

## **HARRIS-FORT BEND COUNTIES MUNICIPAL UTILITY DISTRICT NO. 3**

### **Minutes of Board of Directors Meeting February 27, 2023**

The Board of Directors of Harris-Fort Bend Counties Municipal Utility District No. 3 met in regular session on February 27, 2023, in accordance with the duly posted Notice of Public Meeting, and the roll was called of the duly constituted officers and members of said Board of Directors, as follows:

Ron Welch, President  
W. Derrell Witt, Vice President  
Frank Anzalotti, Secretary  
Richard Breihan, Assistant Secretary  
Danny Williams, Assistant Secretary

all of whom announced they were present, thus constituting a quorum. Director Welch entered the meeting after it was called to order, as noted herein.

Also present were Mike Baker of Katy ABC Properties ("Katy ABC"); Tom Laseter of Vogler & Spencer Engineering, Inc. ("VSE"); Cathy Falke and Raquel Garcia of Environmental Development Partners, LLC ("EDP"); Kayla Crigger of Municipal Accounts & Consulting, L.P. ("MA&C"); Emma Highberger of Wheeler & Associates, Inc. ("Wheeler"); Rose Herbst of Infrastructure Construction Services ("ICS"); and Abraham Rubinsky and Kit Collins of Schwartz, Page & Harding, L.L.P. ("SPH").

The President called the meeting to order and declared same open for business as might properly come before it.

#### **PUBLIC COMMENTS**

Mr. Rubinsky noted that the first item on the agenda was to open the meeting for public comments. There being no comments from the members of the public present, the Board continued to the next item of business.

#### **APPROVAL OF MINUTES**

The Board next considered approval of the minutes of its Board of Directors meeting held on January 30, 2023. Following discussion, Director Welch moved that the Board approve the minutes of its Board of Directors meetings held on January 30, 2023, as presented. Director Anzalotti seconded said motion, which unanimously carried.

#### **TAX ASSESSOR-COLLECTOR'S REPORT**

Ms. Highberger presented to and reviewed with the Board the Tax Assessor-Collector's Report dated as of January 31, 2023, a copy of which is attached hereto as **Exhibit A**, including the disbursements presented for payment from the Tax Account. After discussion, Director Anzalotti moved that the Tax Assessor-Collector's Report be approved as presented, and that the

disbursements from the District's Tax Account identified in said Report be authorized. Director Breihan seconded said motion, which carried unanimously.

### **DELINQUENT TAX COLLECTIONS REPORT**

Mr. Rubinsky advised the Board that there was not a Delinquent Tax Report to present this month from the District's Delinquent Tax Collections Attorneys, Perdue, Brandon, Fielder, Collins & Mott, L.L.P. Mr. Rubinsky advised that he expects the next report to be presented at the April 2023 Board meeting.

### **DEVELOPED DISTRICT STATUS FOR 2023 TAX YEAR**

Mr. Rubinsky reminded the Board that, pursuant to the Texas Property Tax Reform and Transparency Act of 2019, the District is required to determine whether or not the District will be considered a Developed District for the current tax year. Mr. Rubinsky then reviewed with the Board a worksheet completed by VSE to assist the Board in making this determination, along with a Resolution Concerning Developed District Status for the 2023 Tax Year. He noted that, according to the information provided by VSE, the District should not be considered a Developed District for the 2023 Tax Year. Following discussion, it was moved by Director Welch, seconded by Director Williams, and unanimously carried that the Resolution Concerning Developed District Status for 2023 Tax Year, which is attached hereto as **Exhibit B**, be adopted by the Board and the District.

### **BOOKKEEPER'S REPORT**

Ms. Crigger presented to and reviewed with the Board the Bookkeeper's Report dated February 27, 2023, and the Quarterly Investment Report for the period ending December 31, 2022, copies of which are attached as **Exhibit C**, including the disbursements presented for payment from the District's General Operating Account and the Construction Account. A brief discussion followed regarding check no. 8647 to Texas Pride Disposal Solutions, LLC ("Texas Pride"). Upon review of Texas Pride's invoice, it was determined that Texas Pride had billed the District for a rate increase which is not effective until April 1, 2023. Ms. Crigger advised that the check can be reissued for the correct amount and a corrected invoice requested, or the check withheld until a corrected invoice is received. Upon motion made by Director Witt, seconded by Director Welch, and unanimously carried, the Board approved (i) the Bookkeeper's Report, including the checks presented for payment from the District's various accounts, except check no. 8647 to Texas Pride, which MA&C will reissue at the correct rate and request a corrected invoice for the month of January 2023; and (ii) the Quarterly Investment Report for the period ending December 31, 2022, and authorized the District's Investment Officer to execute same on behalf of the Board and the District.

Ms. Crigger next advised that MA&C is ready to move forward with transitioning to direct deposit for director per diems, expense reimbursements, and payroll tax payment & reporting services through HR&P, Inc. should the Board elect to utilize that service. Ms. Crigger requested that an item be added to the agenda for the next meeting regarding approval of an agreement and resolution in connection with the authorization and approval of said services.

A brief discussion next followed regarding check no. 8637 to GFL Environmental, which Ms. Falke advised is for sludge management services. Mr. Rubinsky advised that, if EDP intends to use GFL Environmental for Sludge Management services for the Wastewater Treatment Plant, a new Sludge Management Agreement between the District and the new sludge operator. Upon motion made by Director Witt, seconded by Director Welch, and unanimously carried, the Board authorized SPH to prepare a Sludge Management Agreement between the District, EDP and GFL Environmental for the Board's consideration and approval.

**STATUS OF PREPARATION AND SUBMISSION OF DISTRICT INFORMATION TO TEXAS COMPTROLLER OF PUBLIC ACCOUNTS FOR INCLUSION IN THE SPECIAL PURPOSE DISTRICT PUBLIC INFORMATION DATABASE**

Mr. Rubinsky advised that SPH has prepared the required information and will submit same to the Comptroller on behalf of the District for inclusion in the Special Purpose District Public Information Database, prior to April 1, 2023.

**OPERATOR'S REPORT**

The Board next considered the Operator's Report. In connection therewith, Ms. Falke presented to and reviewed with the Board the Operator's Report dated February 27, 2023, a copy of which is attached hereto as **Exhibit D**. Ms. Falke discussed various matters contained in the Report, including completed and upcoming maintenance and repair items, and presented and reviewed the Utility Billing Summary, Utility Billing Detail Report, Connection Count, Water Quality Monitoring Report, Water Production Report, Commercial Consumption Report, Monthly Operating Report, Wastewater Plant Discharge Report, Customer Service Report, Delinquent Notice/Service Disconnect Report, and Delinquent Accounts Report, as set forth therein.

Ms. Falke requested that the Board consider authorizing the repainting of the District's 137 fire hydrants at an estimated cost of \$6,370.50. Ms. Falke then advised that, per the District's Resolution Approving Submittal of the Water Smart Application for Inclusion in the Association of Water Board Directors Water Smart Partners Program, the District must participate in two events annually that promote water conservation. She advised that an event is being held on Saturday, April 22<sup>nd</sup>, and that should the District wish to participate the cost is \$400. Director Anzalotti volunteered to attend the event on behalf of the District.

Following discussion, Director Anzalotti moved that the Board approve the Operator's Report, and approve the \$400 cost for the District's participation in the Water Wise Fest to be held Saturday, April 22<sup>nd</sup>. Director Breihan seconded the motion, which carried unanimously. The Board deferred action on the repainting of the District's fire hydrants until its next regular Board meeting.

Ms. Highberger exited the meeting at this time.

**REVIEW OF NOTICE OF ANNUAL CPI RATE ADJUSTMENT BY TEXAS PRIDE;  
AMENDMENT OF THE DISTRICT'S RATE ORDER IN CONNECTION THEREWITH**

Mr. Rubinsky reminded the Board that the District had received correspondence from Texas Pride Disposal Solutions, LLC ("Texas Pride") in December 2022 regarding notice of the annual Consumer Price Index ("CPI") increase for garbage collection services for the District of 4.8%, a copy of which is attached hereto as **Exhibit E**. Mr. Rubinsky advised the Board that the garbage collection fee is proposed to increase by \$0.89, from \$18.53 to \$19.42, per connection per month as a result of the CPI increase and reminded the Board that multiple fee increases were granted to Texas Pride in the 2022 calendar year, including the annual CPI increase of 4.737% (\$0.79) effective April 1, 2022, and an additional 6.56% (\$1.14) effective July 1, 2022. Mr. Rubinsky also stated that, should the Board approve this increase, the Rate Order will also need to be amended, a copy of which is attached hereto as **Exhibit F**. It was noted that the invoice for the month of January 2023 had been charged at the new rate, despite the requirement that 60 days advance written notice be provided under the Residential Solid Waste and Recycling Collection Agreement between Texas Pride and the District. Ms. Crigger was directed by the Board to pay such invoice at the current rate of \$18.53, and request a revised invoice for January 2023. The Board further noted that it would approve the annual CPI increase requested by Texas Pride but only if same was deferred until April 1, 2023. Upon motion made by Director Williams, seconded by Director Breihan, and unanimously carried, the Board voted to approve (i) Texas Pride's request for an increase of its rate from \$18.53 to \$19.42, to be effective April 1, 2023, and (ii) to approve an amendment of the District's Rate Order to increase the minimum monthly rate for residential sanitary sewer and solid waste collection and disposal from \$38.53 to \$39.42, effective April 1, 2023, and to revoke all prior Rate Orders effective as of such date

**STATUS OF DISTRICT'S WATER PRODUCTION FACILITIES AND DISCUSSION  
CONCERNING DISTRICT RESPONSE TO TCEQ NOTICE OF VIOLATION**

Mr. Laseter advised that in response to the Notice of Violation for the Modified Comprehensive Compliance Investigation of Public Water Supply ("NOV") received from the Texas Commission on Environmental Quality ("TCEQ") by letter dated November 18, 2022, VSE had submitted a written response dated December 2, 2022 and is currently awaiting a response from the TCEQ.

**MAINTENANCE OF THE DISTRICT'S DETENTION AND DRAINAGE FACILITIES**

The Board considered the status of maintenance of the District's detention and drainage facilities by Seaback Maintenance, Inc. ("Seaback"). In connection therewith, Mr. Laseter advised the Board that he had approved invoices from Seaback for mowing of the District's various facilities in the months of June 2022 and July 2022, which had not previously been submitted to the District for payment, and for January 2023, copies of which are attached hereto as **Exhibit G**. Following discussion, it was noted that no action was required by the Board at this time in connection with this matter.

## **RENEWAL OF DISTRICT INSURANCE COVERAGES**

The Board next considered the review of proposals for renewal of the District's insurance policies and bonds scheduled to expire March 31, 2023. Mr. Rubinsky advised that, per the Board's request, SPH requested proposals from both McDonald & Wessendorff ("M&W) and Arthur J. Gallagher & Co. ("AJG"). He advised that M&W declined to submit a proposal due to the large insurance claim made by the District in the prior year. A copy of correspondence from M&W related thereto is attached hereto as **Exhibit H**. The Board then discussed the renewal proposal received from the District's current insurance carrier, AJG, a copy of which proposal is attached hereto as **Exhibit I**. After discussion on the matter, Director Breihan moved that (i) the AJG proposal be accepted, subject to the correction of the policy term dates and not including any optional coverages described therein, (ii) the President be authorized to execute same on behalf of the Board and the District, (iii) the District accept the TEC Form 1295 relative to the insurance proposal, and (iv) SPH be authorized to acknowledge receipt of the TEC Form 1295. Director Williams seconded said motion, which unanimously carried.

## **ENGINEER'S REPORT**

Mr. Laseter presented to and reviewed in detail with the Board a written Engineer's Report dated February 27, 2023, a copy of which is attached hereto as **Exhibit J**, and discussed the status of the various projects within the District.

Mr. Laseter reported that he had nothing new to report in connection with (i) the three-year plan to supplement water well production/capacity at Water Well No. 1, but requested Inframark complete another well production capacity and performance test during March; (ii) the Water Meter Easements required from Kilcommins Group Development Companies, LLC; (iii) renewal of the District's Storm Water Quality Permits; or (iv) street and storm sewer acceptances by Harris County.

Regarding the status of design of Wastewater Treatment Plant ("WWTP") Effluent Re-Use Facilities, including geotechnical investigation for on-site effluent storage pond design, Mr. Laseter reported that the construction plans for this project are 90% complete while finalizing the daily irrigation demand capacity needed for the effluent re-use facilities.

With respect to the acquisition of the Water Plant No. 2 Site and related easements, Mr. Rubinsky advised the Board that SPH continues to negotiate said documents with the Bing Family's legal counsel and is now awaiting further comments to said documents, as well as to the draft Utility Commitment and Utility Development Agreement previously forwarded to Bing's legal counsel. Following discussion, it was moved by Director Anzalotti, seconded by Director Welch, and unanimously carried, that the District (i) accept the Special Warranty Deed and all related easements required from the Bing Family, and approve the Utility Commitment and Utility Development Agreement, subject to their execution in a form acceptable to the District, as reviewed and approved by Directors Anzalotti and Williams, and (ii) authorize the Board President to execute all of said documents if received prior to the next Board meeting.

In connection with the 0.320 MGD Expansion of the Permanent WWTP, Mr. Laseter advised that the project is approximately 98% complete, pending completion of various miscellaneous items and corrections.

Mr. Laseter further noted that the Channel Restoration and Erosion Prevention Project by Storm Water Solutions, LLC is nearing completion, pending final grading and sod placement.

In connection with the Sanitary Sewer Easement required from Katy Community Fellowship Church, Mr. Rubinsky advised that the matter would be discussed in Closed Session.

Mr. Rubinsky next advised that SPH is still in the process of reviewing the request received from DE Corp. on behalf of the West Harris County Regional Water Authority for a Water Line and Water Meter Easement.

Mr. Laseter then reminded the Board that the North Fort Bend Water Authority ("NFBWA") requested a Letter of No Objection from the District in connection with its plans for construction of a 60-inch Water Line Project – Segment 19. In connection therewith, he advised the Board that VSE has received and is reviewing revised plans provided by the NFBWA.

### **DEVELOPERS' REPORTS**

Mr. Baker updated the Board on the status of development of Katy Ranch Crossing by Katy ABC. He advised that his second office building and the retail development sections are almost fully leased out, and noted that he intends to proceed with construction of a new 218-unit multifamily development, as well as a 13,000 square foot addition to the shopping center, in the near future. Mr. Laseter noted that construction continues on the Premier @ Katy Apartments, Phase II project. In connection with the development of the Phase II Bella Professional Park project, there were no new updates reported.

### **UTILITY COMMITMENTS**

Mr. Rubinsky advised the Board that, as noted above, the proposed utility commitment to and Utility Development Agreement with Paul Bing, Nominee, have been drafted and provided to the Bing Family's legal counsel for review.

In connection with the request of Scotts Square, LLC for water and sewer service to serve Katy Surgical Center on a 2.5 acre tract located at 130 Bella Katy Drive in I-10 Bella Terra Unrestricted Reserve "A", Mr. Rubinsky noted that SPH is in the process of preparing this utility commitment and will circulate same to the developer for review and execution soon.

### **STATUS OF PROPOSED ANNEXATION OF CRIOLLO TRACT**

In connection with the proposed annexation of Mr. Criollo's 0.74 acre tract on Kingsland Blvd, Mr. Rubinsky noted that this matter and the status of the Sanitary Sewer Easement acquisition from Katy Community Fellowship Church would be discussed in Closed Session. No action was required by the Board in connection with this matter at this time.

**MASTER PARKS PLAN PREPARED BY TALLEY LANDSCAPE ARCHITECTS, INC. ("TLA")**

The Board next considered the status of TLA's work on Phase 1A of the District's Master Park Plan. In connection therewith, Mr. Rubinsky presented for the Board's review a status update from Merrie Talley of Talley Landscape Architects Inc. ("TLA"), a copy of which is attached hereto in **Exhibit K**. The Board noted that no action was required on its part at this time relative to the TLA Report.

**DISCUSSION CONCERNING POTENTIAL USE OF DISTRICT'S DRY STORMWATER DETENTION PONDS FOR RECREATIONAL PURPOSES**

A discussion next ensued concerning the potential use of the District's dry detention ponds for recreational purposes. Several suggested uses included a baseball, soccer, or football field; a dog park; and a walking or jogging trail to be added around the perimeter of the pond. Director Anzalotti inquired as to the District's potential liability in the event someone was injured using said facilities, noting the pond would need to be properly graded for use as a sports field or other purposes. Mr. Rubinsky advised that he would research the matter further to determine possible ways to move forward with any such projects and to address liability concerns related thereto.

**HARRIS COUNTY SHERIFF'S OFFICE ("HCSO") SECURITY REPORT**

Mr. Rubinsky next presented for the Board's review HCSO Contract Report for the month of January 2022, a copy of which is attached hereto as **Exhibit L**. The Board noted that no action was required on its part at this time relative to the HCSO Report. Director Anzalotti then relayed an update from Deputy Merrow, who was unable to make the meeting today.

**FLOCK SAFETY CAMERA SYSTEM**

Mr. Rubinsky reminded the Board that the District had received a proposal from Flock Group Inc. ("Flock") for the proposed purchase and installation of security cameras throughout the District. He advised the Board that SPH has reviewed and provided comments to the proposed Services Agreement Order Form and Government Agency Agreement between the District and Flock, copies of which are attached hereto as **Exhibit M**. Following discussion, it was moved by Director Anzalotti, seconded by Director Breihan, and unanimously carried, that the Board approve the Services Agreement Order Form and Government Agency Agreement between the District and Flock and authorize acceptance of a Form 1295 in connection with same.

**ATTORNEY'S REPORT**

The Board next considered the attorney's report. Mr. Rubinsky advised the Board that he had nothing further to discuss with the Board of a legal nature which was not covered under other agenda items.

## **DISTRICT WEBSITE**

Mr. Rubinsky next reported the subscriber counts received from Off Cinco and presented to the Board a Monthly Analytics Report provided by Off Cinco for the month of January 2023, copies of which are attached hereto as **Exhibit N**. Director Anzalotti noted a base fee for 1.5 hours on the Off Cinco invoices and requested that MA&C inquire as to what the fee is for and removal of same if possible. Discussion followed concerning emails received through the District website and the distribution list to receive and respond to said emails. Ms. Falke and Ms. Garcia agreed to inquire as to the whom is on the distribution list. No action was required of the Board in connection with this matter at this time.

## **REVIEW OF DISTRICT CONSULTANTS' CONTRACTS**

Director Welch recommended that the Board table discussion regarding review of the District's consultants' contracts at this time.

## **CLOSED SESSION**

The Board President announced at 1:27 p.m. that the Board would convene in Closed Session, as authorized pursuant to Texas Government Code, Section 551.072, to discuss the acquisition of interests in real property. Those in attendance, with the exception of Mr. Rubinsky, Ms. Collins, and Mr. Laseter exited at this time.

At 2:12 p.m., the Board reconvened in Open Session.

Following discussion, it was moved by Director Breihan, seconded by Director Williams, and unanimously carried that the Board (i) authorize SPH to respond to the comments of Bob Chalker, representative for Katy Fellowship Church, concerning the Sanitary Sewer Easement required in connection with the proposed extension of a sanitary sewer line to serve Mr. Criollo's 0.74 acre annexation tract on Kingsland Blvd, as discussed in Closed Session; and (ii) authorize VSE to contact the necessary parties to determine if the width of the proposed Easements can be reduced to 15'.

## **FUTURE AGENDA ITEMS**

The Board next considered matters for possible placement on future agendas. Except as may be reflected above, there were no additional agenda items requested other than routine, ongoing matters.

## **ADJOURNMENT**

There being no further business to come before the Board, upon motion made by Director Anzalotti, seconded by Director Williams and unanimously carried, the meeting was adjourned.

[seal]

---

Secretary



**LIST OF EXHIBITS**

- Exhibit A Tax Assessor/Collector's Report
- Exhibit B Resolution Concerning Developed District Status for 2023 Tax Year
- Exhibit C Bookkeeper's Report
- Exhibit D Operator's Report
- Exhibit E Correspondence from Texas Pride regarding Notice of Annual CPI Rate Adjustment
- Exhibit F Rate Order, effective April 1, 2023
- Exhibit G Seaback Invoices for June 2022, July 2022, and January 2023
- Exhibit H Correspondence from McDonald & Wessendorff Regarding Declining to Provide an Insurance Quote
- Exhibit I Insurance Renewal Proposal from Arthur J. Gallagher & Co.
- Exhibit J Engineer's Report
- Exhibit K Status Report from TLA regarding Phase 1A Design Package – Park and Trail Development
- Exhibit L HCSO Security Patrol Report
- Exhibit M Flock Group Inc. Services Agreement Order Form and Government Agency Agreement
- Exhibit N Off Cinco's Monthly Reports