construction Co., Inc. ("LEM Construction"); Brian Jordan, Bethany Miller, and Jason Kirby of Jones & Carter, Inc. ("J&C"); Greg Ordeneaux of Tax Tech, Inc.; Clayton Galloway, Doug Owen, Brea Campbell, and Mike Ammel of Environmental Development Partners, L.L.C. ("EDP"); Mary Ann Mihills of McLennan & Associates, L.P.; Kevin Atkinson and Sylvia Avila of WCA Waste Corporation of Texas, LP ("WCA"); Pat Naff of CDC Unlimited, LLC ("CDC"); Sheldon Buck of Malcolm Pirnie, Inc. ("Malcolm Pirnie"); Alan Sandersen of Sandersen Knox & Company, LLP; Greg Lentz of First Southwest Company; Deputy James Eleckel of the Fort Bend County Constable's Office, Precinct 3; and Lynne B. Humphries, Hannah Brook, and Janet Swartz of Allen Boone Humphries Robinson LLP ("ABHR").

MINUTES

The Board considered approving the minutes of July 20 and 26, and August 9, 2011, meetings, which were prepared and distributed in advance of the meeting. Director Stolleis discussed several revisions to the July 20, 2011 minutes. Following review and discussion, Director Kluppel moved to approve the minutes of the July 26 and August 9, 2011, meetings. Director Stolleis seconded the motion, which carried unanimously. Following further discussion, Director Stolleis moved to approve the minutes of the July 20, 2011 meeting, as revised. Director Minchew seconded the motion, which was unanimously approved.

CONTRACT FOR ELECTRICITY WITH TXU ENERGY

Director Taylor updated the Board on a proposal he obtained for the renewal of a contract for electricity. He recommended that the Board authorize a contract for

electricity with Reliant Energy. After discussion, Director Kluppel moved to authorize Director Taylor to negotiate a contract with Reliant Energy for electricity for a five-year term, contingent upon review and approval of the contract by ABHR. Director Krahn seconded the motion, which passed unanimously.

#### DITCH, LEVEE MAINTENANCE, AND REPAIRS

Mr. Naff updated the Board on ditch, levee maintenance, and repairs. He reported that CDC completed the spraying of herbicide on the expansion cracks and desilting of the ditch. Mr. Naff discussed the possibility of overseeding the levee with winter rye and stated that he would discuss this at the next meeting.

#### GARBAGE COLLECTION AND RECYCLING SERVICES

Mr. Atkinson distributed and reviewed a report on garbage collection in the District during the past month, a copy of which is attached. Director Taylor stated that WCA has notified the District that the annual CPI increase for 2011 is 3.4%, which results in an increased rate for garbage collection of \$0.42 per month per connection. He added that WCA will increase the current garbage collection rate from \$12.45 to \$12.87 effective November 1, 2011. The Board concurred to consider adoption of an Amended Rate Order at the next meeting.

#### TAX ASSESSMENT AND COLLECTIONS MATTERS

Mr. Ordeneaux reviewed with the Board the monthly tax assessor/collector's report, a copy of which is attached. He updated the Board on the status of collection of delinquent taxes and 2010 tax payments and responded to questions from Board members. Following review and discussion, Director Stolleis moved to approve the tax assessor/collector's report, and authorize payment of bills from the tax account. Director Minchew seconded the motion, which passed by unanimous vote.

#### DISCUSS 2011 TAX RATE, SET PUBLIC HEARING DATE, AND AUTHORIZE NOTICE OF PUBLIC HEARING REGARDING ADOPTION OF TAX RATE

Mr. Lentz recommended a proposed 2011 debt service tax rate of \$0.31 per \$100 of assessed valuation. The Board discussed a proposed tax rate of \$0.55 per \$100 of assessed valuation, \$0.24 for maintenance and operations and \$0.31 for debt service. After review and discussion, Director Kluppel moved to approve a proposed tax rate of \$0.55 per \$100 of assessed valuation and to authorize the tax assessor/collector to publish notice in the Fort Bend Herald of the 2011 tax rate hearing on September 27, 2011, where the Board will adopt the proposed tax rate. Director Krahn seconded the motion, which passed unanimously.

#### OPERATION OF DISTRICT FACILITIES AND HEARING REGARDING TERMINATION OF WATER AND SEWER SERVICE TO DELINQUENT ACCOUNTS

Mr. Ammel reviewed the EDP operations report for the month of August, 2011, a copy of which is attached, and which was provided previously to the Board. He

discussed increased water loss due to main line breaks. Mr. Ammel noted that EDP reported an effluent permit excursion that occurred in July, 2011, at the wastewater treatment plant to the Texas Commission on Environmental Quality ("TCEQ"). He added that samples collected following the excursion were satisfactory.

Mr. Ammel recommended the repair of booster pump motor no. 2 at water plant no. 2 at a cost of \$4,458.00.

Mr. Ammel stated that the District is required to submit an Emergency Preparedness Plan to the TCEQ by February 1, 2012, and implement the plan prior to June 1, 2012. Mr. Ammel reviewed a proposal for EDP to prepare the Emergency Preparedness Plan and submit it to the TCEQ.

Mr. Ammel stated that Pecan Lakes Community Association has requested the reimbursement of two months of late penalties which were caused by a change in the management company.

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 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. A copy of the termination list is attached.

After review and discussion, Director Stolleis moved to (1) approve the operator's report, (2) authorize the repair of booster pump motor no. 2 at water plant no. 2 at a cost of \$4,458.00; (3) authorize EDP to prepare and submit an Emergency Preparedness Plan to the TCEQ; (4) approve reimbursement of two months of late penalties to the Pecan Lakes Community Association; and (5) 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 Kluppel seconded the motion, which carried unanimously.

#### DISTRICT NEWSLETTER AND WEBSITE

Director Stolleis reported that he, Director Krahn, Ms. Wynn, and Ms. Campbell are working on the District newsletter which will be sent out in October. He stated that notice of the District's October 26, 2011 meeting on surface water conversion will be in the newsletter.

#### CONVERSION TO SURFACE WATER

Mr. Buck reviewed an Activity Report from Malcolm Pirnie on the surface water treatment plant, a copy of which is attached.

Mr. Buck stated that LEM Construction has requested that retainage on the contract be reduced to 5%. Mr. Buck reviewed and recommended approval of Pay

Estimate No. 16 from LEM Construction in the amount of \$670,540.09. Mr. Buck recommended payment of Invoice No. 15 from Terracon in the amount of \$2,387.50. After review and discussion, Director Kluppel moved, based upon Mr. Buck's recommendation, to (1) approve Pay Estimate No. 16 in the amount of \$670,540.09 to LEM Construction; (2) approve payment to Terracon in the amount of \$2,387.50; and (3) approve reduction in retainage to 5% on the contract with LEM Construction. Director Krahn seconded the motion, which passed unanimously.

The Board discussed the District's meeting scheduled for October 26, 2011 on the surface water conversion.

### ENGINEERING MATTERS

Mr. Kirby reviewed with the Board the engineer's report, a copy of which is attached, and which was provided in advance of the meeting.

Mr. Kirby stated that J&C solicited bids from four contractors for lift station no. 5 electrical improvements. He then recommended award of a contract in the amount of \$49,880.00 to Neil Technical Services Corp. The Board concurred that in its judgment, Neil Technical Services Corp. was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Kirby updated the Board on the construction of surface water treatment plant offsite utility extensions. He reviewed and recommended approval of Pay Estimate No. 3 in the amount of \$141,440.22 to Hurtado Construction Company.

Mr. Kirby stated that the water well no. 4 rework project is complete. He reviewed and recommended approval of final Pay Estimate No. 3 in the amount of \$12,907.30 to Alsay Incorporated, approval of the Certificate of Completion, and final acceptance of the project.

Mr. Kirby updated the Board on the MS-4 Storm Water Management Plan.

Mr. Kirby stated that J&C is reviewing the TCEQ draft general permit for MS-4. Director Taylor requested that ABHR coordinate with the Board and consultants on comments on the draft of the general permit.

Following review and discussion, Director Stolleis moved to (1) approve the engineer's report; (2) based upon the engineer's recommendation, award a contract for lift station no. 5 electrical improvements to Neil Technical Services Corp. in the amount of \$49,880.00; (3) approve Pay Estimate No. 3 in the amount of \$141,440.22 to Hurtado Construction Company for the surface water treatment plant offsite utility extensions, based upon the engineer's recommendation; and (4) based upon the engineer's recommendation, approve final Pay Estimate No. 3 in the amount of \$12,907.30 to Alsay Incorporated for the water well no. 4 rework project, approve the Certificate of Completion and final acceptance of the project. Director Krahn seconded the motion, which passed by unanimous vote.

## FINANCIAL AND BOOKKEEPING MATTERS

Ms. Mihills distributed and reviewed the monthly bookkeeper's report, a copy of which is attached, and which was provided in advance of the meeting, including the investment report, budget comparison, and the District's bills. She stated that she will revise the proposed budget for the fiscal year ending September 30, 2012, and present it to the Board for adoption at the next regular meeting. After review and discussion, Director Kluppel moved to approve the bookkeeper's report, investment report, and payment of the District's bills. Director Krahn seconded the motion, which passed by unanimous vote.

## REPORTS FROM DIRECTORS AND DISTRICT CONSULTANTS REGARDING EVENTS AND ACTIVITIES ATTENDED DURING THE MONTH, INCLUDING FORT BEND FLOOD MANAGEMENT ASSOCIATION MEETINGS

Director Kluppel updated the Board on his attendance at meetings of the Fort Bend Flood Management Association, Gulf Coast Water Authority, and with Judge Hebert regarding flood insurance.

Director Krahn reported on a meeting with residents of Pecan Lakes regarding design of the Floodplain Protection System. Ms. Dozier noted that comments from Pecan Grove residents will be submitted to the District by October 15, 2011.

## COMMENTS FROM THE PUBLIC

There were no comments from the public.

## DEVELOPMENT AND MAINTENANCE OF PARKS

The Board reviewed a report on parks for August from the park manager, a copy of which is attached.

## REPORT ON SECURITY MATTERS, AGREEMENT FOR ADDITIONAL LAW ENFORCEMENT SERVICES WITH FORT BEND COUNTY, AND APPROVE AGREEMENT FOR COST SHARING OF LAW ENFORCEMENT SERVICES WITH PECAN GROVE PLANTATION PROPERTY OWNERS ASSOCIATION

The Board tabled discussion on the Agreement for Additional Law Enforcement Services and Agreement for Cost Sharing of Law Enforcement Services with Pecan Grove Plantation Property Owners Association. Deputy Eleckel reported on security in the District.

## DISTRICT FIRE PLAN AND REPORT FROM FIRE PLAN COMMITTEE

Director Stolleis reported that he will meet with Mr. Pietsch, Mr. Ammel, and Mr. Kirby to discuss the possible fire plan.

## ATTORNEY'S REPORT

Ms. Brook stated that the District received a Deed and Easement from WSG Pecan Grove IV, LP for the Pecan Lakes Floodplain Protection System for acceptance.

The Board conducted an annual review of the District's Investment Policy. Ms. Brook recommended that the Board adopt an Amended Investment Policy in order to update several provisions of the current policy. She reviewed an Amended Investment Policy with the Board. The Board tabled adoption of the Amended Investment Policy. Ms. Brook then reviewed the District's Resolution Establishing the Authorized Depository Institutions and Adopting List of Qualified Broker/Dealers with Whom the District May Engage in Investment Transactions.

Ms. Brook reviewed an Interlocal Agreement between the District and the Fort Bend County Drainage District. After review and discussion, Director Kluppel moved to (1) accept the Deed and Easement from WSG Pecan Grove, IV, LP for Pecan Lakes Flood Plain Protection System; (2) adopt a Resolution Establishing the Authorized Depository Institutions and Adopting List of Qualified Broker/Dealers with Whom the District May Engage in Investment Transactions, and direct that the Resolution be filed appropriately and retained in the District's official records; and (3) approve the Interlocal Agreement with the Fort Bend County Drainage District and direct that the Agreement be filed appropriately and retained in the District's official records. Director Stolleis seconded the motion, which carried unanimously.

Director Stolleis left the meeting.

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

At 7:18 p.m., Director Taylor announced that the Board would convene in executive session to deliberate the deployment or specific occasions for implementation of security personnel or devices.

### RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING THE DEPLOYMENT OR SPECIFIC OCCASIONS FOR IMPLEMENTATION OF SECURITY PERSONNEL OR DEVICES

Director Taylor announced the Board would reconvene in open session at 7:47 p.m.

After discussion, Director Kluppel moved to authorize Director Taylor to approve a contract for security at the surface water plant at a cost not to exceed \$10,000 a month. Director Krahn seconded the motion, which carried unanimously.

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

The Board did not convene in executive session to deliberate the purchase, exchange, lease, or value of real property.

CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO DISCUSS PENDING OR CONTEMPLATED LITIGATION INCLUDING CONDEMNATION PROCEEDINGS

At 7:50 p.m., Director Taylor announced that the Board would convene in executive session to conduct a private consultation with its attorney to discuss pending or contemplated litigation including condemnation proceedings.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING PENDING OR CONTEMPLATED LITIGATION INCLUDING CONDEMNATION PROCEEDINGS

Director Taylor announced the Board would reconvene in open session at 8:02 p.m. After discussion, Director Kluppel moved to approve an agreement for settlement for condemnation with Old South Plantation, Inc., Cause No. 10-CCV-041348. Director Minchew seconded the motion, which carried unanimously.

CONDUCT ANNUAL REVIEW OF AUDITOR

The Board conducted an annual review of the auditor.

CONDUCT ANNUAL REVIEW OF BOOKKEEPER CONTRACT

The Board conducted an annual review of the bookkeeper. Ms. Mihills reviewed an Amendment to the Agreement for Services for Bookkeeper between McLennan & Associates, Inc. and the District. The Board concurred to consider approval of the Amendment to the Agreement for Services for Bookkeeper between the District and McLennan & Associates, Inc. at the next meeting.

CONDUCT ANNUAL REVIEW OF GARBAGE COLLECTOR

The Board tabled review of the garbage collector.

CONDUCT ANNUAL REVIEW OF FINANCIAL ADVISOR

The Board conducted an annual review of the financial advisor.

CONDUCT ANNUAL REVIEW OF TAX ASSESSOR/COLLECTOR

The Board conducted an annual review of the tax assessor/collector.

Mr. Ammel reviewed an Amendment to the Contract for Operations Services. After review and discussion, Director Kluppel moved to approve the Amendment to the Contract for Operations Services and direct that the Amendment be filed appropriately and retained in the District's official records. Director Minchew seconded the motion, which carried unanimously.

There being no further business to come before the Board, the meeting was adjourned.

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Secretary, Board of Directors

(SEAL)

LIST OF ATTACHMENTS TO MINUTES

	Minutes
	<u>Page</u>
report on garbage collection.....	2
tax assessor/ collector's report .....	2
EDP operations report for August, 2011 .....	2
termination list .....	3
Activity Report from Malcolm Pirnie on the surface water treatment plant.....	3
engineer's report .....	4
bookkeeper's report.....	5
August parks report .....	5