

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 368

MINUTES OF BOARD OF DIRECTORS MEETING

May 4, 2006

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 May 4, 2006, 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
Allison Dunn	Assistant Secretary

All members of the Board were present. Also attending were Mike Plunkett of Eagle Water Management, Inc. ("Operator"); Eric Johnson, P.E. and Mark Stendahl, P.E. of Pate Engineers, Inc. ("Engineer"); David Haynes of Industrial TX Corp. ("Industrial"); A. J. Sullivan and Tony Padua of Sam Yager, Inc. ("Yager"); Cary Dunham of Cobblestone Construction, Inc. ("Cobblestone"); Mike McCall of McCall, Gibson & Company, PLLC ("Auditor"); and Kaye C. Corprew of Johnson Radcliffe Petrov & Bobbitt PLLC ("Attorney").

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 and declared it open for such business as may come before it at 6:40 p.m.

1. ENGINEER'S REPORT. The President first recognized Messrs. Stendahl and Johnson, who presented the Engineer's Report, a copy of which is attached hereto as Exhibit "A". Mr. Stendahl thanked the Board for moving the Engineer's Report up on the agenda and apologized for having to leave early. Mr. Stendahl then requested that the Board direct its attention to items No. 7 and No. 8 on the written report, the Wastewater Treatment Plant expansion and the Trailer-Mounted Back-up Generator, respectively. Mr. Stendahl reported that the discharge effluent criteria should remain unchanged through 2013 with respect to the Wastewater Treatment Plant; therefore, the Engineer is revising the 2003 design report to include only the items to be constructed in Phase 4 and will submit that to the City of Houston extraterritorial review team for review. Mr. Stendahl further reported that design work will begin in June with plans to submit the plans to the review agencies by mid-October.

Mr. Stendahl next updated the Board regarding the status of the Trailer-Mounted Back-up Generator. Mr. Stendahl reported that information on the largest 480-volt load and the largest 240-volt load have been forwarded to the consulting electrical engineer, who will size the

generator, the transformer gear, and the connectors needed to serve the multiple applications. Mr. Stendahl then requested the Board's authorization to advertise for bids. Upon motion by Director Ward, seconded by Director Bishop, after discussion and with all Directors present voting aye, the Board authorized the Engineer to advertise for bids for the Trailer-Mounted Back-up Generator. Mr. Stendahl then stated that Mr. Johnson would finish reviewing the Engineer's Report and departed the meeting at this time. [Ms. Corprew arrived at the meeting at this time.]

Mr. Johnson continued with the Engineer's Report, as follows:

- a. Engineer's Action Items. Mr. Johnson explained that in addition to the authorization to advertise for bids for the Trailer-Mounted Back-up Generator approved by the Board at Mr. Stendahl's request, the District's Engineer is also requesting the following actions be taken by the Board at tonight's meeting: (1) approve Pay Application No. 4 and Change Order No. 2 submitted by Clearwater Utilities, Inc. in the amount of \$14,778.31; (2) approve Progress Payment No. 15 and Final for Northern Point Sec. 2 water, sanitary sewer and drainage facilities submitted by C. E. Barker, Ltd. in the amount of \$22,545.43; and (3) approve Pay Application No. 6 and Final in the amount of \$10,822.40 submitted by Clearwater Utilities, Inc. with respect to construction of Stonepine, Section 2, water, sanitary sewer and drainage facilities (collectively referred to herein as the "Engineer Action Items").
- b. Bond Application No. 9. Mr. Johnson directed the Board's attention to the draft of the preliminary bond issue requirement and a list of projects that the Engineer anticipates including in this bond application.
- c. Channel M-122 Maintenance. Mr. Johnson reported that he has completed the survey of the channel outfall at Willow Creek and that the general "shape" of the channel is in good condition, but that the channel and outfall into Willow Creek is severely overgrown and needs to be cleared, then regraded and seeded.
- d. Ezekiel Road Water and Sanitary Sewer Analysis. Mr. Johnson next reported that as the Board requested, he had analyzed the existing facilities and determined that it was possible to construct a water line along Ezekiel Road which would connect Northpointe East subdivision to the existing 12" water line along Huffsmith-Kohrville Road. Mr. Johnson estimated construction costs for an 8" water line to be approximately \$75,000 and \$95,000 for a 12" water line. Mr. Johnson also stated that a lift station would be necessary to provide sanitary sewer service at an additional cost of \$300,000. Discussion ensued regarding the feasibility of the District fronting the costs to provide service to the residents along Ezekiel Road and it was the consensus of the Board that the cost is prohibitive, and makes it economically unfeasible for the District to pursue such endeavor. The Board, however, did agree that the District would provide service to the Ezekiel Road residents if they are willing to pay the costs of providing the

service and agree to pay a water and sewer rate equal to three times the rate charged to in-District residential customers. Mr. Johnson was directed to prepare a letter to the residents explaining the results of the study and the District's stance on providing water and sewer service to them.

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. [Mr. Dunham arrived at the meeting at the end of the Engineer's Report.]

2. ENGAGE AUDITOR. The President next recognized Mr. McCall who presented the Board with an engagement letter to conduct the District's annual financial audit for the fiscal year ending May 31, 2006, at an estimated cost between \$14,000 and \$16,000, a copy of which engagement letter is attached hereto as Exhibit "B". Mr. McCall requested that the Board review the fraud questionnaire and let him know if there are any concerns. Upon motion by Director Cook, seconded by Director Bishop, after discussion and with all Directors present voting aye, the Board engaged McCall, Gibson & Company, PLLC to perform the District's annual financial audit and authorized the President of the Board to execute the engagement letter as the act and deed of the District. Mr. McCall departed the meeting at this time.

3. PUBLIC COMMENT. There was no public comment.

4. APPROVE MINUTES. The Board deferred approval of the minutes of April 6, 2006 and April 20, 2006 meetings until the May 18, 2006 meeting.

5. INSURANCE RENEWAL. Approval of the insurance proposals was deferred until the May 18, 2006 Board meeting. The Board requested that Ms. Corprew summarize the proposals and invite the agents to attend that meeting and be prepared to give a 10 minute presentation.

6. PAYMENT OF INVOICES. No invoices were presented for payment.

7. OPERATOR'S REPORT. The President next recognized Mr. Plunkett who presented the monthly Operations Report, a copy of which is attached hereto as Exhibit "C". Mr. Plunkett reviewed the monthly Operations Report and then presented the Termination List. Discussion then ensued regarding the status of repairs and/or replacement of District facilities. Director Ward noted that for the last several months, the Bookkeeper has had the wrong connection numbers and requested that the Operator ensure that the correct numbers are relayed to the Bookkeeper. Director Bishop then asked whether or not Harris County Municipal Utility District No. 281 paid for the 3,608,000 gallons of water taken through the interconnect. Mr. Plunkett stated that he did not know, but that he would research the matter. Mr. Plunkett next reported that the contractor had started on the new roof at the Wastewater Treatment Plant and that the 911 boxes had been installed at the facilities with generators. Finally, Mr. Plunkett stated that he is watching the groundwater permit closely because the pumpage is running high. Ms. Corprew inquired about the status of the Consumer Confidence Reports to which Mr. Plunkett stated that they were not ready and requested that the Board defer approval of the Consumer Confidence Reports until the June meeting. Upon motion by Director Ward,

seconded by Director Bishop, after discussion and with all Directors present voting aye, the Board approved the Operator's Report as presented and authorized termination of service to the customers on the Cut-off List pursuant to the terms and procedures set forth in the District's Rate Order.

8. DEVELOPERS REPORT. The President then called for the Developers Report, if any. Mr. Sullivan introduced Tony Padua to the Board as the Project Manager for Sam Yager Incorporated. Mr. Sullivan then reported that on the status of the Willow Falls Subdivision and explained that the Engineer had been authorized to start design on Section 4 and that there were 180 homes started in Sections 1 and 2. Homebuilding has also started in Section 3.

Mr. Dunham stated that he had nothing to report on the Cobblestone Development.

9. ATTORNEY'S REPORT. The President next recognized Ms. Corprew who presented to the Board the Attorney's Report as follows:

a. Cobblestone Annexation and Reimbursement Agreements. Ms. Corprew first presented the Board with an Annexation and Service Agreement (the "Annexation Agreement") and a Water, Sewer and Drainage Improvement Financing and Construction Agreement (the "Reimbursement Agreement") by and between the District and Dungleve, L.L.C., and Douglas Lloyd, L.P, copies of which are attached hereto as Exhibits "D" and "E", respectively, with respect to the Cobblestone 33-acre annexation and development tract. Upon motion by Director Cook, seconded by Director Ward, after discussion and with all Directors present voting aye, the Board approved the Annexation Agreement and the Reimbursement Agreement and authorized the President and Secretary to execute and attest same as the act and deed of the Board.

b. Open Government Training Requirements Ms. Corprew then distributed a memorandum, a copy of which is attached hereto as Exhibit "F", and explained that as of January 1, 2006, elected and appointed public officials of governmental entities, such as the Board members of the District, are required by Senate Bill 286 ("SB 286") of the 79th Legislature to receive training on two (2) subjects on Texas' open government law. Ms. Corprew explained that SB 286 specifically requires a one (1) hour course on the Texas Open Meetings Act ("Open Meetings") and a one (1) hour course on the Texas Public Information Act ("Public Information"). Ms. Corprew went on to explain that public officials, such as the Directors, are required to receive training on Public Information unless the official's governmental body employs a designated public information coordinator who is responsible for responding to Public Information requests on behalf of the governmental body, and the designated public information coordinator completes an approved Public Information training course. Ms. Corprew stated that Johnson Radcliffe has previously been designated as the public information coordinator for the District and will receive the training on behalf of the District; however, in accordance with the spirit of the law, all Board members are strongly encouraged to complete the Public Information training offered by the Texas Attorney General's Office (the "AG").

Ms. Corprew then went on to explain the timeframes whereby the Board members must complete the required training. Board members who took the oath of office prior to January 1, 2006 have until January 1, 2007 to complete the required training and any Board member who executes an oath of office after January 1, 2006, has 90 days from the date of executing the oath of office within which to complete the required training. Ms. Corprew continued that Directors elected at the May 12, 2006 Directors' Election will have 90 days from the date they take their oaths of office within which to complete the training. Ms. Corprew explained that the Directors have several choices for receiving the required training, including watching the training videos on the AG's website, obtaining their own copy of the training videos free of charge from the AG, viewing the training videos at the Association of Water Board Directors – Texas Summer Conference, or viewing them at the office of Johnson Radcliffe on one of the scheduled dates. The Board then inquired as to whether it would be possible to view the videos at the District's meeting facility, to which Ms. Corprew replied in the affirmative. Discussion ensued and it was the consensus of the Board that a special meeting will be held on Tuesday, June 6th at 6:30 p.m. to allow the Board members to view the 2-hour DVD containing the course on the Open Meetings Act and on the Texas Public Information Act.

c. Director Fees of Office and District Reimbursement Policy. Ms. Corprew next presented and reviewed with the Board a copy of the Resolution Amending Director Fees of Office and District Reimbursement Policy as adopted by the Board on July 1, 2003, a copy of which is attached hereto as Exhibit "G". Ms. Corprew stated that in light of the recent Channel 13 investigative reports regarding the alleged abuse of public funds by directors of the district featured in the report, that she and Mr. Andrew Johnson thought it would be in the Board's best interest to review the provisions of the Resolution and Reimbursement Policy with the Board as a refresher. Ms. Corprew explained that she is in the process of drafting a proposed amendment to the Resolution regarding reimbursement of expenses which she will provide at the next Board meeting.

d. Water Plant No. 2 Construction. The Board next discussed the status of the proposed Settlement Agreement with Industrial relating to the Water Plant No. 2 construction contract. Ms. Corprew suggested that the Board discuss such matter in Executive Session; however, before the Board took such action, Director Lackey asked Mr. Haynes if he had anything he cared to present to the Board for consideration. Mr. Haynes stated that he intends to start-up one (1) of the ground storage tanks (the "GSTs") tomorrow and that Industrial should be ready to start-up the second GST shortly thereafter. The Board then asked Mr. Haynes when he thought the project would reach "substantial completion", then discussed what such phrase implied. Then, Mr. Haynes requested extra days to get to the substantial completion point. Mr. Haynes also requested that the Board select a paint color for the GSTs. Discussion ensued and it was the consensus of the Board that the ground storage tanks should be painted "cool blue". The President then stated that the Board would need to discuss Mr. Haynes' request for extra time to get to the substantial completion point when it is in Executive Session to consult with the Attorney regarding the negotiations.

10. EXECUTIVE SESSION. At 8:05 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 TX Corp. to construct Water Plant No. 2. All attendees were dismissed, with the exception of the Board, Engineers and Attorneys. At 8:20 p.m., the President declared the Executive Session over and Mr. Haynes re-entered the meeting.

Upon motion by Director Lackey, seconded by Director Cook, after discussion and with all Directors present voting aye, the Board approved an extension until May 12, 2006 for Industrial to achieve the substantial completion point of the Water Plant No. 2 construction contract. Discussion then ensued regarding the terms of the Settlement Agreement with Mr. Haynes and the Board made it clear that they had agreed to waive the 122 days of liquidated damages which will extend the contract completion date until May 12, 2006; however, should Industrial fail to reach the substantial completion point by the May 12, 2006 deadline, then liquidated damages would begin to accrue.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, the President adjourned the meeting at 8:52 p.m.

Passed and approved this 1st day of June, 2006.

Secretary, Board of Directors

EXHIBITS:

- A - Engineer's Report
- B - Auditor's Engagement Letter
- C - Operator's Report
- D - Annexation Agreement (Cobblestone Tract)
- E - Reimbursement Agreement (Cobblestone Tract)
- F - Open Government Training Requirements Memo
- G - Fees of Office and District Reimbursement Policy