

MINUTES  
PECAN GROVE MUNICIPAL UTILITY DISTRICT

December 20, 2011

The Board of Directors (the "Board") of Pecan Grove Municipal Utility District (the "District") met in regular session, open to the public, on the 20th day of December, 2011, 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
Richard Stolleis	Vice President
G. E. Kluppel	Secretary
John Minchew	Assistant Vice President/ Assistant Secretary
Kevin Krahn	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 hereto; Jason Kirby and Bethany Miller of Jones & Carter, Inc. ("J&C"); Greg Ordeneaux of Tax Tech, Inc.; Clayton Galloway, Doug Owen, Breah Campbell, and Mike Ammel of Environmental Development Partners, L.L.C. ("EDP"); Shirley McLennan of McLennan & Associates, L.P.; Sylvia Avila of WCA Waste Corporation of Texas, LP ("WCA"); Constable Rob Cook and Deputy Aaron Tyksinski of the Fort Bend County Constable's Office, Precinct 3; Pat Naff of CDC Unlimited, LLC; Charles McFarland of Joyce, McFarland + McFarland, LLP; and Lynne B. Humphries and Janet Swartz of Allen Boone Humphries Robinson LLP ("ABHR").

MINUTES

The Board considered approving the minutes of the November 29, 2011, meeting, which were prepared and distributed in advance of the meeting. Following review and discussion, Director Kluppel moved to approve the minutes of the November 29, 2011, meeting. Director Krahn seconded the motion, which carried unanimously.

The Board considered approval of amended minutes of October 25, 2011, to reflect that J&C, Inc. recommended (1) approval of Pay Estimate No. 5 and Change Order No. 2 to the contract for the surface water treatment plant offsite utility extensions; and (2) approval of Pay Estimate No. 2 to the contract for the chloramine conversion of water plant nos. 1, 2, and 3. After review and discussion, Director Kluppel moved to approve the minutes of October 25, 2011, as amended. Director Krahn seconded the motion, which passed by unanimous vote.

DITCH, LEVEE MAINTENANCE, AND REPAIRS

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

## GARBAGE COLLECTION AND RECYCLING SERVICES

Ms. Avila distributed and reviewed a report on garbage collection in the District during the past month, a copy of which is attached. She reported that WCA will pick up Christmas trees for recycling on January 4 and January 7, 2012.

## 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 2011 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 Krahn seconded the motion, which passed by unanimous vote.

## OPERATION OF DISTRICT FACILITIES

Mr. Ammel reviewed the EDP operations report for the month of December, 2011, a copy of which is attached, and which was provided previously to the Board.

Mr. Ammel stated that a customer at 2426 Broken Elm has requested a credit of \$284.60 to her account for plumber services performed in her home. He added that the services were due to a sewer blockage which was identified and repaired by the District as a District problem.

Mr. Ammel stated that EDP has prepared the Emergency Preparedness Plan, a copy of which is attached to the operator's report. The Board concurred to review the Plan and submit comments to EDP by January 17, 2012. Mr. Ammel stated that EDP will file the plan with the Texas Commission on Environmental Quality (the "TCEQ") before February 1, 2012.

Mr. Ammel stated that the well no. 5 multilin motor management relay at water plant no. 1 needs to be replaced at a cost of \$4,150.00. He added that the new unit includes a two-year warranty.

Mr. Ammel stated that a forklift is needed for operations at the surface water treatment plant. He stated that a new forklift costs approximately \$28,000 and a used forklift costs approximately \$14,000. The Board requested that Mr. Ammel present price quotes for new and used forklifts at the next meeting.

Mr. Ammel reported that the surplus sludge press at the wastewater treatment plant was sold for \$2,500. Mr. Ammel updated the Board on the status of the ordering of the pumps for the belt filter press project. Mr. Kirby stated that J&C will provide EDP with the duty requirements so the appropriate pumps can be ordered. Mr. Ammel stated that EDP will order the pumps once J&C provides the duty condition.

After review and discussion, Director Kluppel moved to (1) approve the operator's report; (2) approve a \$284.60 credit to the customer's water bill at 2426

Broken Elm for plumber services; (3) approve the Emergency Preparedness Plan contingent upon final approval by the Board and authorize EDP to file the Plan with the TCEQ; and (4) approve replacement of the well no. 5 multilin motor management relay at water plant no. 1 at a cost of \$4,150.00. Director Krahn seconded the motion, which carried unanimously.

#### 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 Stolleis seconded the motion, which passed unanimously.

#### DISTRICT NEWSLETTER AND WEBSITE

Director Krahn stated that the committee will meet to discuss plans for the next newsletter in January, 2012. He requested that directors or consultants contact him with ideas for the newsletter.

#### CONVERSION TO SURFACE WATER

The Board reviewed Pay Estimate No. 20 from LEM Construction in the amount of \$853,264.65, which had been received from Mr. Buck and recommended for approval. After review and discussion, Director Kluppel moved, based upon Mr. Buck's recommendation, to approve Pay Estimate No. 20 in the amount of \$853,264.65 to LEM Construction. Director Krahn seconded the motion, which passed unanimously.

Director Kluppel stated that he requested that Mr. Buck obtain proposals for adding a hard surface over the gravel road leading into the surface water treatment plant. Ms. Humphries stated that the District can request that Fort Bend County overlay existing gravel road with asphalt through an interlocal agreement, with the District paying for material. Director Stolleis stated that he will contact Mr. Mark Grant of Fort Bend County to request the County overlay the road with asphalt.

Mr. Ammel reported that chloramine conversion has been in operation for two weeks. Ms. Feiser, a District resident, requested that EDP check the odor of the water at 1623 Plantation Drive.

## 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 stated that comments were received from Fort Bend County on the plans for the southern portion of the Pecan Lakes Flood Plain Protection System. He added that the pump station is under design. Mr. Kirby stated that design of south ditch improvements from Pitts Road to the confluence of Jones Creek Outfall Channel is underway.

Mr. Kirby updated the Board on the construction of the surface water treatment plant offsite utility extensions. He reviewed and recommended approval of Pay Estimate No. 7 in the amount of \$56,562.12 to Hurtado Construction Company.

Mr. Kirby updated the Board on the chloramine conversion of water plant nos. 1, 2, and 3. He reviewed and recommended approval of Pay Estimate No. 4 in the amount of \$79,650 to R&B Group, Inc.

Mr. Kirby stated that J&C will not recommend approval of final payment on the contracts for the surface water treatment plant offsite utility extensions or the chloramines conversion of water plant nos. 1, 2, and 3 until the District is in receipt of the Affidavits of Bills Paid.

Mr. Kirby updated the Board on the wastewater treatment plant belt filter press replacement project. The Board concurred that the equipment be painted the same color as the District's existing facilities. Mr. Kirby reviewed and recommended approval of Pay Estimate No. 1 in the amount of \$27,000 to R&B Group, Inc.

Mr. Kirby discussed Lift Station No. 5 electrical improvements. He stated that an alternate bid item for replacement of the conduit was not necessary as the existing conduit was reused.

Mr. Kirby updated the Board on a meeting with representatives of Fort Bend County on the Mason Road expansion. He stated that he discussed the District's requirements for working along the levee. The Board requested that EDP add a notice to the website on the Mason Road expansion and contact information for Fort Bend County once construction has commenced. Mr. Kirby stated that J&C and EDP will have representatives on site of the expansion project at the beginning of the project and J&C will have an inspector on site periodically throughout the project.

Following review and discussion, Director Kluppel moved to (1) approve the engineer's report; (2) approve Pay Estimate No. 7 in the amount of \$56,562.12 to Hurtado Construction Company for the surface water treatment plant offsite utility extensions, based upon the engineer's recommendation; (3) approve Pay Estimate No. 4 in the amount of \$79,650.00 to R&B Group, Inc. for the chloramine conversion of water plant nos. 1, 2, and 3, based upon the engineer's recommendation; and (4) approve Pay

Estimate No. 1 in the amount of \$27,000 to R&B Group, Inc., for the wastewater treatment plant belt filter press replacement project, based upon the engineer's recommendation. Director Stolleis seconded the motion, which passed by unanimous vote.

Mr. Kirby and Mr. Owen updated the Board on the completion of the sluice gate at FM359.

#### 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. Director Krahn seconded the motion, which passed by unanimous vote.

#### REPORTS FROM DIRECTORS AND DISTRICT CONSULTANTS REGARDING EVENTS AND ACTIVITIES ATTENDED DURING THE MONTH, INCLUDING FORT BEND FLOOD MANAGEMENT ASSOCIATION MEETINGS

Director Kluppel reported on a meeting he attended of the Fort Bend Flood Management Association.

Director Taylor reported that he asked CenterPoint to contact Mr. Mark Grant of Fort Bend County regarding removal of trees from the right-of-way on Pitts Road and continues to discuss tree replacement/relocation in Pecan Grove Park. Director Stolleis reported on a meeting he attended at the Fort Bend Subsidence District and added that an extension of the District's surface water conversion date is being considered.

#### COMMENTS FROM THE PUBLIC

Ms. Feiser addressed the Board and requested that the meeting room be configured in the future so that attendees can be seated in rows in front of the Board. Ms. Humphries responded that the Board had previously scheduled another larger room for the meeting that would have provided seating in front of the Board for attendees and the Club moved the Board to this meeting room. She added that the Board has complained to the Club on the moving of the meeting to the smaller room without notice. Ms. Feiser requested a meeting with the Board on the previous construction performed on the existing levee. Mr. Kirby discussed the changes in the FEMA requirements for the existing levee and the District's actions to comply with the requirements. Director Taylor requested that Ms. Feiser contact J&C who can give her contact information for the Fort Bend County engineering department who can address her questions.

## DEVELOPMENT AND MAINTENANCE OF PARKS

The Board reviewed a report on parks for December, a copy of which is attached. Director Krahn stated that the Parks Committee will consider landscaping for Plantation Park in the spring.

## REPORT ON SECURITY MATTERS

Constable Cook reported on security in the District. Mr. Boyd requested that the constable monitor speed on Plantation Drive from Mayweather Road to Pitts Road. Ms. Humphries stated that residents' questions on the speed limit on Harlem Road should be directed to Fort Bend County.

## DISTRICT FIRE PLAN AND REPORT FROM FIRE PLAN COMMITTEE

Director Krahn stated that a letter was sent to the City of Richmond Fire Department and Pecan Grove Volunteer Fire Department requesting that they work together to investigate possibilities of determining a blended policy that meets the common good of the residents. He added that the letter also requested that the outcome of the discussions be presented to the Pecan Grove Municipal Utility District Board of Directors on January 31, 2012.

## ATTORNEY'S REPORT

Ms. Humphries stated the District was required to file updated financial information and operating data in the form of an annual report with the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access System prior to March 31, 2012. She requested authorization to compile the report. After review and discussion, Director Kluppel moved to authorize the consultants to prepare the annual report. Director Minchew seconded the motion, which carried by unanimous vote.

Ms. Humphries distributed and reviewed with the Board a memorandum from ABHR on Construction Contract Forms, a copy of which is attached. She stated that legislation has changed the enforceability of broad-form indemnity provisions used in construction contracts. Ms. Humphries stated that House Bill 2093, which becomes effective January 1, 2012, provides that any indemnity provision that seeks to require a contractor to indemnify an owner for the owner's own negligence or fault is unenforceable. Ms. Humphries noted that ABHR has prepared a new form of construction contract for use on all construction projects on or after January 1, 2012, a copy of which previously was provided to all Directors.

The Board concurred that no directors plan to attend the Association of Water Board Directors Conference and therefore setting travel guidelines and director expenses for the conference was not necessary.

The Board discussed water rates in connection with the startup of the surface water treatment plant. The Board concurred to review accumulated data on operating costs for the plant and the water rates in August, 2012.

The Board discussed the Drought Contingency Plan ("Plan") in connection with the startup of the surface water treatment plant. Director Taylor stated that J&C and EDP need to evaluate how the new surface water system operates with the District's existing water system and make recommendations to the Board on any necessary amendments to the Plan.

In response to a question from Director Taylor on the implementation of Senate Bill 18, Ms. Humphries stated that ABHR is preparing a notice from the District to submit to the State Comptroller stating that the District is authorized to exercise the power of eminent domain and identifying each provision of law that grants such authority.

CONVENE IN 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

The Board did not convene in executive session to deliberate the deployment or specific occasions for implementation of security personnel devices.

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

The Board did not convene in executive session to deliberate the purchase, exchange, lease, or value of real property.

CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO DISCUSS PENDING OR CONTEMPLATED LITIGATION INCLUDING CONDEMNATION PROCEEDINGS

At 7:14 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 including condemnation proceedings.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING PENDING OR CONTEMPLATED LITIGATION INCLUDING CONDEMNATION PROCEEDINGS

At 7:33 p.m. the Board reconvened in open session. After discussion, Director Stolleis moved to authorize ABHR to send letters to property owners containing offers to purchase property for the Pecan Lakes Levee project based upon appraised values. Director Kluppel seconded the motion which passed by unanimous vote.

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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