

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

October 28, 2014

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 28<sup>th</sup> day of October, 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:

|                 |                          |
|-----------------|--------------------------|
| Randy Vance     | President                |
| Kirk Boyd       | Vice President           |
| Buddy Kluppel   | Secretary                |
| Ryan Yokubaitis | Assistant Secretary      |
| Chad Howard     | Assistant Vice President |

and all of the above were present.

Also present at the meeting were residents of the District listed on Exhibit A attached hereto; Bethany Miller, Scott Saenger and Grady Turner of Jones & Carter, Inc. ("J&C"); Kathy Cruthirds of Tax Tech, Inc.; Mike Ammel, Clayton Galloway and Breah Campbell of Environmental Development Partners, L.L.C. ("EDP"); Shirley McLennan of McLennan & Associates, L.P.; Chief Joe Woolley of Pecan Grove Volunteer Fire Department ("VFD"); Deputy Jordan Kelly of Fort Bend County Sheriff's Office; Marcus Campbell of Time and Season Property Management ("Time & Season"); Trevor Royal of Royal of WCA Waste Corporation of Texas ("WCA"); Mike Rozell; Pat Naff of CDC Unlimited; Ryan Niles of Arenosa Development; and Lynne Humphries, Hannah Brook and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

REMARKS FROM THE BOARD PRESIDENT

Director Vance opened the meeting at 6:00 p.m. and welcomed attendees.

COMMENTS FROM THE PUBLIC

Mr. Jim Ashmore requested the Board submit a fire plan to the Texas Commission on Environmental Quality ("TCEQ") in lieu of the ESD proposed to be created by the VFD.

Ms. Joanne Clark requested the Board consider completion of walking trails along the top of the levees and developing an off leash dog park at Pecan Grove Park and Pitts Road.

## CONSENT AGENDA

Director Vance offered Board members the opportunity to remove items from the consent agenda for individual discussion. Director Kluppel moved to approve all items on the consent agenda. Director Boyd seconded the motion, which passed by unanimous vote. Copies of all documents approved as part of the consent agenda are attached.

## SECURITY AND PUBLIC SAFETY MATTERS

Deputy Kelly reported on patrol and security since the Board's last regular meeting.

Chief Woolley discussed VFD activity since the last meeting and VFD sponsored community events. Chief Woolley also requested the Board consider installing a sidewalk across the Pecan Grove Park frontage on Pitts Road to the VFD. The Board requested Mr. Campbell provide a cost estimate for same. Chief Woolley then updated the Board on the status of finalizing a list of approved additional services to be added to the District Master Services Agreement with VFD.

The Board also discussed the VFD's previous request to reduce the administrative fee charged by the District for collection of VFD donations on the water bill and reviewed an Amended and Restated Agreement for Collections. Following review and discussion, Director Boyd moved to adopt an Amended and Restated Agreement for Collections. The motion, which was seconded by Director Vance, passed unanimously.

John and Cheryl Minchew joined the meeting. Deputy Kelly and Chief Woolley left the meeting.

## DEVELOPMENT AND MAINTENANCE OF PARKS

Mr. Campbell reviewed a parks report, a copy of which is attached, and updated the Board on maintenance and repairs in District parks and reservations. Mr. Campbell said he would post revised park hours due to the daylight savings time change. Mr. Naff also discussed a proposal in the amount of \$1,800 to provide additional mulch at Pecan Grove Park. Following review and discussion, Director Vance moved to approve the report and proposals discussed. The motion, which was seconded by Director Boyd, passed unanimously.

## BULLHEAD BAYOU

Director Yokubaitis updated the Board regarding installation of an aerator and service panel in Bullhead Bayou at Colonel Court South Drive and Old South Drive and said CenterPoint will install the meter tomorrow. The Board concurred to defer action on the two additional aerators/panels.

Discussion ensued regarding revising alligator weed spraying schedules and routine trash removal. Mr. Ammel said he would review the maintenance contract to confirm services included in Storm Water Solutions' Services Agreement with the District and identify additional services needed.

The Board concurred to defer discussion of landscaping encroachments in the District's right of way at Bullhead Bayou until after executive session.

## OPERATION OF DISTRICT FACILITIES

Mr. Ammel reviewed the EDP operations report for the month of October, 2014, a copy of which is attached, and which was provided in advance to the Board.

Mr. Ammel first reviewed an estimate in the amount of \$6,210.81 from All Pump to repair the chlorine dioxide chemical feed pump no. 3 at the surface water treatment plant. Discussion ensued regarding replacement costs versus repair costs.

Mr. Ammel next discussed a quote in the amount of \$5,999.29 to repair the Atlas Copco air compressor no. 1 for the membrane filtration system at the surface water treatment plant.

Mr. Ammel reported the status of maintenance and repairs made during the month, including repairs to the drive at water well no. 1. He also reported regarding continued efforts to improve overall water accountability.

Following review and discussion, Director Boyd moved to approve the operations report and proposals discussed. Director Vance 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 Vance seconded the motion, which passed unanimously.

### ENGINEERING MATTERS

Mr. Turner reviewed the engineering report, a copy of which is attached, and which had been distributed to the Directors in advance of the meeting.

Mr. Turner next discussed the status of emergency repair at water well no. 3 and discussion ensued regarding ongoing maintenance of the newly installed pump.

Mr. Turner reported on the inspection of the levee system on October 9, 2014 and the status of scheduling a meeting with the levee committee to fully discuss the inspection report.

Mr. Turner next reported regarding installing a sanitary sewer meter at the surface water treatment plant waste line and requested authorization to prepare a bid package for additional meters at the surface water treatment plant. Discussion ensued regarding calibration following installation and additional piping modification that may be required.

Mr. Turner and Mr. Niles next discussed the proposed development of the Arenosa tract and requested authorization to design additional capacity in lift station no. 8 and to advertise for bids for water, sewer and drainage to serve the tract.

Mr. Turner first reported regarding proposed drainage improvements in the Grove, Sections 4 and 5 and Plantation, Sections 4, 5 and 7 and Director Vance thanked residents, Paul and Elizabeth Bennett, Curtis and Doris Ward and Bryce Dickinson, for donating necessary easements to the District for the construction of drainage improvements to serve the District. He noted these donations will save the taxpayers money.

Mr. Turner discussed the status of construction of the Pecan Lakes Flood Protection System, and recommended the Board approve Pay Estimate no. 16 in the amount of \$228,638.74, payable to LECON, Inc., Change Order No. 6 for a reduction in overall contract price in the amount of \$38,272.60 and a Resolution Authorizing Application to the Texas Commission on Environmental Quality ("TCEQ") Requesting Approval. Director Kluppel requested the project status be updated on the District website.

Mr. Turner next reported on the status of construction of the Pecan Lakes pump station, including dates for delivery of change order items, and recommended the

Board approve Pay Estimate No. 12 in the amount of \$13,548.32, payable to JTR Constructors.

Discussion regarding security at the surface water treatment plant was deferred.

Mr. Turner discussed the status of preparation of a surplus funds request to be submitted to the TCEQ and requested the Board approve a Resolution Authorizing Application to the TCEQ for Use of Surplus Funds.

Following review and discussion, upon a motion by Director Howard and a second by Director Boyd, the Board voted unanimously to (1) approve the engineer's report; (2) authorize preparation of a bid package for additional meters at the surface water treatment plant; (3) authorize J&C to design additional capacity in lift station no. 8 to serve the tract; (4) authorize advertisement for bids for construction of water, sewer and drainage to serve the Arenosa tract; (5) approve Pay Estimate no. 16 in the amount of \$228,638.74, payable to LECON, Inc.; (6) Change Order No. 6 for a reduction in overall contract price in the amount of \$38,272.60; (7) approve Resolution Authorizing Application to the TCEQ Requesting Approval; (8) approve Pay Estimate No. 12 in the amount of \$13,548.32, payable to JTR Constructors; and (9) approve a Resolution Authorizing Application to the TCEQ for Use of Surplus Funds.

#### DISTRICT WEBSITE AND NEWSLETTER

Director Yokubaitis distributed the draft of the fall newsletter, which the Board approved.

#### REPORTS FROM DIRECTORS, COMMITTEES, AND DISTRICT CONSULTANTS REGARDING CORRESPONDENCE AND/OR REPORTS RECEIVED DURING THE MONTH AND EVENTS AND ACTIVITIES ATTENDED DURING THE MONTH

Ms. McClennan reported additional check no. 8236 in the amount of \$950.62 to Director Howard and check no. 8237 in the amount of \$1,322.28 to Director Yokubaitis for Webtech conference expenses and also updated the Board on fiscal year end surplus funds.

Director Kluppel updated the Board regarding recent meetings of, and correspondence with, the Brazos River Authority.

#### ATTORNEY'S REPORT

Ms. Humphries reviewed with the Board additional per diem/expenses Director reporting forms proposed for adoption as addendums to the District's Code of Ethics and Travel, Professional Services and Management Policies. The Board concurred to defer for further review.

Ms. Humphries distributed and reviewed with the Board a memorandum prepared by ABHR concerning the Securities and Exchange Commission Enforcement Division's Municipalities Continuing Disclosure Cooperation Initiative, a copy of which is attached. Ms. Humphries also reviewed the District's annual continuing disclosure process with the Board, and noted that ABHR has overseen that process pursuant to its engagement with the District. After review and discussion, the Board concurred that no action was necessary.

Mr. Rozell entered the meeting.

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

Director Vance announced that the Board would convene in executive session at 7:14 p.m. to conduct a private consultation to deliberate the purchase, exchange, lease, or value of real property. Ms. Humphries, Ms. Brook, Ms. J. Miller, Mike Rozell, Mr. Saenger, Ms. B. Miller and Mr. Turner were present during executive session.

RECONVENE IN OPEN SESSION AND AUHTHORIZE APPROPRIATE ACTION

The Board reconvened in open session at 7:26 p.m. Following discussion in executive session, Director Howard moved to authorize appraisal for the golf course property needed for drainage improvements, as discussed in executive session. Director Kluppel seconded the motion, which passed unanimously.

EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO (1) SEEK ADVICE ON PENDING OR CONTEMPLATED LITIGATION, INCLUDING CONDEMNATION PROCEEDINGS, AND (2) MATTERS IN WHICH THE DUTY OF THE ATTORNEY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT CONFLICT WITH CHAPTER 551 TEXAS GOVERNMENT CODE AND SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO (1) SEEK ADVICE ON PENDING OR CONTEMPLATED LITIGATION, INCLUDING CONDEMNATION PROCEEDINGS, AND (2) MATTERS IN WHICH THE DUTY OF THE ATTORNEY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT CONFLICT WITH CHAPTER 551 TEXAS GOVERNMENT CODE

Director Vance announced that the Board would convene in executive session at 7:28 p.m. to conduct a private consultation with the District's attorney to seek advice on pending litigation. Ms. Humphries, Ms. Brook and Ms. J. Miller were present during

executive session. Mr. Saenger, Ms. B. Miller and Mr. Turner entered executive session at 7:33 p.m., at the invitation of the Board as experts.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION

The Board reconvened in open session at 7:54 p.m. Following discussion in executive session, Director Kluppel moved to proceed, as discussed in executive session, regarding the District's contract with JTR Construction, including declaring the contractors in default, imposing liquidated damages and authorizing District consultants to take the necessary actions to replace the contractor and complete the construction project. Director Boyd seconded the motion, which passed unanimously.

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

Director Vance announced that the Board would convene in executive session at 7:55 p.m. to conduct a private consultation to deliberate the purchase, exchange, lease, or value of real property. Ms. Humphries, Ms. Brook, Ms. J. Miller, Mr. Saenger, Ms. B. Miller and Mr. Turner were present during executive session.

RECONVENE IN OPEN SESSION AND AUHTHORIZE APPROPRIATE ACTION

The Board reconvened in open session at 8:35 p.m. Following discussion in executive session, Director Kluppel moved to authorize the Board president to sign notice letters concerning Bullhead Bayou encroachments, as discussed in executive session. Director Howard seconded the motion, which passed unanimously. Director Kluppel then moved to authorize J&C to take the necessary steps to identify encroachments along District levee property and authorize ABHR to prepare a notice of encroachment letter for Board review. Director Boyd seconded the motion, which passed unanimously.

REPORTS FROM DIRECTORS, COMMITTEES, AND DISTRICT CONSULTANTS REGARDING CORRESPONDENCE AND/OR REPORTS RECEIVED DURING THE MONTH AND EVENTS AND ACTIVITIES ATTENDED DURING THE MONTH CONTINUED

The Board concurred to reschedule the November regular Board meeting for November 18, 2014 and the December regular Board meeting for December 16, 2014 and post notice on the District website.

ENGINEERING MATTERS CONTINUED

Director Vance discussed securing the gates at the surface water treatment plant to deter access to the surface water treatment plant. Following discussion, Director Kluppel moved to authorize J&C to prepare a plan for security improvements, as discussed, and obtain estimates. Director Howard seconded the motion, which passed unanimously.

ATTORNEY'S REPORT CONTINUED

Additional discussion ensued regarding proposed addendums to the District's Code of Ethics and Travel, Professional Services and Management Policies and Texas statutes regarding same.

There being no additional business to consider, the meeting was adjourned at 9:04 p.m.



  
Secretary, Board of Directors



LIST OF ATTACHMENTS TO MINUTES

|                                     | Minutes     |
|-------------------------------------|-------------|
|                                     | <u>Page</u> |
| tax assessor/ collector report..... | 2           |
| parks report .....                  | 2           |
| EDP operations report .....         | 3           |
| termination list.....               | 4           |
| engineering report.....             | 4           |