

# HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 368

## MINUTES OF MEETING

December 6, 2007

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 Thursday, December 6, 2007, 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"); Mark T. Stendahl, P.E., consulting engineer ("Engineer") for Pate Engineers, Inc. ("Pate"); Mike McCall and Brian DeSilets of McCall, Gibson & Company ("Auditor"); David Garrett of Great America ("Great America"); Tony Padua of Sam Yager, Inc. ("Willow Falls"); Damon Sachs, Project Manager of Woodmere Development Company ("Woodmere"); Michael Grundon of Northern Point Homeowners Association; and Kaye C. Corprew, attorney, and Marian D. Henderson, paralegal, of Johnson Radcliffe Petrov & Bobbitt PLLC ("Attorney" or "JRPB").

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 6:31 p.m.

1. PUBLIC COMMENT. The President first recognized Mr. Grundon who requested information regarding incident reports prepared by the Harris County Constable Patrols in the District. Director Lackey stated that it was the District's policy not to release the report in order to protect the privacy of the residents. Mr. Grundon then stated that the Northern Point Homeowners Association would like to construct a walking path around the Northern Point Detention Basin. Ms. Corprew stated that the District would need to enter into an agreement with the Homeowners Association wherein the Homeowners Association would agree to maintain the walking path and indemnify the District. Director Lackey added that the District does not yet own the Detention Basin as the developer is in the process of bringing the Detention Basin into compliance in order for the District to purchase it and, therefore, the District cannot do anything until it has title to the Detention Basin. [Mr. Grundon departed the meeting at this time.]
2. MINUTES. The Board next considered approval of the minutes of the November 15, 2007 Board meeting. Director Lackey requested a change to the last page to read that "grass, seed or hydro-mulch was left out of the original contract". Director Dunn

requested that paragraph 4e be amended to clarify the District's selections with respect to Tax Collection procedures. Upon motion by Director Ward, seconded by Director Dunn, after discussion and with all Directors present voting aye, the Board approved the minutes as corrected. [Mr. Padua entered the meeting during this time.]

3. 2007 SERIES BONDS – REIMBURSEMENT AUDIT. Ms. Corprew reported to the Board that the 2007 Series Bonds funded today and that according to Mr. Rathmann of Rathmann & Associates, the District's Financial Advisor, all developer projects have satisfied the requirements of their respective Reimbursement Agreements, with the exception of the developer of Ashford Place, to qualify for 100% reimbursement. Ms. Corprew added that Mr. Rathmann is in the process of calculating the exact amount for which the developer of the Ashford Place subdivision, 80 Huffsmith Venture, qualifies and then the Board can make a decision as to whether to do a partial reimbursement or wait until 80 Huffsmith Venture has satisfied the requirements for 100% reimbursement. She added that such report should be completed by the District's December 20, 2007 meeting. Mr. McCall then presented and reviewed the draft Reimbursement Audit with the Board, a copy of which is attached hereto as Exhibit "A". Upon motion by Director Cook, seconded Director Ward, the Board approved the Reimbursement Audit and payment of each of the Developers, with the exception of 80-Huffsmith Venture, subject to receipt of the Texas Commission On Environmental Quality's ("TCEQ") letter authorizing the District's purchase of the facilities. [Mr. Garrett, along with Messrs. McCall and DeSilets departed the meeting at this time.]
4. OPERATOR'S REPORT. The President next recognized Mr. Plunkett, who presented and reviewed with the Board, the Operator's Report, a copy of which is attached hereto as Exhibit "B". First, Mr. Plunkett reported that the bill versus produced ratio for the month of November was 100.00% with 3,109 connections. Mr. Plunkett added that there were no excursions for the month at the Wastewater Treatment Plant. Director Ward questioned the Operator regarding the odor at the Wastewater Treatment Plant and the Operator responded that he was not aware of any additional problems with odor control at the Wastewater Treatment Plant. Mr. Plunkett further reported that Water Well No. 4 is still out of service and that he is waiting for the Motor and Pump to be reinstalled. Mr. Plunkett also reported that the TCEQ will visit the Plant December 7, 2007 and that he doesn't anticipate any problems. Finally, Mr. Plunkett presented the Termination List for the Board's approval. Upon motion by Director Ward, seconded by Director Dunn, after discussion and with all Directors present voting aye, the Board approved the Operator's Report as presented and authorized termination of service to customers on the Termination List attached thereto in accordance with provisions of the District's Rate Order.
5. ENGINEER'S REPORT. The President next recognized Mr. Stendahl, who presented and reviewed the Engineer's Report, a copy of which is attached hereto as Exhibit "C". Mr. Stendahl reported that the test results for October 2007 with respect to water quality monitoring of Water Well Nos. 2, 3, and 5 indicted no contamination and that Water Well No. 4 was not sampled since it is still out of service. Mr. Stendahl then directed the Board's attention to the updated Capital Improvement Report and Stand-by Power Assessment attached to the Engineer's Report. Next, Mr. Stendahl stated that Pate will

submit a proposal at the December 20, 2007 Board meeting for the design of all three (3) stand-by generators using traditional plans, specifications and public bidding procurement. Mr. Stendahl then reviewed the remainder of his report with the Board as follows:

- a. Construction of District Maintenance Building. Mr. Stendahl reported that all work has been completed with the exception of the punch list items identified at the Final Inspection on November 30, 2007 and that the Contractor is addressing those items.
- b. Proposed Water Well No. 6. Next, Mr. Stendahl updated the Board on the status of approvals of the well site plat, land title survey of the Jennings tract, well design and well collector easements, as well as presenting a revised construction schedule.
- c. Water Plant No. 1 – Motor Control Center ("MCC"). Mr. Stendahl reported that an accelerated review of the shop drawings submittal for the MCC and auto-sensory panels was held on November 30, 2007 at Pate Engineers, resulting in some minor modifications which extends the estimated delivery date to March 1, 2008.
- d. Wastewater Treatment Plant – Phase 4 Expansion. Mr. Stendahl reported that the removal of the original Wastewater Treatment Plant has been completed and that placement of forms for the digester basin and chlorine chamber is underway. Mr. Stendahl presented two (2) pay requests from N&S Construction for the project and recommended the District's approval for payment of Pay Request No. 2 in the amount of \$370,422.04 and Pay Request No. 3 in the amount of \$54,215.95.
- e. Water Well No. 4 Motor Repair. Mr. Stendahl reported that Layne Texas expects to have the well back in operation by December 12, 2007.
- f. Woodmere Feasibility Study. Mr. Stendahl next directed the Board's attention to the Woodmere Feasibility Study prepared by Pate with respect to the proposed annexation of the 54.78-acre Gallegos tract now owned by Woodmere, a copy of which is attached hereto as Exhibit "D". Upon motion by Director Ward, seconded by Director Lackey, after discussion and with all Directors present voting aye, the Board approved the feasibility study and authorized moving forward with the annexation of the 54.78-acre tract. Ms. Corprew then reminded the Board of the outstanding balance due from the previous feasibility study on the tract and suggested that Woodmere pay one-half of those costs since it is benefitting from the initial feasibility study and the remainder be paid by Great America since it requested the original study. Mr. Sachs agreed to pay one-half the outstanding invoice from the prior feasibility study.
- g. Ashford Place Failed Sewer Stacks. Mr. Stendahl updated the Board with respect to the failed sewer stacks in Ashford Place, Section 2 which was repaired by the Operator. Mr. Stendahl reported that the Operator opened up another stack and it

too did not have any stabilized sand. Mr. Stendahl stated that the sewer stacks were installed by the contractor that constructed the water, sanitary sewer and drainage facilities to serve Ashford Place, Section 1, Triple B Construction, on the sanitary sewer main transmission line from Section 1 through Section 2 to the Lift Station. Discussion ensued regarding the element of risk to the District if the Developer is reimbursed and the stacks fail later. Mr. Stendahl stated that the Board must decide what to do you do about the current situation and what to do going forward. It was the consensus of the Board that the Operator should check more stacks in both Section 1 and Section 2 to ascertain the scope of the problem.

Upon motion by Director Dunn, seconded by Director Lackey, after discussion and with all Directors present voting aye, the Board approved the Engineering Report as presented, approved Pay Request No. 2 from N&S Construction for the Wastewater Treatment Plant Expansion in the amount of \$370,422.04, approved Pay Request No. 3 from N&S Construction for the Wastewater Treatment Plant Expansion in the amount of \$54,215.95, and accepted the proposal from Pate for additional engineering services with respect to Water Well No. 6 and Well Collection Line.

6. DEVELOPER'S REPORT. The President next recognized Mr. Padua who reported that Willow Falls is averaging 4 sales per month and that is pretty good in this environment. Willow Falls has revamped the entry and they think it will generate more interest in the subdivision. Discussion then ensued regarding installation of a fence to separate the park from the detention pond land, to keep people from entering the detention pond land. Director Ward stated that he was concerned with access for the lawn maintenance crew, the width of the right-of-way between the fence and the edge of the detention pond and that all of the subdivisions be treated the same. Mr. Padua concluded his report by stating that Willow Falls will start construction on the next section in late Spring, 2008. [Mr. Padua departed the meeting at 8:31 p.m.]
7. ATTORNEYS REPORT. The President next recognized Ms. Corprew, who presented the Attorneys Report, as follows:
  - a. Title Insurance for Water Rights. Ms. Corprew reported that she is still waiting on the title commitment for the water rights and hopes to close on the purchase of the well site next week.
  - b. State Highway 249 Waterline Easements. Ms. Corprew requested that the Board go into Executive Session to discuss this matter.

EXECUTIVE SESSION. The President called an Executive Session at 8:35 p.m. pursuant to 551.071(a) to seek advice from counsel regarding real estate negotiations with respect to waterline easement acquisition. Present for the Executive Session were the members of the Board of Directors, Mr. Stendahl, Mr. Plunkett, Mrs. Corprew and Ms. Henderson. At 9:21 p.m., the President declared the Executive Session over and reconvened the meeting in open session.

OPEN SESSION. Upon motion by Director Cook, seconded by Lackey, after discussion and with all Directors present voting aye, the Board authorized the Attorney to make an offer for the Hillegeist waterline easement along State Highway 249 based on the appraisal provided by Mr. Hillegeist. Ms. Corprew then suggested the Board adopt a Resolution Authorizing Acquisition of Waterline Easement and Proceedings In Eminent Domain, a copy of which is attached hereto as Exhibit "E", in order to proceed with the condemnation of the Hillegeist easement should the District not be able to negotiate the purchase. Upon motion by Director Cook, seconded by Lackey, after discussion and with all Directors present voting aye, the Board authorized the Attorney to proceed with condemnation proceedings with respect to the Hillegeist waterline easement and adopted the Resolution as presented.

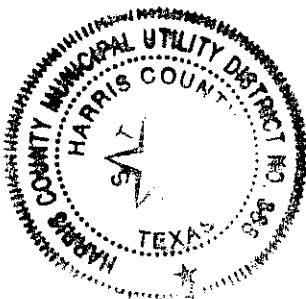
Ms. Corprew next presented the Board with a Resolution Authorizing Acquisition of Waterline Easement and Proceedings In Eminent Domain, a copy of which is attached hereto as Exhibit "F". Upon motion by Director Ward, seconded by Director Lackey, after discussion and with all Directors present voting aye, the Board authorized the Attorney to proceed with condemnation proceedings with respect to the J.R.27909, L.L.C. (Durdin tract) waterline easement along Highway 249 and adopted the Resolution as presented. The Board then directed Mr. Stendahl to determine whether the remaining section of the Highway 249 waterline could be rerouted to avoid the Dia-Den tract.

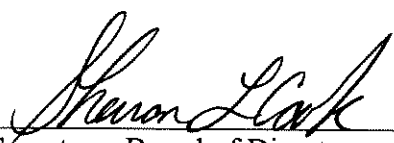
- c. Solomon Road Easements. Ms. Corprew next reported that the offer letters have been sent to all affected property owners and that so far, she nor Ms. Allen had received any comments from the property owners with respect to the letters.
- d. District Meeting Place. Finally, Ms. Corprew presented the Board with a Certificate for Order Designating Additional Meeting Place, a copy of which is attached hereto as Exhibit "G". Upon motion by Director Ward, seconded by Director Lackey, after discussion and with all Directors present voting aye, the Board adopted the Order designating the District's Maintenance Building as an additional meeting place.

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

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, upon motion by Director Ward, the President adjourned the meeting at 9:43 p.m.

Passed and approved this 3rd day of January, 2008.



  
Secretary, Board of Directors

**EXHIBITS:**

A – Reimbursement Audit

B – Operator's Report

C – Engineer's Report

D – Feasibility Study

E – Condemnation Resolution (Hillegeist)

F – Condemnation Resolution (Durdin)

G – Order Designating Additional Meeting Place