

## HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 368

### MINUTES OF BOARD OF DIRECTORS MEETING

October 6, 2005

The Board of Directors (the "Board") of Harris County Municipal Utility District No. 368 (the "District") met in regular session, open to the public at 6:30 p.m., at Graceview Baptist Church, 22510 Tomball Parkway, Tomball, Texas, on October 6, 2005, pursuant to the notice of said meeting posted in accordance with Chapter 551 of the Texas Government Code; whereupon the roll was called of the members of the Board, to-wit:

Roy P. Lackey	President
Tiffani C. Bishop	Vice President/Investment Officer
Sharon L. Cook	Secretary
Michael J. Ward	Treasurer

All members of the Board were present. Also attending were Mike Plunkett of Eagle Water Management, Inc. ("Operator"); Bob D. Boozer, P.E., of Pate Engineers, Inc. ("Engineer"); A.J. Sullivan of Willow Falls Development, Ltd. ("Willow Falls"); Cary Dunham of Dungrove, L.L.C., representing Cobblestone Construction, Inc. ("Cobblestone"); Allison Dunn, resident of the District; and Kaye C. Corprew and Marian D. Henderson of Johnson Radcliffe Petrov & Bobbitt PLLC ("Attorneys").

The President, after finding that notice of the meeting was posted as required by law and determining that a quorum of the Board was present, called the meeting to order at 6:50 p.m. and declared it open for such business as may come before it.

1. PUBLIC COMMENTS. There were no public comments.
2. APPROVE MINUTES. The Board then considered approval of the minutes of the meeting of September 1, 2005. Upon motion by Director Cook, seconded by Director Bishop, after discussion and with all Directors present voting aye, the Board approved the minutes as amended.
3. OPERATOR'S REPORT. The President next recognized Mr. Plunkett who presented the Operator's Report, including the Termination List, a copy of which is attached hereto as Exhibit "A".
  - a. Monthly Operations. Mr. Plunkett reported that the District's Harris Galveston Coastal Subsidence District groundwater permit has been amended and that the District had a 96.69% accountability rate with 2,599 active connections for the relevant period. Mr. Plunkett then reported that there had been no problems with the District's equipment or power during Hurricane Rita and that the District never lost well capacity. He also explained

that there had been no excursions during the month, however, the lab had been unable to pick up samples due to the Hurricane and the Texas Commission on Environmental Quality is aware of the problem. Next, Mr. Plunkett stated that the District's new Superior Water rating signs will be up next week.

b. Repairs. Mr. Plunkett then suggested the Board approve the expenditure of \$3,945 for the installation of overflow slots in the concrete plant at the Wastewater Treatment Plant to help with the foaming issue.

c. Annual Review of District Rate Order. The Board next considered the annual review of the District's Rate Order, including customer rates and charges. Discussion ensued with respect to the chart prepared by the Operator detailing the estimated treatment costs of water and wastewater, a copy of which is attached hereto as Exhibit "B", and the status of the District's operating fund. Upon motion by Director Cook, seconded by Director Bishop, with all Directors present voting aye, the Board adopted the amended Rate Order increasing the minimum water charge for esplanades to \$0.75 per 1,000 gallons and decreasing the minimum water rate for residential customers to \$15.00 for the first 5,000 gallons of water.

d. Customer Correspondence. Finally, the Operator presented the Board with customer correspondence from a Mr. Richard Coley of Popular Trails Lane, a copy of which is attached hereto as Exhibit "C", wherein Mr. Coley expressed his displeasure at the lack of garbage service during the last week of September. The Board noted that the time period mentioned in Mr. Coley's correspondence had been during Hurricane Rita and that there probably had been no garbage service countywide due to the massive evacuations and lack of fuel. The Board took no action.

Upon motion by Director Bishop, seconded by Director Lackey, after discussion and with all Directors present voting aye, the Board approved the Operator's Report as presented, including approval of the authorized installation of overflow slots at the Wastewater Treatment Plant and authorized termination of the accounts listed on the Termination List for non-payment of water and sewer services in accordance with the provisions of the District's Rate Order.

4. ENGINEER'S REPORT. The President next recognized Mr. Boozer who presented the Engineer's Report, a copy of which is attached hereto as Exhibit "D." Attached to the Engineer's Report are copies of the pay estimates, change orders, utility commitments, and/or the recommendation of award of contracts discussed therein. Mr. Boozer reviewed the Report as follows:

a. Engineer's Action Items. Mr. Boozer explained that the District's Engineer is requesting the following actions be taken by the Board at tonight's meeting: (1) approve Pay Application No. 10 in the amount of \$225,382.38 to Industrial TX Corp. for the construction of Water Plant No. 2; (2) approve Pay Application No. 3 in the amount of \$57,843.11 to Bay Utilities, LLC for Willow Falls, Section 3, water distribution, sanitary sewer and drainage facilities; and (3) approve Change Order No. 1 to the Bays Utility, LLC contract which decreases bid item No. 52 by \$1,900.00 and also adds Item Nos. CO1A and CO1B in the amounts of \$1,000.00 and \$900.00 respectively, which results in no change in contract price

for the Willow Falls, Section 3, water distribution, sanitary sewer and drainage facilities (collectively referred to herein as the "Engineer Action Items").

b. Water Plant No. 2. Mr. Boozer reported that he had received an estimate from S&L Industrial for the exterior coating of the two ground storage tanks in the amount of \$32,000 per tank.

c. Wastewater Treatment Plant. With regard to the expansion of the District's Wastewater Treatment Plant, Mr. Boozer reported that the contractor is working on the final punch list items.

d. District Maintenance Building. Mr. Boozer reported that the plans have been submitted to Harris County for signature.

Upon motion by Director Bishop, seconded by Director Cook, after discussion and with all Directors present voting aye, the Board approved the Engineer's Report and the Engineer Action Items.

5. DEVELOPER'S REPORTS. Mr. Dunham reported that Cobblestone is in negotiations with KB Home to purchase and develop the 33-acre proposed annexation tract.

Mr. Sullivan again requested that the Board consider using surplus funds from the bond issue to reimburse Willow Falls for additional completed projects at the current interest rate rather than at a later date. The Board took no action.

6. MISCELLANEOUS. Director Lackey next suggested that the District consider entering into an interconnect agreement with Harris County Water Control and Improvement District No. 119 ("WCID 119"). Mr. Boozer stated that an additional interconnect may prove to be of benefit to the District and asked Mr. Sullivan if he would be willing to broach the subject with the WCID 119 Board at their next meeting since Willow Falls is also developing in that district, and Mr. Sullivan replied affirmatively.

[Ms. Allison Dunn entered the meeting at this time.]

7. ATTORNEY'S REPORT. Director Lackey next recognized Ms. Corprew, who presented the Attorney's Report as follows:

a. Vandalism. Ms. Corprew first reported that Water Plant No. 2 had been vandalized and asked Director Lackey to fill the Board in on the incident. Director Lackey stated that Wednesday of last week, someone cut all the locks on the gate and doors and the hasps off the building and tore the top off the control panel at Water Plant No. 2. Director Lackey further reported that he had spoken with Constable Hickman and that they have assigned a temporary deputy to try and work parallel shifts to get better coverage of the District's facilities. He also stated that with the amendment to the Interlocal Agreement with Harris County approved at the September 15, 2005 Board meeting, the District should have

its fourth deputy on duty somewhere around the 15<sup>th</sup> of October. Director Lackey reported that it appears that nothing is missing from Water Plant No. 2.

[Director Ward entered the meeting at 8:30 p.m. and Mr. Sullivan and Mr. Dunham departed the meeting at 8:33 p.m.]

b. Amendment to Emergency Water Supply Agreement. Ms. Corprew stated that the Amendment No. 2 to Emergency Water Supply Agreement by and between Harris County Municipal Utility District No. 368 and Northwest Harris County Municipal Utility District No. 15 has been completed and accepted with the exception of the new price for delivery of water. Discussion ensued and it was the consensus of the Board that the Attorney should start the negotiations at \$1.00 per 1,000 gallons of water, plus any regulatory fees.

c. Vacated Term of Office. Ms. Corprew next reported that former Director Mr. Drexel Moerbe has closed on the sale of his property within the District since the September 15, 2005 Board meeting and, therefore, he has been disqualified to serve on the District's Board. Ms. Corprew stated that the Board may now consider candidates to fill the vacancy on the Board created by Mr. Moerbe's disqualification. The Board then recognized Ms. Dunn who made a brief statement to the Board regarding her background and qualifications. The Board thanked Ms. Dunn for her interest and stated that they are not prepared to make a decision at this meeting since there is one other resident who has expressed an interest in the position and think they should give him an opportunity to address the Board as well.

Upon motion by Director Cook, seconded by Director Bishop, after discussion and with all Directors present voting aye, the Board approved the Attorney's Report.

[Mr. Plunkett and Ms. Dunn departed the meeting at 8:55 p.m.]

8. EXECUTIVE SESSION. At 8:56 p.m., the President called an Executive Session pursuant to 551.071(a)(1) to seek advice from counsel regarding contract negotiations and potential litigation concerning the District's contract with Industrial Texas Corp. to construct Water Plant No. 2. All attendees were dismissed, with the exception of the Board, Engineer and Attorneys. At 9:20 p.m., the President declared the Execution Session over and reconvened the meeting in open session to vote upon matters discussed in Executive Session. Upon motion by Director Cook, seconded by Director Bishop, after discussion and with all Directors present voting aye, the Board voted to reduce the retainage with respect to the Water Plant No. 2 project to 7-1/2% and authorized the Attorney to write a letter to the contractor of Water Plant No. 2 regarding the damages to the galvanized finish of the ground storage tanks.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, the meeting was adjourned.

Passed and approved this 3rd day of November, 2005.

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Secretary, Board of Directors

**EXHIBITS:**

- A - Operator's Report
- B - Estimated Treatment Costs
- C - Customer Correspondence
- D - Engineer's Report