

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

June 30, 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 30th day of June, 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, thus constituting a quorum.

Also present at the meeting were residents of the District listed on Exhibit A attached; Curtis Paskey of Paskey, Incorporated; Sheldon Buck 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.; Andy Phelps and Amanda Benzman of Environmental Development Partners, L.L.C. ("EDP"); Mary Ann Mihills of McLennan & Associates, L.P.; Marquita Griffin of the Fort Bend Herald; and Lynne B. Humphries, Hannah Brook, and Janet Swartz of Allen Boone Humphries Robinson LLP ("ABHR").

MINUTES

The Board considered approving the minutes of the May 26, 2009, meeting, which had been prepared and distributed in advance of the meeting. Following review and discussion, Director Crow moved to approve the minutes of the May 26, 2009, meeting. Director Kluppel seconded the motion, which was approved by unanimous vote.

DITCH, LEVEE MAINTENANCE, REPAIRS

Mr. Naff reported on ditch and levee maintenance. He recommended that the Board authorize CDC to apply herbicide from the west side of Pitts Road to the T in the ditch at a cost of \$1,800. After discussion, Director Kluppel moved to authorize CDC to apply herbicide at a cost of \$1,800. Director Crow seconded the motion, which carried unanimously.

## 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 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 Crow seconded the motion, which passed by unanimous vote.

## GARBAGE COLLECTION AND RECYCLING SERVICES

There was no discussion on this agenda item.

## DEVELOPMENT AND MAINTENANCE OF PARKS

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

## OPERATION OF DISTRICT FACILITIES

Mr. Phelps reviewed the EDP operations report for the month of June, 2009, a copy of which is attached, and which was provided previously to the Board.

Mr. Phelps reviewed an estimate from NTS to install a new Toshiba motor on return sludge pump no. 2 at the wastewater treatment plant in the amount of \$3,582.50.

Mr. Phelps stated that the radiator and components need to be repaired on the generator at water plant no. 2. He added he obtained a cost estimate from UES in the amount of \$12,528.00.

Mr. Phelps reviewed a proposal from Motorola for three emergency radios which will allow access to the Harris County Emergency Radio Network containing a cost of \$5,028.75. He added that the District would need to enter into an Interlocal Agreement with Harris County for use of the emergency radio network.

Mr. Phelps reviewed a notice to the customers regarding the MS4 Storm Water Management Plan presentation scheduled for the July 28, 2009, Board meeting.

Mr. Phelps stated that an 8-inch water line under the levee at Plantation Drive needs to be replaced. He recommended the installation of new valves to allow for isolation of the line for future repairs. Mr. Phelps reviewed an estimate in the amount of \$23,600 for repair of the water line. The Board requested that Mr. Kirby arrange for J&C to have lab tests performed in connection with the replacement of the water line.

Mr. Phelps updated the Board on the repair of a broken water main on Old South Drive. He added that EDP is monitoring water usage due to the dry weather. The Board discussed sending a letter to customers regarding the District's drought contingency plan and water conservation measures.

After review and discussion, Director Kluppel moved to (1) approve the operator's report; (2) approve installation of a Toshiba motor on return sludge pump no. 2 in the amount of \$3,582.50; (3) authorize repair of the generator at water plant no. 2 at a cost not to exceed \$12,500.00, contingent upon final approval of Director Taylor; (4) authorize execution of an Interlocal Agreement between the District and Harris County for the emergency radio network; (5) authorize the operator to purchase four radios from Motorola at a cost of \$6,705.00; (6) approve the notice to customers regarding the MS4 Stormwater Management Plan presentation; (7) authorize the operator to have the 8-inch water line under the levee at Plantation Drive replaced and new valves installed at a cost not to exceed \$50,000, contingent upon final approval of the cost by Directors Taylor and Stolleis; and (8) authorize EDP to send a letter to customers regarding the District's drought contingency plan and water conservation measures. Director Crow seconded the motion, which passed by unanimous vote.

#### HEARING AND AUTHORIZE TERMINATION OF SERVICE

The Board next conducted a hearing on the termination of utility service to delinquent accounts. Mr. Phelps 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 Stolleis 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 Crow seconded the motion, which passed unanimously.

#### DISTRICT NEWSLETTER AND WEBSITE

Director Crow stated that the newsletter was mailed out. Mr. Phelps stated that the Consumer Confidence Report was posted on the District's website.

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

Mr. Buck reviewed Activity Report No. 10 from Malcolm Pirnie, Inc. on the surface water treatment plant, a copy of which is attached. He updated the Board on the design of the surface water plant. Mr. Buck discussed the tour of a surface water plant in Corpus Christi. He discussed the possibility of advertising for bids for the surface water plant in November.

Director Kluppel updated the Board on contacts with Mr. Istre of the Gulf Coast Water Authority (the "GCWA") regarding an Interlocal Agreement.

The Board discussed the possible design of an intake structure on the Brazos River. After discussion, Director Taylor moved to authorize the engineer to prepare a cost estimate for an intake structure on the Brazos River. Director Crow seconded the motion, which passed by unanimous vote.

#### 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 updated the Board on construction of levee improvements to the existing levee. Mr. Kirby stated that construction of the levee and cart path have been completed. He added that J&C and CDC conducted a site review of the construction on June 15, 2009. Mr. Kirby stated that J&C sent a letter to Paskey, Incorporated noting items to be completed prior to final inspection of the project. He added that the contractor has been working on the items noted in the letter. Director Crow stated that the Board is concerned with sloughing on the levee especially following rain and the lack of establishment of grass on the levee. Mr. Paskey apologized to the Board for the job taking longer than expected due to earlier rain. He stated that two additional crews were added to catch up on time lost on the project. Mr. Paskey stated that reseeding of the levee was done at Paskey, Incorporated's expense. He added that the bollards were installed today and the cables are being replaced. Mr. Paskey stated that it will take a week to complete the work remaining to be done between Southern Place and Pitts Road. He thanked J&C for their assistance on the project.

Mr. Kirby then reviewed and recommended payment of Pay Estimate No. 5 in the amount of \$195,112.16 to Paskey, Incorporated. After review and discussion, and a determination there was sufficient retainage withheld to complete the project, Director Crow moved that, based upon the engineer's recommendation, the Board approve Pay Estimate No. 5 in the amount of \$195,112.16 to Paskey, Incorporated. Director Minchew seconded the motion, which passed by unanimous vote. Mr. Kirby recommended that the Board approve Change Order No. 2 to the contract with Paskey, Incorporated to add \$21,942.55 to the contract for quantities for preparation and fill material, hydro-mulch seeding, and removal and replacement of a concrete path. After review and discussion, Director Crow moved that, based upon the engineer's recommendation, the Board approve Change Order No. 2 in the amount of \$21,942.55 to the contract with Paskey, Incorporated. Director Minchew seconded the motion, which passed by unanimous vote.

Mr. Kirby stated that J&C submitted comments to the TCEQ on the draft wastewater treatment plant permit and the permit renewal was declared complete on June 17, 2009. Mr. Kirby stated that notice of the permit renewal was published on June 26, 2009.

Mr. Kirby stated that a public presentation is scheduled for July 28, 2009 regarding the District's Storm Water Management Program. He stated that J&C plans to commence inspection of the inlets this week and have the field inspection completed this month.

Mr. Kirby reported on the contract for the elevated storage tank recoating and repairs. He reviewed and recommended approval of Pay Estimate No. 2 in the amount of \$41,013.00 to the contract with Williams Painting & Sandblasting, LLC. After review and discussion, Director Crow moved that, based upon the engineer's recommendation, the Board approve payment of Pay Estimate No. 2 in the amount of \$41,013.00 to the contract with Williams Painting & Sandblasting, LLC. Director Minchew seconded the motion, which carried unanimously.

Mr. Kirby stated that J&C met with representatives of the Pecan Lakes Community Association regarding the proposed Pecan Lakes levee system. He added that the overall process, options, and coordination with other entities was discussed.

Mr. Kirby stated that J&C met with representatives of TxDOT to discuss possible changes to the plans for the expansion of FM 359 to allow for alternatives to the proposed Pecan Lakes levee system. He added that the changes would allow small portions of the roadway to be raised above the proposed base flood elevation.

Ms. Brook reported that ABHR sent a Consent to Encroachment to ANJ@359LLC. The Board concurred to review the Consent to Encroachment and discuss the matter at the next meeting.

Mr. Kirby stated that Fort Bend Independent School District ("FBISD") desires to obtain water service from the District for a Middle School to be located on Plantation Drive east of the District. He added that FBISD proposes to construct a private 8-inch water line within the Plantation Drive right-of-way from the school site to connect to the District's system on the southern side of Plantation Drive. Ms. Brook distributed and reviewed a draft of an Agreement for Out-of-District Water Service with FBISD.

Mr. Kirby stated that the District received a letter from Fox & Bubela, Inc. requesting to appraise the District's property for TxDOT in connection with the FM 359 road project. The Board requested that Mr. Kirby respond to Fox & Bubela, Inc. on behalf of the District.

Mr. Kirby stated that a resident, Kristen Moore, has requested a Consent to Encroachment from the District for Lot 95, Block 5 of Pecan Grove Plantation, Section 3. He added that the existing pool, concrete pool decking and hot tub extend into a 5-foot utility easement. He added that the District currently does not have any utilities in the utility easement. After review and discussion, Director Crow moved to approve a Consent to Encroachment to Kristen Moore and direct that the Consent to Encroachment be filed appropriately and retained in the District's official records. Director Minchew seconded the motion, which passed unanimously.

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

UPDATE ON PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL NOTICE OF SALE FOR FIRST INSTALLMENT OF SURFACE WATER PLANT BONDS, SERIES 2009

There was no discussion on this agenda item.

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. After review and discussion, Director Crow moved to approve the bookkeeper's report, investment report, and payment of the District's bills. Director Stolleis seconded the motion, which passed unanimously. The Board concurred to conduct a special budget workshop meeting on August 4, 2009, at 5:30 p.m. at the Pecan Grove Country Club.

ASSOCIATION OF WATER BOARD DIRECTORS SUMMER CONFERENCE, APPROVE REIMBURSEMENT OF ELIGIBLE EXPENSES, AND AUTHORIZE ATTENDANCE AT THE ASSOCIATION OF WATER BOARD DIRECTORS WINTER CONFERENCE

The Board discussed the Association of Water Board Directors ("AWBD") summer conference. After discussion, Director Stolleis moved to approve reimbursement of eligible expenses for the summer conference, which were submitted in accordance with the District's travel and reimbursement guidelines, and authorize all interested directors to attend the AWBD winter conference. Director Crow seconded the motion, which carried by unanimous vote.

RESOLUTION EXPRESSING INTENT TO REIMBURSE OPERATING ACCOUNT

No action was necessary on this agenda item.

REPORTS FROM DIRECTORS AND DISTRICT CONSULTANTS

Director Stolleis updated the Board on his tour of a surface water plant in Corpus Christi.

ATTORNEY'S REPORT

Ms. Humphries reviewed a 2009 Legislative Update with the Board. She discussed the legislation recently passed and the impact it will have on the District.

Ms. Humphries stated that the Board has the option to vote on the matter of the Fort Bend Central Appraisal District new building proposal or nominate a candidate for the Board of Director Election of the Fort Bend Central Appraisal District. The Board concurred that no action was necessary on either item.

Ms. Humphries distributed correspondence to the Board from the U.S. Environmental Protection Agency regarding the Watersense Partnership Program and Smart Irrigation Month.

FORT BEND COUNTYWIDE LEVEE MEETING, PARTICIPATION IN SUBCOMMITTEE MEETINGS, STATUS OF FEDERAL FLOOD INSURANCE LEGISLATION, FORMATION OF FORT BEND COUNTY LEVEE ASSOCIATION OR SIMILAR COALITION, AUTHORIZE INITIAL FUNDING OF \$2,500 AND AUTHORIZE ATTENDANCE AT NAFSMA TEXAS DAY TO DISCUSS MULTI-OBJECTIVE FLOOD RISK MANAGEMENT

Director Crow stated that several directors of various levee and municipal utility districts are forming a coalition for representation on the federal level on matters concerning levees in Texas. Ms. Humphries stated that there will be a National Association of Flood and Stormwater Management Agencies ("NAFSMA") Texas Day on August 5-7 in Fort Worth, to discuss multi-objective flood risk management. After discussion, Director Crow moved to (1) authorize initial funding of \$2,500 for the Fort Bend Levee Association; and (2) authorize all interested directors to attend the NAFSMA Texas Day. Director Stolleis seconded the motion, which carried unanimously.

Ms. Humphries stated that the Fort Bend Countywide Levee Meeting is scheduled for July 10, 2009 at 12:00 p.m. at Southwest Water Company. Director Stolleis stated that he will attend the legislative subcommittee meeting of the Fort Bend Countywide Levee Committee on July 9, 2009.

SECURITY MATTERS AND SHERIFF CONTRACT

Ms. Humphries reviewed a letter from the Fort Bend County Attorney to law enforcement officials regarding enforcement of state statutes. Director Minchew discussed the need for ticketing of individuals who trespass on the levee in motorized vehicles.

Ms. Humphries stated that she met with the Fort Bend County Attorney and County Auditor regarding proposed changes to the District's Contract for Law Enforcement Services with Fort Bend County. Director Minchew updated the Board on security matters in the District.

COMMENTS FROM THE PUBLIC WHO HAVE SIGNED UP TO SPEAK

Mr. Ehling stated that he is a resident of Pecan Lakes and asked the Board for information on the design of the Pecan Lakes Levee and plans for removal of existing trees. Mr. Kirby discussed the preliminary design of the levee and stated that the design is not final. He added that once the design plans are final, J&C will review the status of existing trees.

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

At 7:38 p.m., Director Taylor announced that the Board would convene in executive session to discuss the purchase of real property.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY

Director Taylor announced the Board would reconvene in open session at 8:03 p.m. After discussion, Director Crow moved to authorize (1) ABHR to send a Landowner's Bill of Rights to Mr. Pochyla and (2) authorize an appraisal by Fox & Bubela, Inc. of a 50-foot strip of land for the Pecan Lakes Levee. Director Kluppel seconded the motion, which passed by unanimous vote. The Board requested that Mr. Kirby provide the necessary information to Fox & Bubela, Inc. for the appraisal.

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

The Board did not convene in executive session regarding pending or contemplated litigation.

CONDUCT ANNUAL REVIEW OF OPERATING SERVICES CONTRACT

The Board conducted an annual review of the operating services contract with EDP.

CONDUCT ANNUAL REVIEW OF MOWING SERVICES CONTRACT

The Board conducted an annual review of the mowing services contract with CDC.

CONDUCT ANNUAL REVIEW OF ENGINEERING SERVICES CONTRACT

The Board conducted an annual review of the engineering services contract with J&C.

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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