

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

January 27, 2009

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 27th day of January, 2009, 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
Stephen Crow	Vice President
G.E. Kluppel	Secretary
Richard Stolleis	Assistant Vice President/ Assistant Secretary
John Minchew	Assistant Vice President/ Assistant Secretary

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

Also present at the meeting were Jim Ashmore, Jim Keller, Paul Metcalf, Lawson Cook, Kirk Boyd, Wayne Watts, Greg Valikonis, and Mr. and Mrs. C. K. Dickenson, residents of the District; Trent Slovak, Sheldon Buck, and Mike MacPhee of Malcolm Pirnie, Inc.; Pat Naff of CDC Unlimited, L.L.C. ("CDC"); Jason Kirby of Jones & Carter, Inc. ("J&C"); Greg Ordeneaux of Tax Tech, Inc.; Mike Ammel, Andy Phelps, and Brea Campbell of Environmental Development Partners, L.L.C. ("EDP"); Shirley McLennan of McLennan & Associates, L.P.; Marquita Griffin of the Fort Bend Herald; Dan McDonald of Anco-McDonald Waterworks Insurance Services, L.L.C.; Jayson Petersen, General Manager of Pecan Grove Country Club; Mark McGrath of Null-Lairson, PC; and Lynne Humphries, Hannah Brook, and Janet Swartz of Allen Boone Humphries Robinson LLP ("ABHR").

MINUTES

The Board considered approving the minutes of the December 19 and 30, 2008, meetings, which had been prepared and distributed in advance of the meeting. Following review and discussion, Director Kluppel moved to approve the minutes of the December 19 and 30, 2008, meetings. Director Stolleis seconded the motion, which was approved by unanimous vote.

PECAN GROVE ATHLETIC ASSOCIATION

The Board discussed the mowing of Belin Park by the Pecan Grove Athletic Association (the "PGAA"). After review and discussion, Director Kluppel moved to approve the annual payment to the PGAA in the amount of \$8,000. Director Stolleis seconded the motion, which passed unanimously.

CONVERSION TO SURFACE WATER, PROGRESS UPDATE ON SURFACE WATER PLANT DESIGN FROM MALCOLM PIRNIE, INC., AND AGREEMENTS FOR SALE OF CONVERSION CREDITS

Mr. Slovak updated the Board on the design of the surface water plant and the site layout. The Board asked that Mr. Slovak send a copy of the plan to the District's office. Mr. Slovak distributed a rendering of the plans for the building and discussed office space. He introduced Mr. Buck and stated that he will be the project manager. Mr. Slovak stated that he will contact Ms. Wright and ask her to notify the property owner that the geotechnical consultant is ready to commence work on the site. The Board requested that Mr. Slovak update the Board on the design schedule at the next meeting. Director Stolleis requested that Malcolm Pirnie, Inc. include in the plans the preservation of a portion of property on the west side of the site for a future road. Ms. Humphries stated that she distributed the draft Agreement for the Sale of Conversion Credits for review.

Mr. Slovak stated that he contacted Mr. Istre of the Gulf Coast Water Authority regarding the conveyance of water. He added that he will discuss with Mr. Istre the contract needed between the District and the Authority. He added that he will schedule a meeting with representatives of Malcolm Pirnie, Inc., J&C, and Mr. Istre to discuss options for the delivery of water.

AUDIT FOR FISCAL YEAR ENDED SEPTEMBER 30, 2008

Mr. McGrath reviewed the District's audit for the 2008 fiscal year. Following review and discussion, Director Kluppel moved to approve the audit subject to the Board's revisions, authorize the President's execution of a representation letter and the Vice President's execution of the Texas Commission on Environmental Quality Annual Filing Affidavit, authorize the filing of the audit with the Texas Commission on Environmental Quality, and direct that the audit be filed appropriately and retained in the District's official records. Director Minchew seconded the motion, which was unanimously approved.

DITCH, LEVEE MAINTENANCE, REPAIRS

Mr. Naff reported on ditch and levee maintenance. He stated that he plans to trim the trees along the levee before spring foliage growth appears. Mr. Naff discussed resurfacing the pathway through Plantation Park. He stated that it will cost \$500.00 in labor plus materials. The Board requested that Mr. Naff send a final cost proposal for the project for approval to Director Crow. After discussion, Director Kluppel moved to authorize CDC to proceed with the resurfacing of the pathway through Plantation Park with crushed granite in an amount not to exceed \$3,000.00, subject to final approval by Director Crow. Director Minchew seconded the motion, which carried unanimously.

## INSURANCE POLICIES

Mr. McDonald discussed the upcoming proposal for the District's insurance to be presented in May, 2009.

## TAX ASSESSOR/COLLECTOR'S REPORT

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 2008 tax payments and responded to questions from Board members. Following review and discussion, Director Kluppel moved to approve the tax assessor/collector's report and authorize payment of bills from the tax account. Director Stolleis seconded the motion, which passed by unanimous vote.

## GARBAGE COLLECTION AND RECYCLING SERVICES

The Board discussed the apparent decrease in participation in the Christmas tree recycling program.

## FIRE AND SECURITY MATTERS, SHERIFF CONTRACT, FIRE PLAN, FIRE PLAN CONSULTANT, AND PECAN GROVE VOLUNTEER FIRE DEPARTMENT AUDIT

Director Minchew discussed current security matters handled by the Sheriff's Department in the District.

Director Kluppel stated that the Board engaged Burns Anderson Jury & Brenner, L.L.P. as a fire plan consultant to evaluate all options for fire service and to assist the District in determining whether a fire plan is in the best interest of the District.

Ms. Humphries reviewed a letter to the Board from the Pecan Lakes Community Association stating that the Board would like the District to proceed with a fire plan for the entire district, a copy of which is attached. Ms. Humphries reviewed a letter from the City of Richmond notifying the Board of the opening of Substation No. 3, a copy of which is attached.

Ms. Humphries reviewed letters previously authorized by the Board to Fort Bend County Municipal Utility District No. 118 and the Waterside Estates Home Owners Association notifying them that the District has engaged a fire plan consultant to evaluate options for fire service, copies of which are attached. The Board requested that ABHR proceed with sending the letters.

## ENGINEER'S REPORT

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

Mr. Kirby discussed re-certification of the levee and Federal Emergency Management Agency ("FEMA") flood plain re-mapping. He stated that in connection with levee re-certification, FEMA has approved the District's request to allow a variance to the three-foot freeboard rule on paved roads for Plantation Drive and Southern Place and a two-foot freeboard will be allowed in those locations.

Ms. Humphries stated that there is a regional levee meeting on January 30, 2009, at the City of Sugar Land city hall. Mr. Kirby stated that Mr. Saenger of J&C will attend on behalf of the District.

Mr. Kirby reported on the construction of levee improvements to the existing levee to meet new FEMA standards. He stated that following review of the project upon completion, he will evaluate whether there are any areas where additional freeboard should be increased. He added that the additional construction could be accomplished by using an adjustment of quantities in the current contract with Paskey Incorporated.

Director Kluppel discussed the Pecan Grove Country Club's request that the District restore grass around the golf course that is removed during construction of the levee improvements. Mr. Kirby stated that J&C has reviewed the existing levee right-of-way and easement areas and recommends shifting the levee slightly to minimize impact to the putting green. Mr. Kirby recommended that the District obtain a levee easement from W.S.G. Pecan Grove IV, LP on the northeast side of the existing levee. The Board discussed the construction work to be performed on the District's levee and the portion of the putting green that encroaches on the District's property where the work needs to be performed. The Board discussed various scenarios for the construction necessary on the levee and a possible new additional easement. After discussion, Director Kluppel moved to accept a Levee Easement from W.S.G. Pecan Grove IV, LP and payment of \$7,500.00 to W.S.G. Pecan Grove IV, LP for the easement, with the Club to be responsible for any grass restoration. Director Minchew seconded the motion, which carried unanimously. The Board reiterated to Mr. Petersen that the Pecan Grove Country Club will be responsible for restoration of grass on the golf course and putting green upon completion of levee construction.

Mr. Kirby stated that the District has received correspondence from the Fort Bend County Drainage District (the "FBCDD") on the Brazos River re-study. He added that if the information received from the FBCDD impacts the levee improvement project underway, adjustments will be made during the project.

Mr. Kirby stated that J&C will be coordinating with the Pecan Lakes Home Owners Association during the preliminary engineering phase of the Pecan Lakes levee.

Mr. Kirby stated that the application to the Texas Commission on Environmental Quality ("TCEQ") for renewal of the wastewater treatment plant permit is pending at the TCEQ.

Mr. Kirby updated the Board on the implementation of the MS4 Storm Water Management Plan ("SWMP"). He stated that the public notice of the proposed SWMP was published. Mr. Kirby stated that he has provided storm inlet markers to the operator for the District's inlets.

Mr. Kirby stated that a preconstruction meeting will be held next week for the elevated storage tank repairs.

Following review and discussion of the engineer's report, Director Kluppel moved to approve the engineer's report. Director Minchew seconded the motion, which passed unanimously.

#### DEVELOPMENT AND MAINTENANCE OF PARKS

The Board reviewed a parks management report, a copy of which is attached.

#### PUBLIC COMMENTS

In response to a question from Mr. Boyd on the status of a request from Fort Bend Independent School District ("FBISD") for out-of-district service, the Board informed Mr. Boyd that FBISD has not completed its request for service. Mr. Boyd asked why the January 22, 2009, meeting was conducted at 12:00. Director Crow responded that was the time when Mr. Ken Campbell was available to meet.

#### OPERATOR'S REPORT

Mr. Ammel reviewed the EDP operations report for the month of January, 2009, a copy of which is attached, and which was provided previously to the Board. Mr. Ammel stated that the repair of several leaks may help increase water accountability percentages.

Mr. Ammel updated the Board on the maintenance of the storm water pumps and stated that the pumps are being inspected. Mr. Ammel stated that he received another estimate for sludge removal that is higher than the District's current price.

After review and discussion, Director Kluppel moved to approve (1) the operator's report and (2) repair of a pump at lift station no. 4 in the amount of \$5,832.00. Director Minchew seconded the motion, which passed by unanimous vote.

The Board asked the operator to repeat the message on the water bill regarding the address for PGVFD donations.

## HEARING AND AUTHORIZE TERMINATION OF SERVICE

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 Minchew seconded the motion, which passed unanimously.

## DISTRICT NEWSLETTER AND WEBSITE

Director Crow discussed topics for articles for the next newsletter. Mr. Phelps stated that he will add information to the newsletter on the storm sewer inlet markers.

## RESOLUTION EXPRESSING INTENT TO REIMBURSE OPERATING ACCOUNT

The Board tabled action on this agenda item.

## BOOKKEEPER'S REPORT

Ms. McLennan 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 due to increased fees being charged by JP Morgan Chase Bank, N.A., she recommends moving the capital projects account and the debt service account to Compass Bank. After review and discussion, Director Kluppel moved to approve the bookkeeper's report, investment report, payment of the District's bills, and authorize the bookkeeper to move the capital projects account and debt service account to Compass Bank. Director Minchew seconded the motion, which passed unanimously.

## ANNUAL DISCLOSURE STATEMENTS

Ms. McLennan presented to the Board the Public Funds Investment Act Disclosure Statements for the bookkeeper and investment officer. Ms. Humphries noted that the Disclosure Statements will be filed with the Texas Ethics Commission. After review and discussion, Director Kluppel moved to accept the Disclosure Statements under the Public Funds Investment Act and direct that the Statements be filed appropriately and retained in the District's official records. Director Minchew seconded the motion, which carried unanimously.

REPORTS FROM DIRECTORS AND DISTRICT CONSULTANTS

There were no reports from directors or consultants.

ATTORNEY'S REPORT

Ms. Humphries stated that ABHR sent the Board the legislative monitoring reports.

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

The Board did not convene in executive session regarding security.

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

The Board did not convene in executive session.

CONVENE IN EXECUTIVE SESSION PURSUANT TO THE CHAPTER 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO DISCUSS PENDING OR CONTEMPLATED LITIGATION

At 7:12 p.m., Director Crow announced that the Board would convene in executive session to discuss pending or contemplated litigation.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING CONTEMPLATED LITIGATION

Director Crow announced the Board would reconvene in open session at 7:30 p.m. No action was necessary.

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

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Secretary, Board of Directors

(SEAL)

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