

MINUTES  
MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 89

April 4, 2019

The Board of Directors (the "Board") of Montgomery County Municipal Utility District No. 89 (the "District") met in regular session, open to the public, on the 4th day of April, 2019, at Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Houston, Texas 77027, outside the boundaries of the District, and the roll was called of the duly appointed members of the Board, to-wit:

Paul Cote	President
Robert Veasey, III	Vice President
Bredawn Riley	Secretary
Shawn Goodman	Assistant Vice President
Fred C. Colston, III	Assistant Secretary

and all of the above were present except Director Colston, thus constituting a quorum.

Also present at the meeting were Lenny Hardoin of Champions Hydro-Lawn, Inc. ("Champions"); Justin Abshire of Jones & Carter, Inc. ("J&C"); John Montgomery of Municipal Operations & Consulting, Inc. ("MOC"); Erin Garcia of Myrtle Cruz, Inc. ("Myrtle Cruz"); and Tim Austin and Nikole Cales of Allen Boone Humphries Robinson LLP ("ABHR").

MINUTES

The Board reviewed the minutes of the March 7, 2019, regular meeting. Following review and discussion, Director Goodman moved to approve the minutes, as presented. The motion was seconded by Director Riley and passed by unanimous vote.

LEGENDS RANCH PROPERTY OWNERS ASSOCIATION ("POA")

Director Cote updated the Board regarding the POA matters. He discussed the possibility of entering into an agreement with the POA for the District to secure an electricity contract on behalf of the POA. He stated the POA would reimburse the District for all costs incurred. Discussion ensued and the Board requested an agenda item be added to further discuss with the District's electricity broker.

BOOKKEEPER'S AND TAX ACCOUNT REPORT

Ms. Garcia presented the bookkeeper's report, including information on the tax account, and submitted the bills for the Board's review. Copies of the bookkeeper's report and tax account report are attached.

Discussion ensued regarding Spring Creek Utility District ("SCUD") spillway drainage maintenance and repair and whether the District's agreement with SCUD allows SCUD full control of decision for the drainage maintenance and repairs. The Board discussed the possibility of the District overseeing the maintenance and repairs. The Board requested an agenda item be added to further discuss this matter. The Board requested Mr. Austin reach out to SCUD to determine if SCUD would consider allowing the District to assume the maintenance of the drainage channel.

Following review and discussion, Director Goodman moved to approve the bookkeeper's report. Director Riley seconded the motion, which carried by unanimous vote.

#### REPORT ON DRAINAGE CHANNEL MAINTENANCE

Mr. Hardoin presented and reviewed a report from Champions, a copy of which is attached.

Mr. Hardoin reported Champions located multiple leaks in the existing 36" storm sewer outfall pipe ("pipe") during the bulkhead relocation in Lake No. 3. Mr. Abshire reviewed with the Board pictures of his findings, a copy of which is included in the engineer's report. He stated the storm sewer pipe is currently underwater and reported J&C has not determined a cause for the leak. He then discussed expenses incurred as a result of the necessary immediate repairs, which included installation of two coffer dams and jetting and cleaning of pipe in the amount of \$18,000. A copy of the expenses already incurred and possible expenses for future repairs is attached. Mr. Abshire discussed additional repairs and noted the pipe extends beyond construction plans and will require pumping water out of pond to clean the pipe and make a determination of the leak location as well as any other issues with or damage to the pipe.

Mr. Abshire stated there are also concerns about damage to bulkheads and possible cavities as a result of the leaks, including a potential sinkhole at some point in the future. He stated that he anticipates additional costs of approximately \$50,000 and noted that the pipe also has some silt which is inhibiting approximately 25% of the storm water drainage.

Director Goodman inquired whether Board approval is necessary for the costs incurred with for the initial repairs needed to stabilize the area after the leaks were found. Mr. Abshire stated he believes the situation was an emergency and immediate action was necessary to prevent further damage. The Board noted Directors Cote and Veasey were made aware of the situation and agreed that it is necessary to complete the repairs as quickly as possible. Mr. Austin stated unforeseen conditions during the course of work and the need for the contractor to be onsite to address the issue would constitute an emergency. The Board considered implementing a policy or procedures regarding emergency repairs and authorization of expenditures during such an event.

Mr. Abshire discussed his repair recommendations which includes lowering the pond, installation of two more coffer dams, and cleaning, jetting and televising the pipe which would cost approximately \$50,000. He noted there are still undetermined costs for the actual repair of pipe, and the bulkhead and cavity repair. A copy of the cost estimate is included in the emergency expenditure detail.

The Board determined the costs resulting from the completion of the project in full as recommended by the District's engineer outweighed the benefits. The Board concurred to restore the area to the original condition and make no repairs to the pipe. The approved restorations include cleaning out the area, cleaning the pipe where accessible, regrading the slope, filling in any visible voids and reseeded the area.

Mr. Austin stated it is conceivably possible, if the pipe is further blocked, it could impede the flow of stormwater to the detention pond and possibly cause a backup of water, potentially flooding homes in the area. He noted the repair or lack thereof is the Board's decision, but he wanted to advise the Board of potential liabilities associated with its decision.

Mr. Hardoin stated the water level may be impacted and additional silt will build up if the pipe is not thoroughly cleaned. The Board requested Mr. Abshire to update the POA regarding the matter.

#### ENGINEER'S REPORT

Mr. Abshire presented and reviewed with the Board the engineer's report, a copy of which is attached.

Mr. Abshire stated he updated and filed the District's Critical Load Spreadsheet.

#### POTENTIAL DEVELOPMENT OF 3.09-ACRE TRACT

The Board discussed the potential development of a 3.09-acre tract of land with the District. Discussion ensued regarding arranging a joint meeting between the District the property owners, the POA and the party interested in building on the property.

#### LONG TERM PLAN

Mr. Abshire presented and reviewed a copy of the current five-year Capital Improvements plan, a copy of which was included in his report.

#### STORM WATER PERMITTING MATTERS

Mr. Abshire updated the Board on Storm Water Permitting Matters.

## OPERATOR'S REPORT

Mr. Montgomery presented and reviewed with the Board a copy of the monthly operator's report for the month of March 2019, a copy of which is attached. He stated that the ratio of water billed versus produced for the period from February 11, 2019, to March 13, 2019, was 95%. Mr. Montgomery then presented two accounts requested to be written off as uncollectable.

Mr. Montgomery discussed with the Board a letter from the TCEQ, noting that the new letter supersedes and replaces the December 16, 2009 letter, which approved an elevated storage tank variance request with conditions. A copy of the letter is attached. The Board directed the operator to request an option for digital chart recorder log to be presented to the TCEQ.

Mr. Austin updated the Board regarding the San Jacinto River Authority ("SJRA") litigation. He reported the City of Conroe is appealing to the Texas Supreme Court. Director Cote discussed new possible policy revisions.

Mr. Montgomery discussed possible revisions to the Rate Order to include a monthly smart meter fee and implementing an after-hours service charge. The Board considered amending the Rate Order and concurred to defer action and requested the item be added for discussion in January.

The Board discussed the emergency notification process. Mr. Montgomery explained possible situations which require notification to residents.

Following discussion, Director Goodman moved to approve the operator's report, including the two accounts to be written off as uncollectible. The motion was seconded by Director Veasey and carried unanimously.

## AUTOMATED SMART WATER METER REPLACEMENT PROGRAM

The Board requested Mr. Montgomery post information regarding the installation of smart meters on the District's website.

## TERMINATION OF WATER SERVICE

Mr. Montgomery presented a list of delinquent customers and reported the residents on the termination list were delinquent in payment of their water and sewer bills and were given written notification, in accordance with the District's Rate Order, prior to the meeting of the opportunity to appear before the Board of Directors to explain, contest, or correct their bills and to show why utility services should not be terminated for reason of non-payment. Following review and discussion, Director Goodman moved to authorize termination of delinquent accounts in accordance with the District's Rate Order and direct that the delinquent customer list be filed appropriately and retained in

the District's official records. The motion was seconded by Director Riley and passed by unanimous vote.

CONDUCT ANNUAL REVIEW AND RECEIVE REPORT FROM OPERATOR ON IDENTITY THEFT PREVENTION PROGRAM AMENDMENT

Mr. Montgomery stated that the Identity Theft Prevention Program was reviewed and no incidents of identity theft or fraud have occurred. A copy of the red flag letter is attached.

REPORT FROM ADVISORY BOARD, INCLUDING UPDATE ON TRANSPORTATION IMPROVEMENT PROGRAM APPLICATION FOR SIDEWALK EXTENSIONS ALONG BIRNHAM WOODS DRIVE

Mr. Abshire presented a cost estimate summary for alternative sidewalk material options for the 6-foot wide sidewalks. He stated the use of crushed granite for the sidewalk would cost approximately \$90,000. The Board requested Mr. Abshire to look at the criteria for "safe walk to school program."

REPORT FROM BEST TRASH

There was no update regarding Best Trash.

REPORT FROM ELECTRICITY BROKER AND AUTHORIZE APPROPRIATE ACTION

There was no discussion regarding this matter.

ADOPT ORDER ADOPTING AMENDED AND RESTATED WATER CONSERVATION PLAN AND AUTHORIZE SUBMITTAL TO THE TEXAS WATER DEVELOPMENT BOARD

Mr. Austin reviewed the Water Conservation Plan Annual Report and Five-Year Implementation Report on the Water Conservation Plan with the Board. He stated that the Texas Commission on Environmental Quality rules require that the District review and adopt an Amended and Restated Water Conservation Plan prior to May 1, 2019. Mr. Austin reviewed an Amended and Restated Water Conservation Plan with the Board.

After review and discussion, Director Goodman moved to: (1) approve the Water Conservation Annual Report and Five-Year Implementation Report, direct that the reports be filed appropriately and retained in the District's official records, and authorize the District's Operator to submit the reports to the appropriate government agencies; and (2) adopt an Order Adopting Amended and Restated Water Conservation Plan, direct that the Order be filed appropriately and retained in the District's official records, and authorize the District Operator to submit the Amended and Restated Water Conservation Plan to the appropriate government agencies. Director Veasey seconded the motion, which passed by unanimous vote.

REVIEW DROUGHT CONTINGENCY PLAN AND ADOPT ORDER ADOPTING AMENDED AND RESTATED DROUGHT CONTINGENCY PLAN

Mr. Austin stated that the Texas Commission on Environmental Quality ("TCEQ") rules require that the District review and adopt an Amended and Restated Drought Contingency Plan in 2019, prior to May 1st. He reviewed an Amended and Restated Drought Contingency Plan with the Board. After review and discussion, Director Goodman moved to adopt an Order Adopting Amended and Restated Drought Contingency Plan; Providing for Implementation and Enforcement Thereof; Providing Penalties for Violations; and Containing Other Provisions Related to the Subject and direct that the Order be filed appropriately and retained in the District's official records. Director Riley seconded the motion, which passed by unanimous vote.

ORDER ADOPTING AMENDED AND RESTATED PROCEDURES FOR CONTINUING DISCLOSURE COMPLIANCE

Mr. Austin stated that, when the District issues bonds, the District enters into a continuing disclosure undertaking for the benefit of the bondholders. He added that the provisions of that undertaking require that the District comply with certain continuing disclosure requirements for its bonds. Mr. Austin explained that the Board is ultimately responsible for continuing disclosure compliance for its bonds, with assistance by its consultants. He added that, in order to ensure that the District's procedures for continuing disclosure compliance are well documented, the Board has previously adopted such procedures in writing. He stated that, because the United States Securities and Exchange Commission has amended its Rule 15c2-12, ABHR recommends that the District's written procedures be amended by the Board. Mr. Austin reviewed an Order Adopting Amended and Restated Procedures for Continuing Disclosure Compliance with the Board. Following review and discussion, Director Veasey moved to adopt the Order Adopting Amended and Restated Procedures for Continuing Disclosure Compliance and direct that the Order be filed appropriately and retained in the District's official records. Director Shawn seconded the motion, which passed by unanimous vote.

DISCUSS JULY MEETING DATE

The Board concurred to move its regular meeting date due to the Fourth of July holiday and meet on July 3, 2019 at 11:00 a.m.

CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 551.087, TEXAS GOVERNMENT CODE, TO DISCUSS OR DELIBERATE REGARDING THE OFFER OF A FINANCIAL OR OTHER INCENTIVE TO A BUSINESS PROSPECT

The Board did not convene in this executive session.

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

(SEAL)



Secretary, Board of Directors

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