

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

September 29, 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 29th day of September, 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; Alan Sandersen of Sandersen Knox & Co., PLLC; Sherman Williams and Sherman Williams, Jr. of Williams Painting and Sandblasting, Inc.; Sheldon Buck of Malcolm Pirnie, Inc.; Trey Sawyer 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 Breah Campbell of Environmental Development Partners, L.L.C. ("EDP"); Shirley McLennan of McLennan & Associates, L.P.; Rick May and Matthew May of Best Trash, LLC; Curtis Lacy of WCA Waste Corporation of Texas, LP ("WCA"); Marquita Griffin of the Fort Bend Herald; Mark McGrath of McGrath & Co., PLLC; Cliff Kavanaugh of First Southwest Company; 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 August 25, 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 August 25, 2009, meeting. Director Kluppel seconded the motion, which was approved by unanimous vote.

DITCH, LEVEE MAINTENANCE, REPAIRS

Mr. Sawyer reported on ditch and levee maintenance. He recommended that the levee and ditches be fertilized and the cost will be \$80.00 an acre. Director Crow stated that there are some parts of the new levee that need to be reseeded. Mr. Kirby stated that the growth on the new levee is being monitored and J&C is communicating with Paskey Inc. on turf establishment. He added that Paskey Inc. has contracted with CDC

for maintenance of the new levee until the turf has been established. After discussion, Director Kluppel moved to approve fertilization of the levee and ditches by CDC, as proposed by CDC, at a cost of \$80.00 an acre. Director Crow seconded the motion, which passed unanimously.

#### ENGAGE AUDITOR

Director Stolleis stated that the audit committee reviewed proposals from Null-Lairson, P.C., Sandersen Knox & Co, LLP, McGrath & Co., PLLC, Robert J. Fumagalli, PC, and McCall Gibson Swedlund Barfoot PLLC. He stated that the committee recommends the Board engage Sandersen Knox & Co, LLP, to conduct the audit. After review and discussion, Director Stolleis moved to engage Sandersen Knox & Co, LLP, to conduct the audit for the fiscal year ending September 30, 2009, authorize execution of the engagement letter, and direct that the engagement letter be filed appropriately and retained in the District's official records. Director Minchew seconded the motion. Upon the question being called, Directors Minchew, Crow, Kluppel, and Stolleis voted "Aye", Director Taylor abstained, and the motion passed.

#### 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.

#### DISCUSS 2009 TAX RATE, SET PUBLIC HEARING DATE, AND AUTHORIZE NOTICE OF PUBLIC HEARING REGARDING ADOPTION OF TAX RATE

Mr. Kavanaugh discussed the 2009 tax rate with the Board and stated that the rate could remain the same as the 2008 rate. The Board discussed a proposed tax rate of \$0.468 per \$100 of assessed valuation, \$0.25 for maintenance and operations and \$0.218 for debt service. After review and discussion, Director Crow moved to authorize the tax assessor/collector to publish notice of the 2009 tax rate hearing on October 27, 2009 in the Fort Bend Herald. Director Kluppel seconded the motion, which passed by unanimous vote.

#### GARBAGE COLLECTION AND RECYCLING SERVICES AND CONTRACT FOR GARBAGE COLLECTION SERVICES

Ms. Humphries stated that ABHR sent WCA a letter reflecting that the District desires to continue operating under the current garbage collection contract on a month-to-month basis at the same rates until a new garbage collection contract is finalized. Mr. Lacy reported on garbage collection in the District during the past month. Ms.

Humphries stated that the Board received draft contracts for garbage collection services from WCA and Best Trash, LLC.

Mr. Lacy stated that he has submitted packets to the Board on the types of garbage collection services WCA will continue to provide to the District under a new garbage collection contract. Director Stolleis recommended that the Board approve the commencement of negotiations with WCA for a one-year garbage collection contract. He added that he is in favor of Mr. Lacy continuing to report to the Board monthly. Director Taylor stated that in the past, the Board heard numerous residents complaints about garbage collection and Matthew and Rick May resolved most of those complaints so that currently very few, if any, complaints are received during the month. Director Taylor stated that he is only in favor of a contract with WCA that contains a 60-day termination clause for no cause. Mr. Lacy stated that he is agreeable to adding a 60-day no cause termination clause to the contract. Director Taylor stated that he is concerned that the Best Trash, LLP's currently quoted price may change if the District requests a quote a year from now. He added he is also concerned about neatness and cleanliness measures being met by any garbage contractor.

Mr. Matthew May stated that he submitted a revised Best Trash LLC quote to the Board due to lower rates obtained for insurance and landfill services. He added that service would be identical to current service provided the last few years. Mr. May stated that he implemented all of the items requested by the Board in the draft contract and submitted it to the Board in a timely manner. Mr. May stated that the rate quoted is for one year and there will be a CPI adjustment in the rate annually.

Director Minchew asked Mr. Lacy why WCA lowered the price in the proposed contract. Mr. Lacy stated that the price was affected by lower fuel costs and landfill costs. Mr. Lacy encouraged the Board to contact his references. Director Minchew stated that the Board needs to consider the services provided by Matthew and Rick May over the past seven years. Mr. Boyd requested that the garbage collector not travel on both sides of Plantation when picking up trash. Director Taylor stated that he is not in favor of any change to the provisions for pickup of heavy trash in the new contract.

Director Stolleis stated that he is in favor of a contract with WCA due to the cost savings to the District. Director Minchew stated that the Board should consider the past performance of Matthew May and Rick May. After discussion, Director Stolleis moved to authorize ABHR to negotiate a garbage collection contract with WCA for a one-year term with a 60-day no cause termination clause and other terms as previously discussed by the Board. Director Crow seconded the motion. Upon the question being called, Directors Crow, Kluppel, and Stolleis voted "Aye." Directors Taylor and Minchew voted "No" and the motion passed.

#### OPERATION OF DISTRICT FACILITIES

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

Mr. Ammel stated that the clarifier pump has been pulled at the wastewater treatment plant due to a tripping breaker. He stated that it is more economical to replace the pump at a cost of \$5,781.00.

Mr. Phelps stated that homes located at 2214 Shade Crest and 1511 Rambling Stone failed pool inspections because the piping for overflow was directed to the street instead of the sanitary sewer as required by the Rate Order. Mr. Phelps stated that Mr. Ortiz of Ortiz Pools has requested that the Board revise the Rate Order to allow overflow pipes for pools to drain to the street. Mr. Kirby stated that the Rate Order does not permit draining to the street because chlorinated water is not to drain to the storm sewer system. The Board concurred that no revision to the Rate Order is necessary.

Mr. Phelps stated that the District's fire hydrant located at Farmer Road at Oyster Creek was damaged by a motor vehicle. He stated that an invoice for back charges for the cost of the repairs will be sent to the owner of the motor vehicle. He added that he will report the damage to the Sheriff's Department. Ms. Humphries stated that it is a violation of state law to damage District property. Mr. Phelps stated that the fire hydrant was replaced and relocated.

Mr. Phelps stated that EDP has been recognized by Fort Bend County Judge Hebert as NIMS competent. Mr. Phelps updated the Board on the repair of the large water line leak on Highway 359.

Mr. Kirby reported on a meeting with representatives of TxDOT on relocation of the District's water lines and force main in the right-of-way along Highway 359 that provide service to Pecan Lakes. He stated that TxDOT requested a recent survey of the District's facilities. Mr. Kirby added that a survey is currently being conducted by J&C. He stated that TxDOT may adjust the relocation plans for the lines to avoid conflicts.

Mr. Phelps stated that the District utilized the Texas Water Development Board's offer of the use of leak detection equipment. After review and discussion, Director Kluppel moved to approve the operator's report and replacement of the clarifier pump at the wastewater treatment plant at a cost of \$5,781.00. 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. 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 Crow seconded the motion, which passed unanimously.

#### ADOPT AMENDED RATE ORDER

Ms. Brook discussed amendments to the Rate Order and the addition of a section on discharges into the District's storm drainage system in accordance with the District's Storm Water Management Plan. After review and discussion of the proposed revisions, Director Crow moved to adopt the Amended Rate Order and Rules and Regulations Regarding District System, Parks and Connections, direct that the Order be filed appropriately and retained in the District's official records, and authorize publication of a notice regarding the Amended Rate Order in the Fort Bend Herald. Director Kluppel seconded the motion, which passed unanimously.

#### COMMENTS FROM THE PUBLIC

Mr. Streich stated that he is a resident of the District and an engineer working in the industry of municipal utility districts. He added that he is interesting in serving on the Board if a position were to become available.

#### EPA GROUNDWATER RULE

Ms. Humphries discussed the new EPA Ground Water Rule. Mr. Kirby stated that he is currently evaluating the new rule. Mr. Ammel stated that he will determine the best method for compliance of the rule by the District. He stated that the District may need to install an automatic monitoring system in the District.

#### DISTRICT NEWSLETTER AND WEBSITE

Mr. Phelps updated the Board on the status of the next newsletter for release in October. He stated that several links have been added to the District's website.

Discussion ensued regarding the use of an Email Blast System. Director Taylor stated that the Email Blast System can be utilized to notify the various homeowners associations, who can then notify their residents. Ms. Denkowski stated that it may be possible to add a Pecan Grove Volunteer Fire Department (the "PGVFD") link to the District's website in order to get residents to sign up for email notices of community news. She added that she will ask the PGVFD Board about the possible link and report back to the Board.

After discussion, Director Crow moved to authorize website posting of the energy analysis for electricity usage. Director Kluppel seconded the motion, which carried unanimously.

#### CONVERSION TO SURFACE WATER, PROGRESS UPDATE ON SURFACE WATER PLANT DESIGN, AGREEMENTS FOR SALE OF CONVERSION CREDITS,

## CONTRACT WITH GULF COAST WATER AUTHORITY, COST ESTIMATE FOR INTAKE STRUCTURE ON BRAZOS RIVER

Mr. Buck reviewed Activity Report No. 13 from Malcolm Pirnie, Inc. on the surface water treatment plant, a copy of which is attached. He updated the Board on the plans and specifications for the surface water plant. He stated that the surface water plant committee will meet on October 21, 2009 to review the plans.

Director Taylor updated the Board on meetings with Mr. Istre of the Gulf Coast Water Authority (the "GCWA") regarding an Interlocal Agreement. He stated that representatives of the GCWA discussed the possibility of managing the District's water supply. Ms. Humphries stated that the GCWA indicated the District will have to participate in the cost, with the City of Sugar Land, for installation of an additional pump. Mr. Kirby stated that in connection with the Interlocal Agreement, he will evaluate the possibility of installing rip rap to create a dam or a water control structure.

## 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 reported on the contract for the elevated storage tank recoating and repairs. Mr. Kirby stated that during installation of the new 16-inch isolation valves within the base pedestal piping, a 16-inch tee fitting was cracked. He added that Williams Painting and Sandblasting, Inc. has indicated they will not repair the broken fitting due to its condition prior to commencement of the job. He added that the cost to replace the tee is estimated to be \$8,750.00. Mr. Williams, Jr. stated that the crack was observed following the installation of the 16-inch valve. He described the tools and method used to install the valve. Mr. Williams, Jr. stated that he does not believe Williams Painting and Sandblasting, Inc. is responsible for the cracked tee. He added that because his crew has left the site, a second estimate to repair the tee will not contain the same cost as the first estimate. Mr. Williams, Jr. requested that the Board approve a portion of Pay Estimate No. 6 to the contract for work completed to date. He added that retainage on the contract should cover any punch list items. Mr. Kirby stated that Pay Estimate No. 6 is not recommended by J&C for payment today because it was not submitted before September 1, 2009, the deadline for pay estimates to be considered for approval at today's meeting. Mr. Williams, Jr. stated that he will submit a new change order to the contract for the repair of the cracked tee and requested that the Board approve or deny the change order before the end of October. The Board concurred to not consider payment of the portion of the Pay Estimate No. 6 until J&C recommends payment and for Director Stolleis to work with J&C and Williams Painting and Sandblasting, Inc. on the change order.

Mr. Kirby reviewed and recommended approval of Pay Estimate No. 5 in the amount of \$19,407.60 to the contract with Williams Painting & Sandblasting, LLC. After review and discussion, Director Kluppel moved that (1) based upon the engineer's

recommendation, the Board approve payment of Pay Estimate No. 5 in the amount of \$19,407.60 to the contract with Williams Painting & Sandblasting, LLC and (2) authorize Director Stolleis and J&C to approve a change order to the contract for repair of the cracked tee. Director Crow seconded the motion, which carried unanimously.

Mr. Kirby updated the Board on construction of levee improvements to the existing levee. He stated that a final inspection was held on August 28, 2009. Mr. Kirby reviewed and recommended approval of Pay Estimate No. No. 7 in the amount of \$9,854.90 to the contract with Paskey Incorporated. After review and discussion, Director Kluppel moved that, based upon the engineer's recommendation, the Board approve payment of Pay Estimate No. 7 in the amount of \$9,854.90 to the contract with Paskey Incorporated. Director Crow seconded the motion, which carried unanimously. The Board requested that Mr. Kirby tell Mr. Paskey that the Board expects the turf growth to be established before release of the retainage on the contract.

Mr. Kirby updated the Board on J&C's communications with FEMA to discuss the Pecan Lakes Levee System.

Mr. Kirby stated that the District will not be able to purchase generators for Water Plants no. 2 and 3 from HGAC or the Local Government Cooperative. He recommended that J&C design plans for generators to fit the needs of the water plants. After discussion, Director Kluppel moved to authorize J&C to prepare plans and specifications and advertise for bids for natural gas generators for Water Plants No. 2 and 3 with alternate plans for diesel fuel. Director Crow seconded the motion, which passed by unanimous vote.

Mr. Kirby stated that ANJ@359LLC has requested a Consent to Encroachment for the phase two development to Plaza 359. He added that the development will include paving over the current public utility easement. After review and discussion, Director Kluppel moved to approve a Consent to Encroachment to ANJ@359LLC, and direct that the Consent be filed appropriately and retained in the District's official records. Director Crow seconded the motion, which passed unanimously.

Mr. Kirby stated that J&C needs to file the District's Chapter 210 Effluent Reuse Application with the Texas Commission on Environmental Quality ("TCEQ"). After review and discussion, Director Kluppel moved to authorize J&C to file the District's Chapter 210 Effluent Reuse Application with the TCEQ. Director Crow or seconded the motion, which passed unanimously.

Mr. Kirby updated the Board on the Storm Water Management Plan. He stated that J&C has completed the annual report which will be submitted to the TCEQ by November 12, 2009.

Mr. Kirby stated that J&C has completed a preliminary plan for construction of an access road to the surface water plant.

Mr. Kirby stated that a resident on Country Mile has built steps into the levee. The Board asked J&C and CDC to coordinate on the removal of the steps and restoration of the levee property.

Mr. Kirby distributed and reviewed a memorandum regarding the recoating and repairs at Water Plant No. 3, a copy of which is attached. He added that the project will include a subcontractor, Dunham Engineering. He stated that design services are estimated to cost \$35,000 and construction services \$25,000. After review and discussion, Director Kluppel moved to authorize J&C to proceed with design of the recoating and repairs at Water Plant No. 3. Director Crow seconded the motion, which passed by unanimous vote.

Mr. Kirby stated that a Levee System and Floodplain Update is attached to the engineer's report.

Following review and discussion of the engineer's report, Director Kluppel moved to approve the engineer's report. Director Crow 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

Mr. Kavanaugh stated that the bond issue will be sized after bids are received to construct the surface water plant. The Board concurred that following receipt of bids for the plant, the Board may need to conduct a special meeting to discuss the size of the bond issue.

#### FINANCIAL AND BOOKKEEPING MATTERS

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. 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.

Ms. McLennan reviewed the proposed budget for the fiscal year ending September 30, 2010 with the Board, a copy of which is attached to the bookkeeper's report. She stated that the audit fee will be updated in the budget and the garbage fee will remain \$15.00 until a new contract is approved. After review and discussion, Director Crow moved to adopt the budget for the fiscal year ending September 30, 2010. Director Stolleis seconded the motion, which passed unanimously.

Ms. McLennan requested that the Board approve Depository Pledge Agreements with Central Bank, Bank of Houston, Amegy Bank, and Frost Bank at the next meeting.

## RESOLUTION EXPRESSING INTENT TO REIMBURSE OPERATING ACCOUNT

The Board took no action on this agenda item.

## REPORTS FROM DIRECTORS AND DISTRICT CONSULTANTS

The Board concurred to change the December meeting date to December 22, 2009, due to the holidays.

Director Taylor reported on meetings with Commissioner Meyers, and with Ms. Humphries, Director Kluppel, and representatives of Fort Bend County Levee Improvement District No. 11 and Fort Bend County Municipal Utility District No. 116 regarding the request that Fort Bend County adopt a floodplain management policy based on "No Adverse Impact" methodology.

## ATTORNEY'S REPORT

Ms. Humphries stated that she did not have a report.

## FORT BEND COUNTYWIDE LEVEE MEETING, PARTICIPATION IN SUBCOMMITTEE MEETINGS, STATUS OF FEDERAL FLOOD INSURANCE LEGISLATION, FORMATION OF FORT BEND FLOOD MANAGEMENT DISTRICT

Ms. Humphries reported that the legislative committee of the Fort Bend Flood Management District will meet on October 2, 2009 at 8:00 a.m.

## DEVELOPMENT AND MAINTENANCE OF PARKS

The Board reviewed the parks management report, a copy of which is attached. Director Crow stated that the YMCA parks manager reported that on occasion the park is not closed on time because there are still people in the park.

Mr. Bertrand discussed a proposal for Plantation Park landscaping. The Board requested that Director Crow and Mr. Bertrand coordinate on obtaining three proposals for the design and installation of the Plantation Park landscaping.

## REPORT ON SECURITY MATTERS, SHERIFF CONTRACT AND AGREEMENT FOR ADDITIONAL LAW ENFORCEMENT SERVICES WITH FORT BEND COUNTY

Ms. Humphries stated that the District has not received the final Contract for Additional Law Enforcement Services with Fort Bend County.

## 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 9:20 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 9:30 p.m. Director Kluppel moved to authorize ABHR to send a formal offer letter to Old South Plantation (Gary Pochyla) to acquire property for the northern portion of the proposed Pecan Lakes levee. Director Crow seconded the motion, which passed unanimously.

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.

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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