

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

October 28, 2008

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 28th day of October, 2008, 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 Bruce Fincher of Fincher Companies; Don McIntyre; Jess Stuart and Ben Anders of the YMCA; Pat Naff of CDC Unlimited, L.L.C. ("CDC"); Mr. and Mrs. Dickenson, Cheryl Minchew, Paul Metcalf, Holly Zarate, Keith Appling, Lisa Appling, Doug Smiley, Diane Smiley, Max Trenck, Terri Trenck, Larry Danna, Jim Keller, Wayne Watts, J.E. Douglas, R.A. Douglas, Ray Stiler, Fred Ross, Sally Spencer, T.J. Spencer, Jim Ashmore, Conley Shepherd, Jesse Martin, Teresa Trenck, residents of the District; Mike Elliott of the Fort Bend County District Attorney's Office; John Healey, Fort Bend County District Attorney; Kip Westmoreland, Texas Ranger; Deputy T. Eddleblute of the Fort Bend County Sheriff's Department; Jason Kirby of Jones & Carter, Inc. ("J&C"); Greg Ordeneaux of Tax Tech, Inc.; Cliff Kavanaugh of First Southwest Company; Andrew Phelps and Breah Campbell of Environmental Development Partners, L.L.C. ("EDP"); Shirley McLennan of McLennan & Associates, L.P.; Marquita Griffin of the Fort Bend Herald; Trent Slovak of Malcolm Pirnie, Inc.; Claudia Wright of R&W Real Estate; 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 September 30 and October 15, 2008, meetings, which had been prepared and distributed in advance of the meeting. Following review and discussion, Director Crow moved to approve the minutes of the September 30 and October 15, 2008, meetings. Director Kluppel seconded the motion, which was approved by unanimous vote.

## VOLUNTARY DONATIONS TO THE PECAN GROVE VOLUNTEER FIRE DEPARTMENT

Mr. Healey introduced himself, Mr. Elliott, and Mr. Westmoreland to the Board. Mr. Healey stated that he was present to discuss the investigation of alleged impropriety within the Pecan Grove Volunteer Fire Department ("PGVFD") regarding funds and restitution to victims. He discussed the process the District Attorney's Office uses to determine if a case will be prosecuted. Mr. Healey discussed the investigation by the Texas Rangers. He stated that the target in the case agreed to pay the PGVFD \$2,800 and once the PGVFD attorney confirmed payment was received, the case was closed. Mr. Westmoreland stated that the missing funds were uncovered during the audit process. Mr. Elliott stated that funds were missing during the 2007 audit. Mr. Healey stated that the auditor for the PGVFD found that proper checks and balances were not in place for the bookkeeping system. He added that the auditor was going to recommend that bookkeeping measures be implemented by the PGVFD. Questions from members of the public were then responded to by Mr. Healey, Mr. Elliott, and Mr. Westmoreland. Director Stolleis thanked Mr. Healey, Mr. Elliott, and Mr. Westmoreland for attending the Board meeting. Mr. Healey stated that anyone with questions may contact him at (281) 341-4469.

## ENGINEER'S REPORT/REQUEST FOR SERVICE TO FORT BEND INDEPENDENT SCHOOL DISTRICT

Mr. Fincher reviewed a letter to the Board from Fincher Companies requesting out-of-district water service for The Plantation Crossing Development, a copy of which is attached. Mr. Fincher stated his private package sewage treatment plant could serve the new FBISD school. Director Taylor stated that the District requires a \$5,000 deposit for an engineering analysis. Mr. Fincher stated that he was withdrawing his request for out-of-district service.

Mr. Kirby discussed the request of the Fort Bend Independent School District ("FBISD") for out-of-district utility service to serve Middle School No. 14. He reviewed a letter to the Board regarding the water and sewer capacity request from the FBISD, a copy of which is attached. Mr. Kirby stated that the District has adequate water and sewer capacity to serve the school. Ms. Humphries asked for clarification if FBISD was only requesting water service. Mr. Kirby stated he will confirm service with FBISD. Ms. Humphries discussed the terms that will be included in an Agreement for Out-of-District Service between the District and FBISD including: (1) FBISD will pay all engineering costs; (2) FBISD will pay all costs to design and construct all lines necessary to connect to the District's facilities; (3) FBISD will provide any easements requested by the District; (4) FBISD will install a backflow prevention device which will be tested annually by the District, and FBISD will pay for testing costs; (5) the meter will be calibrated annually and FBISD will pay for the calibration and testing and any

necessary repairs; (6) the District's operator will be present for connection to the District's system; and (7) the District's engineer will be present when any contractor for FBISD bores underneath the MUD's levee. Ms. Humphries stated that ABHR will prepare an Out-of-District Service Agreement between the FBISD and the District.

#### REPORT ON DITCH, LEVEE MAINTENANCE, REPAIRS

Mr. Naff reported on ditch and levee maintenance. Mr. Naff stated that the extension of asphalt to the north end of the jogging trail has not been completed. He added that CDC is still filling in holes on the inside of the jogging trail around the telephone building.

#### 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 2007 tax payments and responded to questions from Board members. Director Taylor stated that he will leave the Fort Bend Central Appraisal District's Reappraisal Plan at the MUD Customer Service Office. Mr. Ordeneaux stated that there are delinquent taxes on several easements on the delinquent tax roll. Director Stolleis stated that he will review the delinquent tax roll and report to the Board. Following review and discussion, Director Crow 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.

#### UPDATE ON GARBAGE AND RECYCLING SERVICES

Director Stolleis stated that questions on pickup of debris should be addressed to the Fort Bend County Road and Bridge Department at (281) 238-3430.

#### FIRE AND SECURITY MATTERS, SHERIFF CONTRACT, FIRE PLAN, AND VOLUNTARY DONATIONS TO PECAN GROVE VOLUNTEER FIRE DEPARTMENT

Director Minchew stated that the Agreement for Additional Law Enforcement Services with Fort Bend County has been finalized. He stated that he has asked the County Attorney to adjust the Agreement next quarter. He introduced Deputy Eddleblute to the Board.

There was no report from the PGVFD on the status of the PGVFD audit.

#### DEVELOPMENT AND MAINTENANCE OF PARKS

Mr. Stuart introduced himself and Mr. Anders to the Board. Mr. Anders distributed and reviewed a Parks Management report, a copy of which is attached. Mr.

Anders discussed a proposal for the installation of boulders along the edge of the driveways in the park. The Board requested that Mr. Anders obtain two additional bids for the boulders.

Mr. Stuart reviewed the Operation and Maintenance Agreement with the YMCA of the Greater Houston Area ("YMCA Agreement") and the Landscape and Maintenance Contract with R&R "1818" Landscape L.P. d/b/a Terra Management Service ("Landscape Contract"). After review and discussion, Director Crow moved to approve the YMCA Agreement and the Landscape Contract, and direct that the YMCA Agreement and Landscape Contract be filed appropriately and retained in the District's official records. Director Stolleis seconded the motion, which passed unanimously.

#### OPERATOR'S REPORT

Mr. Phelps reviewed the EDP operations report for the month of October, 2008, a copy of which is attached, and which was provided previously to the Board. He stated that he is sending a flyer to the residents with the water bill regarding the tax rate and sewer rate.

Ms. Humphries reported that forms were submitted to the Federal Emergency Management Agency ("FEMA") for reimbursement of costs incurred by the District due to Hurricane Ike for debris removal and emergency protective measures. She added that additional forms must be submitted to FEMA by December 22, 2008, to complete the application process.

After review and discussion, Director Crow moved to approve the operator's report. Director Kluppel seconded the motion, which passed by unanimous vote.

#### CONDUCT 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 Crow 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 Kluppel seconded the motion, which passed unanimously.

## AMENDED RATE ORDER

The Board discussed revisions to the section of the Rate Order regarding volunteer fire department fees. After review and discussion of the proposed revisions, Director Kluppel moved to adopt the Amended Rate Order and Rules and Regulations Regarding District System, Parks and Connections, and direct that the Order be filed appropriately and retained in the District's official records. Director Crow seconded the motion, which passed unanimously.

The Board requested that the operator add a notice to the November, December, and January water bills regarding the address where donations to the PGVFD should be sent since the District is no longer collecting voluntary donations to the PGVFD.

## REPORT ON DISTRICT NEWSLETTER AND WEBSITE

Ms. Wynn reported on the current newsletter sent to District residents. Director Kluppel asked Mr. Phelps to send the recycling policy to Ms. Wynn for the next newsletter.

## ANNUAL REVIEW OF NEWSLETTER AND WEBSITE MANAGEMENT SERVICES CONTRACT

The Board conducted the annual review of the newsletter and website management services contract with Payne Corporation.

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

Mr. Slovak distributed and reviewed Progress Update No. 4 on the Surface Water Plant Design, a copy of which is attached. The Board asked Ms. Brook and Mr. Kirby to contact Mr. Istre regarding an Interlocal Agreement between the District and the Gulf Coast Water Authority for conveyance of water. Mr. Slovak said he would also contact Mr. Istre.

## 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 reviewed plans and specifications for improvements to the existing levee. After review and discussion, Director Stolleis moved to approve the plans and specifications and authorize the engineer to advertise for bids for improvements to the existing levee. Director Crow seconded the motion, which passed unanimously.

Mr. Kirby distributed and reviewed the Annual Report for the MS4 Storm Water Management Plan ("SWMP"). After review and discussion, Director Stolleis moved to approve the Annual Report for the MS4 Storm Water Management Plan, authorize the engineer to file the Report with the Texas Commission on Environmental Quality ("TCEQ"), and direct that the Annual Report be filed appropriately and retained in the District's official records. Director Crow seconded the motion, which passed unanimously.

Mr. Kirby stated that the application for the renewal of the Texas Pollutant Discharge Elimination System Permit should be completed in November.

Mr. Kirby stated that J&C will advertise for bids for improvements at the elevated storage tank this week.

Mr. Kirby stated that the bond application for the surface water plant was submitted to the TCEQ.

Following review and discussion of the engineer's report, Director Stolleis moved to accept the engineer's report as presented. Director Crow seconded the motion, which passed unanimously.

#### COMMENTS FROM THE PUBLIC

There were no comments from the public.

#### ADOPT RESOLUTION EXPRESSING INTENT TO REIMBURSE OPERATING ACCOUNT

The Board tabled discussion 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. After review and discussion, Director Crow moved to approve the bookkeeper's report, investment report, and payment of the District's bills. Director Kluppel seconded the motion, which passed unanimously.

#### REPORTS FROM DIRECTORS AND DISTRICT CONSULTANTS

There were no reports from directors or consultants.

ATTORNEY'S REPORT/2008 BOND ELECTION

The Board concurred to conduct a special meeting on November 13, 2008 at the MUD Customer Service Office at 5:30 p.m. to canvass the election returns.

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.

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 8:20 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 8:35 p.m. After discussion, Director Kluppel moved to authorize Ms. Wright to make an offer on behalf of the District to Old South Plantation for a tract of land for the surface water plant site. Director Minchew 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

At 8:37 p.m., Director Taylor announced that the Board would convene in executive session to conduct a private consultation with its attorney to discuss pending or contemplated litigation.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING CONTEMPLATED LITIGATION

Director Taylor announced the Board would reconvene in open session at 8:42 p.m. The Board took no action.

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

(SEAL)

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Secretary, Board of Directors



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