

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

September 29, 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 29<sup>th</sup> day of September, 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; Grady Turner and Scott Saenger of Jones & Carter, Inc. ("J&C"); Kathy Cruthirds of Tax Tech, Inc.; Jim Grove with Ventana Development; Mike Ammel, Jaison Sanwald, Sarah Hume, Alex Alvarado, Clayton Galloway and Breah Campbell of Environmental Development Partners, L.L.C. ("EDP"); Trevor Royal, Pedro Pratt and Melvin Moore of WCA Waste Corporation of Texas ("WCA"); Pat Naff of CDC Unlimited, LLC; George Diaz and Shirley McLennan of McLennan & Associates, L.P.; Blake Kridel of Storm Water Solutions, LP ("SWS"); Sergeant Jean Gobar of Fort Bend County Sheriff's Office ("FBSCO"); Marcus Campbell of Time and Season Property Management ("Time & Season"); David Ciarella of Enhanced Energy Services of America, LLC ("Enhanced"); and Lynne Humphries and Jane Miller of Allen Boone Humphries Robinson LLP.

REMARKS FROM THE BOARD PRESIDENT

Director Howard opened the meeting at 6:05 p.m. and welcomed attendees.

OPERATION OF DISTRICT FACILITIES

Mr. Ammel discussed recent customer complaints regarding high water use and made a presentation regarding District water production, including amounts metered at District facilities, and discussed meter reading procedures, including information about water meters, including how they measure usage and replacement of old meters. Mr. Ammel, Ms. Campbell, Mr. Alvarado and Board members answered customer

questions regarding meter reading and billing schedules and cycles, calibration of meters at District facilities, efforts to detect leakage system wide, water leased and fees charged to Johnson Development, and surface and ground water capital and operating expenses. Mr. Ammel also discussed water rates of surrounding districts. Director Kluppel discussed legislation requiring conversion to surface water. Ms. Katherine Feiser discussed with the crowd information she received from EDP, including ongoing discussions with EDP. Ms. Hale-Erlich discussed recent reports regarding theft of water.

#### COMMENTS FROM THE PUBLIC

Director Howard called for comment from Sharon Frazier, Adam Barringer and Chris French, all of whom signed up to make public comment, but no one responded.

Ms. Catherine Feiser commented that she received water production data from EDP, which she is reviewing and discussing with EDP.

Mr. Don Morrow commented regarding options regarding the surface water treatment plant to reduce production costs.

Director Howard called for comment from Melodie Carrier and John Minchew, but both passed.

Ms. Anne Annis and Mr. Wayne Edwards updated the Board regarding development of acreage at the end of Timothy Lane, outside the District, including continued issues with through truck traffic and repair of disturbed yards, drives and street. Ms. Annis said that the sidewalk poured in front of her home is unacceptable and that concrete sidewalk debris was left in her yard. Both Ms. Annis and Mr. Edwards complained that the project has not been completed within the original time frame promised by the contractor. Mr. Edwards commended EDP for being responsive and professional during the project.

Mr. Mark Allen appeared to protest the meter readings and high usage on his water bill.

Mr. William Birch reported a damaged sidewalk and injury on Plantation Drive near the Pecan Grove Plantation Country Club.

Mr. Steve Crow reported that the ditch on west of Pitts Road needs to be cleaned. Mr. Naff said cleaning is scheduled for next week.

## OPERATIONS OF DISTRICT FACILITIES (CONTINUED)

Director Kluppel discussed the District's Groundwater Reduction Plan and penalties imposed on the District for surface water production less than 30%, water required to be purchased under the District's System Water Availability Agreement with the Brazos River Authority ("BRA"), via the Gulf Coast Water Authority, and budgeting for repair and rehabilitation of aging facilities.

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

Mr. Ammel reported on the status of maintenance and repairs made during the month, including fire hydrant painting, and recommended the Board approve the following:

1. Replacement of the wastewater treatment plant variable frequency drive for one of the Granulated Activated Carbon pumps at the surface water treatment plant for an amount not to exceed \$9,525;
2. Replacement of the No. 2 Chlorine Dioxide feed pump at the surface water treatment plant and purchase a spare pump for an amount not to exceed \$11,382.50; and
3. Replacement of Pall computer at the surface water treatment plant for a price not to exceed \$6,862.12.

Mr. Ammel updated the Board regarding replacement of fencing and gates at water plant no. 3 and the Board concurred to authorize the operations committee to approve pricing for column adjustments when new proposals are received.

Mr. Ammel also updated the Board regarding the District's pending insurance claim for lightning strike damage at the surface water treatment plant and Ms. Campbell reported regarding an insurance claim submitted for an injury/fall on a sidewalk. Discussion ensued regarding repair of sidewalks where they are impacted by a district facility or line. Mr. Turner said the sidewalk accident on Plantation Drive reported to EDP was in the Fort Bend County right of way and should be reported to Fort Bend County.

Ms. Campbell next presented six customer appeals. Copies of the customer appeals, including information provided by both the customer and the District operator, are attached to these minutes. Ms. Campbell confirmed that the water invoiced to each customer was delivered through each customer meter.

Mr. Mark Allen made an appeal to the Board for high water usage during the months of July and August and questioned EDP's meter reading accuracy. Mr. Ammel

said the customer's meter was replaced with a new meter, but said EDP needs to put the original meter back in to get baseline readings.

Ms. Campbell discussed Fort Bend County produced voting location information inserts that will be included in the water bills in the next billing cycle.

Following review and discussion, Director Boyd moved to (1) approve the operations report; and (2) approve the repairs listed above. Director Kluppel 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 Vance seconded the motion, which passed unanimously.

#### 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 f, h and g. Director Yokubaitis seconded the motion, which passed by unanimous vote. Copies of all documents approved as part of the consent agenda are attached.

#### ITEMS REMOVED FROM CONSENT AGENDA

Director Vance requested the Board consider review and possible termination of the District's contract of Sandersen Knox & Co., LLP and discussed previous discussions and allegations regarding fraud questionnaires submitted during the audit period ended September 30, 2014. Director Vance said he requested clarification by ABHR or Sandersen Knox & Co., LLP regarding whether the fraud questionnaire is a "legal" document and has not received an answer. Director Howard noted that the District has a 3 year engagement with Sandersen Knox & Co., LLP ending in 2015. Discussed ensued regarding auditing standards and Governmental Accounting Standards Board ("GASB") requirements. Director Vance noted that submitted fraud questionnaires are confidential and were publicly disclosed in the 2014 audit cycle. Ms.

Humphries discussed reconciliation of Director per diems identified by the District's auditor following the September 30, 2014 audit and disclosure of information regarding Director per diems in open meetings. Following discussion, Director Vance tabled further discussion.

The Board next considering authorizing the District auditor to prepare the audit report for the fiscal year end September 30, 2015, pursuant to a 3 year contract with the District. Following review and discussion, Director Boyd moved to authorize the District auditor to prepare the audit report for the fiscal year ending September 30, 2015 pursuant to the contract. Director Kluppel seconded the motion, which passed by a vote of 4 to 1, with Director Vance opposing the motion.

Director Kluppel discussed waste and recycling collection, including customer complaints. Mr. Pratt discussed WCA's response to complaints, including pick up schedule consistency and trash left in streets and the bottom of trash bins, and service interruptions.

PUBLIC HEARING REGARDING DISTRICT'S TAX RATE, ORDER LEVYING TAXES, AND AMENDMENT TO INFORMATION FORM

Ms. Cruthirds stated Tax Tech, Inc. published a Notice of Public Hearing in the Fort Bend Herald notifying that the District anticipates levying a \$0.64 tax rate at this meeting. Director Howard then opened the public hearing. No members of the public came forward to make comments. Director Howard then closed the public hearing.

Ms. Humphries presented to the Board an Order Levying Taxes for 2015 reflecting a total \$0.64 tax rate, comprised of \$0.39 for debt service and \$0.25 for operations and maintenance. She then presented to the Board an Amendment to Information Form reflecting the 2015 tax rate. Following review and discussion, Director Kluppel moved to adopt the Order Levying Taxes as presented, approve and authorize execution of the Amendment to the Information Form, and direct that the Order and Amendment be filed appropriately and retained in the District's official records. Director Boyd seconded the motion, which passed unanimously.

ADDITIONAL BOOKKEEPING MATTERS

Ms. McLennan announced the merger of McLennan & Associates, L.P. and ABIP Advisors LLC ("ABIP"), effective September 1, 2015 and introduced George Diaz of ABIP.

## SECURITY AND PUBLIC SAFETY MATTERS

Sergeant Gobar reported on patrol and security since the Board's last regular meeting.

Sgt. Gobar updated the Board regarding the Interlocal Agreement with Fort Bend County Sheriff's Department for patrol during the District's 2015-2016 fiscal year. Director Howard thanked Jim Ashmore to working with the Fort Bend County auditor to confirm new correct contract pricing.

Ms. Humphries next explained that, in accordance with Section 4.003 of the Texas Election Code, the Notice of Election must be given by posting at least 21 days prior to the election: (1) on the political subdivision's Internet website along with the Order Calling; (2) at the County Clerk's office on the bulletin board used for posting notices of meetings of the political subdivision; and (3) by posting in each election precinct that is in the District (Precincts: 1103, 3041, 3063, 3104, 4082). Following review and discussion, Director Boyd moved to approve execution of the Notice of Election and authorize posting, as discussed above. Director Yokubaitis seconded the motion, which passed unanimously.

## 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, discussed policies and procedures for vehicles left unattended in the park past park closing time. Director Howard also discussed replacement of fall surface underneath playground equipment and said the parks committee is looking at more cost effective replacement options.

## BULLHEAD BAYOU

The Board discussed the water quality in Bullhead Bayou and Mr. Kridel updated the Board regarding previous issues with automatic overload and shut down of aerators. Mr. Kridel said SWS installed an automatic reset ground fault circuit interrupter ("GFCI") and the problems have been resolved. He also updated the Board regarding ongoing treatment of alligator weed. Following review and discussion, the Board concurred to remove discussion regarding Bullhead Bayou from the agenda.

## 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. Grover discussed a proposed 625 home residential development on McRary Road north of The Swinging Door and requested the Board consider providing sanitary

sewer capacity to serve the out of District development, which is located in Fort Bend County Municipal Utility District No. 143. Mr. Turner discussed a proposed scope for a feasibility study, including an analysis of influent and pollutant concentration, including treatment requirements, and assessment of capital recovery costs. Mr. Saenger said the District has available capacity on a flow basis. Following review and discussion, the Board expressed an interest in providing capacity, subject to feasibility, and concurred to authorize J&C to move forward at Mr. Grover's sole cost, and direct ABHR to place an agenda item for capacity/project discussion on the October agenda.

Mr. Turner updated the Board regarding the Johnson Development water connection and said J&C is putting together a punch list to complete the project and make all repairs. Ms. Annis continued comment regarding the damage to her property, including red spray paint on her sidewalk and fence, and the installation of the sidewalk in front of her home. Following review and discussion, Director Boyd moved to authorize ABHR to send a letter to the developer, Fort Bend County Municipal Utility District No. 134D and Fort Bend County Municipal Utility District No. 134E making them aware of the complaints and ongoing issues and requesting immediate resolution. Director Yokubaitis seconded the motion, which passed unanimously.

Mr. Turner first reported regarding a request from the Texas Commission on Environmental Quality ("TCEQ") to recreate and submit data for facility permitting, including a facilities inventory and records of all water plant facilities and requested authorization to prepare the documents requested.

Mr. Turner next discussed the status of design of Water Plant No. 1 MCC replacement and requested authorization to advertise for bids for construction.

Mr. Turner reported that J&C anticipates a construction schedule by the end of the week for drainage improvements in The Grove, Sections 4 and 5 and Plantation, Sections 4 and 5 and said the schedule will be posted on the District website.

Mr. Turner then updated the Board regarding the status of design of drainage improvements in Plantation, Section 7. Director Boyd requested that J&C include Director Yokubaitis, in the place of Director Kluppel when he is out of town, and him when meeting with the golf course owners to finalize plans.

Mr. Turner updated the Board regarding the status of construction of water, sewer and drainage facilities to serve The Terrace at Pecan Grove and recommended the Board table approval of payment of the District's share of Pay Estimate No. 4 in the amount of \$1,151.57, pending repair of a fence and general property cleanup by CNS Construction.

Mr. Turner then reported regarding water plant no. 2 improvements and recommended approval of Pay Estimate No. 2 in the amount of \$75,364.20, payable to WW Payton.

Mr. Turner requested authorization to submit the Pecan Lakes Levee Project to the ACEC Engineering Excellence Awards.

Ms. Humphries discussed Johnson Development's capacity lease agreement provision wherein the District annually reviews the budget for expenses included in the fee computation and, if applicable, authorizes notice to Johnson Development of any intent to include additional expenses and/or modify the user fee. Mr. Turner reported that there are no additional fees/expenses and said no adjustment is needed this year.

Following review and discussion, upon a motion by Director Kluppel and a second by Director Yokubaitis, the Board voted unanimously to (1) approve the engineer's report; (2) approve the pay estimates presented and discussed above; (3) authorize J&C to recreate and submit data for facility permitting, including a facilities inventory and records of all water plant facilities, as requested by the TCEQ; (4) authorize J&C to advertise for bids for construction of Water Plant No. 1 MCC replacement; and (5) authorize J&C to submit the Pecan Lakes Levee Project to the ACEC Engineering Excellence Awards.

#### DISTRICT WEBSITE AND NEWSLETTER

Director Yokubaitis discussed delivery of the newsletter. Following review and discussion, upon a motion by Director Yokubaitis and a second by Director Boyd, the Board authorized posting of annual energy usage information to the District's website.

#### REPORTS FROM DIRECTORS, COMMITTEES, AND DISTRICT CONSULTANTS REGARDING CORRESPONDENCE AND/OR REPORTS RECEIVED DURING THE MONTH

Director Kluppel discussed proposed Phase 2 of the BRA's Lower Brazos River Floodplain Protection Planning Study and said the total study cost is \$1.2 million. Following review and discussion, Director Boyd moved to authorize cost participation in the amount of \$3,500. Director Vance seconded the motion, which passed unanimously.

#### ATTORNEY'S REPORT

Ms. Humphries reviewed a Memorandum from ABHR regarding conflict of interest disclosure required under Chapter 176 of the Texas Local Government Code and disclosure forms adopted by the Texas Ethics Commission, a copy of which is attached. Ms. Humphries stated that pursuant to Chapter 176 of the Texas Local



Government Code, the District will maintain a List of Local Government Officers. Ms. Humphries reviewed the List of Local Government Officers. After review and discussion, Director Yokubaitis moved to approve and authorize execution of the List of Local Government Officers and direct that the List be filed appropriately and retained in the District's official records. Director Boyd seconded the motion, which passed by unanimous vote.

Ms. Humphries next discussed completed and pending open records requests made to the District, including a request to the Attorney General of Texas seeking clarification regarding the confidentiality of the fraud questionnaire prepared by and submitted to the auditor requested in an open records request. Ms. Humphries provided a copy of the request made to the Attorney General of Texas, a copy of which is attached to these minutes. Additional discussion ensued regarding previous allegations regarding fraud questionnaires submitted during the audit period ended September 30, 2014.

Ms. Miller stated Mr. McFarland reported there was no new information regarding the District's lawsuit against the City of Richmond related to the tract on FM 359.

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

The Board determined no executive session was necessary.

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 9:20 p.m.

  
Secretary, Board of Directors

(SEAL)



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