

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

July 31, 2012

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 31<sup>st</sup> day of July, 2012, 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
Randy Vance	Vice President
Buddy Kluppel	Secretary
Kirk Boyd	Assistant Vice President/ Assistant Secretary
John Minchew	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; Susan Denkowski of Pecan Grove Volunteer Fire Department ("PGVFD"); Roberta Douglas, Jeff Janacek, Fred Ross and Catherine Feiser, District residents; Charles A. Kalkomey, Bob Jones, Bryan Jordan, Scott Saenger and Bethany Miller of Jones & Carter, Inc. ("J&C"); Greg Ordeneaux of Tax Tech, Inc.; Mike Ammel, Clayton Galloway, Ben Connelley, Doug Owen, Angelica Ross and Breah Campbell of Environmental Development Partners, L.L.C. ("EDP"); Shirley McLennan of McLennan & Associates, L.P.; Constable Rob Cook; Lt. Edward Gordon and Deputy James Eleckel of the Fort Bend County Constable's Office, Precinct 3 ("Precinct 3"); Pat Naff of CDC Unlimited, LLC ("CDC"); Kevin Atkinson of WCA Waste Corporation of Texas, LP ("WCA"); Michael Kennedy of Arcadis U.S., Inc.; Blake Kridel of Storm Water Solutions, LP ("SWS"); and Hannah Brook and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

REMARKS FROM THE BOARD PRESIDENT

Director Howard opened the meeting and welcomed attendees.

MINUTES

The Board considered approving the minutes of the June 21, 2012, special meeting, and June 26, 2012, regular meeting, which were prepared and distributed in advance of the meeting. Following review and discussion, Director Boyd moved to approve the minutes of the June 21, 2012, special meeting, and June 26, 2012, regular meeting, as submitted. Director Kluppel seconded the motion, which carried unanimously.

SECURITY MATTERS

Lt. Gordon reported regarding specific calls within the District, including a sexual assault, burglary of a residence and criminal mischief. Director Minchew commented regarding lighting near the recently acquired District property located at the rear of the Pecan Baptist Church property.

COMMENTS FROM THE PUBLIC, MEETING CONDUCT AND POLICY REGARDING PUBLIC COMMENT

The Board also discussed implementing a policy regarding meeting conduct and public comment. Upon a motion by Director Minchew and a second by Director Kluppel, the Board voted unanimously to adopt a policy regarding meeting conduct and public comment, including in the policy a restriction regarding use of personal cell phones during the meeting.

Director Howard offered residents of the District the opportunity to make public comment.

Pat Snyder commented regarding missing voter registration cards for zip codes within the District. Ms. Campbell said that EDP would include a notice in the utility billing notifying residents to contact the Fort Bend County Voter Registrar, the Fort Bend County Attorney or the Secretary of State with any concerns regarding voter registration issues.

Fred Ross reported a joint homeowners' association (HOA) meeting on the sidewalks in the subdivision and requested that the Board consider participating in funding repair of the sidewalks. Directors Minchew and Howard volunteered to coordinate same with the HOA.

Conley Shepherd commented regarding continued discussion of donations for the PGVFD and requested that the Board consider collections for the City of Richmond Fire Department for Pecan Lakes residents.

James Lemos introduced the new Pecan Lakes Homeowners' Association representatives.

Paul Metcalf reiterated earlier comments regarding donations collected for the benefit of the Pecan Grove Volunteer Fire Department. He also commented on improvement to Memorial Park and discussed installing larger inlets at the country club property to alleviate flooding in the streets. Mr. Jordan commented that the plans currently include 3 10 x 10 inlets

Steven Crow complimented the Board on improvements to Memorial Park and expressed concern regarding the fiscal responsibility of the PGVFD and recommended

that the Board request an audit before committing to collection of donations to benefit PGVFD.

Catherine Feiser requested information regarding the completion of the surface water treatment plant and bond funding in place for same.

Jim Ashmore proposed continuation of quarterly joint meetings of the District and HOA boards.

#### DITCH, LEVEE MAINTENANCE AND REPAIRS

Mr. Naff updated the Board on ditch, levee maintenance, and repairs.

Mr. Kridel next updated the Board on the initial clean out of Bullhead Bayou, including schedules for multiple applications of herbicide and removal of plant debris. He said that the project will be completed by the end of September, 2012 and that SWS will then begin routine annual maintenance. Mr. Kridel commented that during the removal process, silt built up in the section closest to Colonel Court Drive and that sediment may have to be removed by machine. He said that SWS will redress the area following silt removal. Mr. Ammel confirmed that residents backing up to the channel were notified of the clean out.

#### GARBAGE COLLECTION AND RECYCLING SERVICES AND CONTRACT AMENDMENT TO EXTEND CONTRACT TO SEPTEMBER 30, 2017

Mr. Atkinson reviewed the customer issues log and Ms. Brook reviewed a contract amendment to the District's contract with WCA, including a 4 year extension option, and a resident option to purchase larger carts, if preferred. Following review and discussion, upon a motion by Director Kluppel and a second by Director Minchew, the Board voted unanimously to approve a contract amendment to the District's contract with WCA. Ms. Campbell said that carts will be delivered beginning Thursday.

#### TAX ASSESSMENT AND COLLECTIONS MATTERS

Mr. Ordeneaux reviewed 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, tax refunds and certification of values for 2012. Following review and discussion, Director Boyd moved to approve the tax assessor/collector's report, and authorize payment of bills from the tax account. Director Kluppel seconded the motion, which passed by unanimous vote.

Mr. Ordeneaux discussed terminating service for non-payment of taxes. Following discussion, the Board determined that no action was necessary.

## ENGINEERING MATTERS

Mr. Jordan reviewed the engineer's report, a copy of which is attached, and which was provided to the directors in advance of the meeting.

Ms. Brook presented a previously approved Services Agreement with SWS, for initial channel clean out and routine maintenance at Bullhead Bayou for Board signature.

Mr. Jordan first discussed pending drainage issues, high water mark analyses and proposed improvements for each previously discussed impact area, including full discussions of improvements that would completely remove water from streets during heavy rain events and, alternatively, improvements that would remove water from houses and yards and restrict ponding to streets.

He first discussed completed high water mark surveys and drainage models for the May, 2012 flooding in Plantation, Sections 4 and 5. Mr. Jordan a proposed project removing all water from these Sections for an estimated cost of \$3.98 million dollars and a second option allowing minimal ponding in the streets for an estimated cost of \$3.2 million dollars, both requiring construction of detention ponds outside the levee north and east of Plantation and connecting the streets with pipes directing all flow into those detention ponds. He said that each proposed improvement requires the acquisition of land and disruption of streets.

Mr. Jordan next reported on high water surveys and drainage modeling for The Grove, Sections 4 and 5 and reviewed a proposed project to removal all street ponding using the same detention ponds proposed for Plantation, Sections 4 and 5 for an estimated cost of \$2.14 million dollars.

Mr. Jordan also discussed options for either removing all standing water or allowing some ponding in streets for Plantation, Section 7. He discussed a proposed project that would involve installing piping through the golf course and a second option using the golf course as a detention pond for an estimated cost of \$4.84 million dollars. He noted that improvements routing water through the golf course involve major disruption of the golf course area.

Mr. Jordan said that the total for all proposed projects, depending on the options chosen, is estimated between \$8.5 and \$12 million dollars and will take 1.5 years to complete. The Board discussed coordinating construction of the Pecan Lakes levee with these proposed improvements, specifically construction of proposed detention ponds so that the District could use dirt removed from the pond for levee construction.

Kevin Welsh, Winnie Hill Erlich, Paul Metcalf, Pat Snyder, Jim Keller and Catherine Feiser commented further regarding pump capacity, depth measurements, costs for acquisition and schedules for construction of the Pecan Lakes levee.

Paula Gibson commented regarding flooding in her back yard on Mossy Glen. Mr. Jordan said that J&C would inspect her back yard for possible issues.

Following discussion, the Board concurred to hold a special meeting on August 22, 2012 at Pecan Grove Baptist Church at 5:30 p.m. to discuss drainage options and conduct a budget workshop.

#### CONVERSION TO SURFACE WATER

Mr. Kennedy reported the status of construction, start up and maintenance and operation of the surface water treatment plant. He said that final construction punch list repairs are 97% complete and that new covers for the sedimentation basin covers are in fabrication. Mr. Kennedy noted that installation of an auto dialer for the plant was not included in the contract.

Mr. Ammel reported that the District pumped about 4.5 million gallons of surface water during the month of July, 2012. He said that the supervisor control and data acquisition ("SCADA") system was rebuilt and became fully functional yesterday. He said that EDP is stepping through fail safe set points and operational variables to give EDP input control to the SCADA. He said that water quality has remained good and that turbidity issues in the clear well have been resolved. Upon Board inquiry, Mr. Ammel said that the SCADA system was down for 2 weeks, but that dual systems are in place now to prevent recurrence.

The Board discussed operating the plant 24 hours per day, suspending the current security contract and providing ESSI, Inc. notice of the suspension. Following discussion, upon a motion by Director Kluppel and a second by Director Boyd, the Board voted unanimously to (1) authorize EDP to operate and man the surface water treatment plant at EDP's hourly rate 24 hours per day; and (2) authorize ABHR to notify ESSI, Inc. of the District's suspension of the current security contract for the surface water treatment plant for 30 days beginning August 1, 2012.

Mr. Ammel next reviewed proposals to install an auto dialer at the surface water treatment plant. Following discussion, Director Kluppel moved to approve a proposal from BL Tech, to install an auto dialer for an amount not to exceed \$5,583. Director Boyd seconded the motion which passed unanimously.

#### VOLUNTARY CONTRIBUTIONS FROM DISTRICT RESIDENTS TO PECAN GROVE VOLUNTEER FIRE DEPARTMENT

Mr. Boyd discussed instituting a voluntary donation to the PGVFD and entering into a Services Agreement for fire services with PGVFD. Director Boyd moved to approve that the District will collect voluntary donations to PGVFD through water bills, subject to the District being able to work out an agreement with the PGVFD that will protect the District from liability and to authorize ABHR to work with the PGVFD to finalize the agreement to be presented at the August Board meeting. Director Vance seconded the motion. Discussion ensued and Director Minchew commented regarding

allegations of official oppression and possible conflict of interest for Director Vance in matters concerning the PGVFD. Ms. Brook recounted prior issues regarding collection of voluntary donations, specifically with regard to water accounts with pending penalties and interest. Mr. Ammel said that if the Board chose to collect voluntary donations, EDP would have to revise the utility billing software to implement the proposed collection. Ms. Denkowski commented on the financial condition of PGVFD, future financial planning and controls for oversight of funds management.

Discussion ensued regarding Texas Water Code provisions regarding voluntary collections and whether or not Directors Boyd and Vance had a conflict of interest with regard to PGVFD. Following discussion, Director Howard requested that the Board consider requesting input from residents regarding collection. Director Boyd then modified his motion to make the proposed collection subject to proof of resident approval by survey included in the monthly utility billing. The motion passed 3 to 2, with Directors Kluppel and Minchew dissenting. Director Minchew requested filing or proof of filing regarding Director Vance's conflict of interest regarding PGVFD. The Board discussed a survey return date of August 28, 2012 with the results to be discussed at the September regular meeting.

#### OPERATION OF DISTRICT FACILITIES

Mr. Ammel reviewed the EDP operations report for the month of July, 2012, a copy of which is attached, and which was provided in advance to the Board.

Mr. Ammel discussed water accountability in the District, overall water loss and historical use and loss, including surface water amounts pumped.

Mr. Ammel reported on significant repairs in the District and presented a proposal from Neil Technical Services ("NTS") to repair blower no. 9 at the wastewater treatment plant in the amount of \$14,940, a proposal from Moody Brothers to replace the vacuum regulators at the wastewater treatment plant in the amount of \$4,500 and a proposal from Moody Brothers to replace the chemical feed regulators at the wastewater treatment plant in the amount of \$6,840. Following discussion, Upon a motion by Director Boyd and a second by Director Howard, the Board unanimously approved (1) a proposal from NTS Pumps, Motors and Controls to repair blower no. 9 at the wastewater treatment plant in the amount of \$14,940; (2) a proposal from Moody Brothers to replace the vacuum regulators at the wastewater treatment plant in the amount of \$4,500; and (3) a proposal from Moody Brothers to replace the chemical feed regulators at the wastewater treatment plant in the amount of \$6,840.

After review and discussion, Director Kluppel moved to (1) approve the operator's report; and (2). Director Boyd 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 Boyd seconded the motion, which passed unanimously.

## DISTRICT NEWSLETTER AND WEBSITE

The Board discussed current administration of the District website and reviewed a proposal from Off Cinco with options for redesign, transfer of current website to a new hosting account and monthly maintenance. Following review and discussion, upon a motion by Director Boyd and a second by Director Vance, the Board voted unanimously to (1) terminate the District's current contract with Don Dulin; (2) authorize ABHR to give notice of termination to Don Dulin; and (3) engage Off Cinco.

## ENGINEERING MATTERS CONTINUED

Mr. Jordan reported that the final punch list items for the chloramines conversion of water plant nos. 1, 2 and 3 have been resolved and recommended that the Board approve Pay Application No. 9 in the amount of \$2,250, payable to R&B Group, Inc.

Mr. Jordan updated the Board on the wastewater treatment plant belt filter press replacement project. He reviewed and recommended approval of Pay Estimate No. 8 in the amount of \$4,500 to R&B Group, Inc. based upon the engineer's recommendation. Mr. Jordan said the contractor was notified on July 18, 2012 that they exceeded the contract period by 83 days. Mr. Jordan said that J&C requested completion of the job within 5 calendar days, which did not occur. Mr. Jordan said that he may recommend calling the bonds to complete the job.

Mr. Jordan next presented 4 proposals from electricians for wiring for pressure transmitters at the surface water treatment plant which were not included in the original contract. He recommended that the Board accept the lowest bid from NTS in the amount of \$4,800.

Mr. Jordan also presented contracts for 2012 channel slope paving for signature.

Following discussion, Director Kluppel moved to (1) call the payment and performance bonds for the wastewater treatment plant belt filter press replacement

project; (2) approve the District engineer's report; (3) approve Pay Application No. 9 in the amount of \$2,250, payable to R&B Group, Inc. for the chloramines conversion of water plant nos. 1, 2 and 3; (4) approve Pay Estimate No. 8 in the amount of \$4,500 to R&B Group, Inc. for the wastewater treatment plant belt filter press replacement project; and (5) approve a proposal from NTS in the amount of \$4,800 for wiring for pressure transmitters at the surface water treatment plant. Director Vance seconded the motion which passed unanimously.

#### ASSOCIATION OF WATER BOARD DIRECTORS SUMMER CONFERENCE, REIMBURSEMENT OF ELIGIBLE EXPENSES, AND ATTENDANCE AT WINTER CONFERENCE

The Board considered expenses submitted by Board members who attended the summer conference and considered authorizing attendance of the Association of Water Board Directors ("AWBD") winter conference. The bookkeeper noted the expenses are in compliance with the District's travel and reimbursement guidelines. Upon a motion made by Director Kluppel and seconded by Director Boyd, the Board unanimously authorized reimbursement of the expenses submitted for the summer conference and authorized attendance by all interested directors at the AWBD winter conference.

#### FINANCIAL AND BOOKKEEPING MATTERS

Ms. McLennan distributed and reviewed the monthly bookkeeper's report, a copy of which is attached, which was provided in advance of the meeting, including the investment report, budget comparison, and the District's bills. After review and discussion, Director Kluppel moved to approve the bookkeeper's report, investment report, and payment of the District's bills, including handwritten check no. 1212 to R&B Group, Inc. in the amount of \$2,250. Director Minchew seconded the motion, which passed by unanimous vote.

The Board also reviewed a draft budget for the fiscal year ending September 30, 2013 and concurred to schedule a budget workshop on August 22 at 5:30 p.m.

#### REPORT REGARDING DEVELOPMENT AND MAINTENANCE OF PARKS IN THE DISTRICT

The Board discussed Commissioner Meyers' request that the District participate in landscaping of medians along Mason Road from FM 359 to connect with Highway 99. Director Howard requested that Commissioner Meyers provide a plan and estimate for the proposed project.

Ms. Brook discussed correspondence received from Ahern Rentals, Inc. regarding invoices unpaid by the Pecan Grove Athletic Association.

The Board also discussed a park restroom door that needs repair, park lighting and repairing park trails. Mr. Ammel said that EDP would repair the park restroom door under EDP's contract.



Ms. Brook next discussed the expiration of the District's mowing contract with CDC Unlimited LLC on September 30, 2012, and said that the contract has a 60 day termination clause and automatically renews for successive one year terms. Director Howard requested that EDP obtain 3 proposals for mowing and provide to the contractors submitting bids an exhibit showing the areas to be mowed.

REPORTS FROM DIRECTORS, COMMITTEES, AND DISTRICT CONSULTANTS

Director Kluppel discussed Fort Bend Flood Management Association and Brazos River Authority meetings and activities.

Director Kluppel also discussed several scenarios for proposed surface water charges.

ATTORNEY'S REPORT

The Board concurred to take action on the Resolution Authorizing Application to the Texas Commission on Environmental Quality for Approval of Project and Bonds at the special meeting on August 22, 2012.

The Board discussed general requirements, including insurance requirements, for contractors doing business in the District and reviewed sample agreements incorporating coverage requirement options and release of liability for persons doing work for the District. Director Howard requested that ABHR send the District's short form contract with insurance provisions to the Board for review and that the matter be deferred until the August regular Board meeting.

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, SECTION 551.072, TEXAS GOVERNMENT CODE, TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY AND SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO DISCUSS PENDING OR CONTEMPLATED LITIGATION, INCLUDING CONDEMNATION PROCEEDING AND ACTIONS RELATED TO FACILITY CONSTRUCTION

The Board determined that no executive session was necessary.

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



  
Secretary, Board of Directors

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