

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

January 26, 2016

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 26<sup>th</sup> day of January, 2016 at the Pecan Grove Country Club, 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, except Director Yokubaitis, thus constituting a quorum.

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"); Greg Ordeneaux of Tax Tech, Inc.; Mike Ammel, Jason Sanwald, Clayton Galloway and Breah Campbell of Environmental Development Partners, LLC ("EDP"); Pat Naff of CDC Unlimited, LLC ("CDC"); Trevor Royal of WCA Waste Corporation of America ("WCA"); Shirley McLennan of McLennan & Associates, L.P.; Sergeant Jean Gobar of Fort Bend County Sheriff's Office ("FBSCO"); Marcus Campbell of Time and Season Property Management ("Time & Season"); Chief Joe Woolley of the Pecan Grove Volunteer Fire Department ("PGVFD"); Alan Sandersen of Sandersen Knox & Co., LLP ("SK"); and Lynne Humphries, Hannah Brook and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

REMARKS FROM THE BOARD PRESIDENT

Director Howard opened the meeting at 6:05 p.m., welcomed attendees and commented regarding false information contained in flyers recently distributed within the community regarding the District's ongoing negotiations with the owners of the golf club and course to facilitate drainage improvements.

COMMENTS FROM THE PUBLIC

Mr. and Mrs. Potts said they attended the meeting because of information in the letter regarding the District's negotiations with the owners of the golf club and course and thanked Director Howard for the clarification and update.

Mr. Schuey complained that the District's contractor installing storm sewer cracked his patio concrete and is sending dirt debris into his pool. He said a supervisor took his complaint and promised to send someone by to inspect, but no one came.

Mr. Metcalf requested that the District's garbage contractor declare and keep a consistent collection schedule.

#### 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 consent agenda items i and g. Director Boyd 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 Boyd then moved to approve the 2015 fiscal year audit, authorize the President's execution of the Texas Commission on Environmental Quality ("TCEQ") Annual Filing Affidavit, authorize the filing of the audit with the TCEQ, and direct that the audit be filed appropriately and retained in the District's official records. Director Kluppel seconded the motion, which was unanimously approved. Director Howard reported the current contract with SK was for a 3 year term and requested that ABHR solicit proposals to engage a District auditor to prepare the District's audit for the 2016 fiscal year end at the appropriate time.

#### ADDITIONAL BOOKKEEPING MATTERS

Ms. McLennan presented additional handwritten checks for pay estimates and payment to the Pecan Grove Volunteer Fire Department. Following review and discussion, Director Vance moved to approve the additional handwritten checks. Director Boyd seconded the motion, which passed unanimously.

#### SECURITY AND PUBLIC SAFETY MATTERS

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

Chief Woolley reported PGVFD activity for the month of December, 2015.

## DEVELOPMENT AND MAINTENANCE OF PARKS

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

Discussion ensued regarding current District parks rules and regulations, and use of soccer fields during rain events or when wet. Mr. Campbell said the fields are deteriorating due to use in wet conditions. Following review and discussion, Director Vance moved to close the soccer fields for the season and authorize posting of signs informing the public of the closure. Director Kluppel seconded the motion, which passed unanimously.

Mr. Campbell also discussed a request from members of Lamar Little League to lease fields during baseball season. The Board concurred to defer discussion until additional information regarding the League's request for use is received.

## OPERATIONS OF DISTRICT FACILITIES

Mr. Ammel reviewed the EDP operations report for the month of November, 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, requested approval of the following proposals and authorization to make the following repairs and confirmed that necessary disclosures for compliance with House Bill 1295 were submitted along with the proposals:

1. Proposal from K2 Services, LLC in the amount of \$13,377 to replace the control panel at lift station no. 6;
2. Proposal from Hahn Services in the amount of \$9,692.86 for repair of lift pump no. 1 at lift station no. 6 and additional \$1,000 in EDP time and materials;
3. Replace the remote site radio at water plant no. 3 for a quoted cost of \$2,660 from Prime Controls
4. Replace the mechanical seals on low lift pump no. 2 at the surface water treatment plant for a quoted cost of \$4,175 from Alsay;
5. Repair raw water pump no. 1 at the surface water treatment plant for a quoted cost of \$8,018 from Alsay, Inc.; and
6. Programming modifications at the surface water treatment plant for a quoted cost of \$4,000 from Prime Controls.

Ms. Brook discussed implementation of House Bill 1295 that was passed by the Texas Legislature during the 84<sup>th</sup> Legislative Session, which enacted Section 2252.908, Government Code, imposing new requirements for any new, amended, extended or renewed contracts entered into by governmental entities on or after January 1, 2016.

Ms. Brook stated that business entities must file a FORM 1295 with the Texas Ethics Commission and disclose certain interested parties, intermediaries, and controlling interests when seeking any contract that is in excess of \$1 million or requires an action or vote by the governing body before a governmental entity may enter into a contract. She discussed FORM 1295 promulgated by the Texas Ethics Commission for a business entity to complete, execute and notarize, and provide to the governmental entity at or in advance of the meeting at which the related contract may be considered.

Mr. Grady and Mr. Ammel discussed customer correspondence received complaining of poor back lot drainage. Director Kluppel requested that J&C make an inspection to confirm that the drain is functioning properly.

Director Kluppel requested an agenda item on the March regular meeting agenda to discuss amendment to the District's contract with EDP.

Following review and discussion, Director Kluppel moved to (1) approve the operations report; and (2) approve all proposals and work authorizations listed above. Director Vance 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.

#### 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 updated the Board regarding the Johnson Development water connection and said punch list repair items are complete.

Mr. Turner first reported regarding wastewater treatment plant phase 1 improvements and recommended the Board approve Pay Application No. 2 in the amount of \$60,192. Discussion ensued regarding building color selection and options for covering/storing chlorine canisters. Mr. Grady recommended removing the

originally approved scope of work to install a rigid canopy over the canisters. Following review and discussion, the Board concurred to remove the scope of work to install a rigid canopy and to appoint a Board committee of Directors Kluppel and Vance to meet with EDP to discuss canister storage options and reconfiguration of plant appurtenances, if necessary, to facilitate construction of storage for the chlorine canisters.

Mr. Turner next reported regarding sanitary sewer cleaning and televising near 2014 Woodland Drive and obstructions identified, repaired and cleaned, also noting required point repairs outside the initial budget performed by EDP. He recommended the Board approve Pay Estimate No. 2 in the amount of \$12,280.37, payable to Sewer Services of Texas.

Mr. Turner next updated the Board regarding drainage improvements for the Grove, Sections 4 and 5 and Plantation, Sections 4 and 5 and recommended the Board approve Pay Estimate No. 3 in the amount of \$263,164.77, payable to LECON, Inc. He updated the Board regarding an underground abandoned pipe on the Smith Estate tract and said both ends have been capped and the contractor is going to remove the pipe.

Discussion ensued regarding drainage improvements planned for Plantation, Section 7, including easements pending and ongoing negotiation with the owners of the golf club and course. Ms. Brook presented a proposal from Fox & Company for appraisal of easement tracts and confirmed that the necessary disclosure for compliance with House Bill 1295 was submitted along with the proposal.

Mr. Turner updated the Board regarding repair of an additional sinkhole downstream of the drainage channel and said CDC is completing the work and estimates the final amount will be \$48,500.

Mr. Turner reported regarding construction of the Pecan Lakes Pump Station and recommended the Board accept the project as final and execute a Certificate of Acceptance.

Mr. Turner then reported regarding water plant no. 2 improvements and recommended approval of Pay Estimate No. 6 in the amount of \$141,315.79, payable to WW Payton.

Mr. Turner presented for signature a Notice of Change to the District's MS4 program showing J&C's new address.

Ms. Humphries discussed a temporary right of entry at Jones Creek requested by Costello on behalf of the Fort Bend County Drainage District. The Board discussed trees from the other side of Jones Creek falling onto District property. Following review

and discussion, the Board concurred to conditionally approve the temporary right of entry, subject to an exchange of removal of trees along Jones Creek.

Following review and discussion, upon a motion by Director Boyd and a second by Director Kluppel, the Board voted unanimously to (1) approve the engineer's report; (2) approve the pay estimates presented and discussed above; and (3) approve the Pecan Lakes Pump Station as final and approve execution of a Certificate of Acceptance.

#### DISTRICT WEBSITE AND NEWSLETTER

Ms. Campbell updated the Board regarding upgrade of the District website, including a mobile application use and preparation of the next District newsletter.

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

Director Kluppel updated the Board regarding funding for the Brazos River Authority's Phase 2 Floodplain Protection Planning Study.

#### ATTORNEY'S REPORT

Ms. Brook stated she had nothing additional to report.

#### 2016 DIRECTORS ELECTION

Ms. Brook said Section 31.122 of the Texas Election Code (the "Code") requires the Secretary of the elected Board of Directors to keep his office open for election duties for at least three hours each day, during regular office hours, on regular business days during the period beginning not later than the 50th day before the election and ending not earlier than the 40th day after the election. Ms. Brook noted that the law was amended to allow an agent of the District to serve as the District's agent for election purposes. Following review and discussion, Director Kluppel moved to adopt a Resolution Designating an Agent of the Secretary of the Board and to appoint Jane H. Miller as the agent of the Board and to authorize posting of Notice of same at Harris County and in the District. Director Boyd seconded the motion, which passed unanimously.

Ms. Brook said the Notice of Candidate Filing Period was posted in the District.

The Board next considered approving a Joint Election Agreement and Contract for Election Services with Fort Bend County. Following review and discussion, upon a motion by Director Kluppel and a second by Director Vance, the Board voted

unanimously to authorize signature of a Joint Election Agreement and Contract for Election Services with Fort Bend County.

Ms. Brook reported the District is required to call the 2016 Directors Election by February 19, 2016. She presented an Order Calling Directors Election. Following review and discussion, Director Vance moved to approve the Order Calling Directors Election and authorize posting of a Notice of Election. The motion, which was seconded by Director Boyd, passed unanimously.

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 7:43 P.m. to conduct a private consultation with the District's attorney to seek advice on litigation matters. ABHR was present during executive session.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION

The Board reconvened in open session at 7:48 p.m. Upon a motion by Director Boyd and a second by Director Kluppel, the Board voted unanimously to proceed, as discussed 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.

  
Secretary, Board of Directors





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