

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

### Minutes of Board of Directors Meeting November 28, 2022

The Board of Directors of Harris-Fort Bend Counties Municipal Utility District No. 3 met in regular session on November 28, 2022, 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

all of whom announced they were present, except Director Breihan, thus constituting a quorum.

Also present were: Mike Baker of Katy ABC Properties ("Katy ABC"); Tom Laseter of Vogler & Spencer Engineering, Inc. ("VSE"); Cathy Falke and Dorothy Lavine of Environmental Development Partners, LLC ("EDP"); Kayla Crigger of Municipal Accounts & Consulting, L.P. ("MA&C"); Yvonne Luevano of Wheeler & Associates, Inc. ("Wheeler"); Colette Garcia of McGrath & Co., PLLC ("McGrath"); Danny Williams, a resident of the District; and Kate Henderson and Kit Collins of Schwartz, Page & Harding, L.L.P. ("SPH"). Merrie Talley of Talley Landscape Architects Inc. ("TLA") entered the meeting after it was called to order, as noted herein.

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

#### **PUBLIC COMMENTS**

Ms. Henderson 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.

#### **APPOINTMENT OF NEW DIRECTOR TO FILL VACANCY ON THE BOARD; QUALIFICATION STATEMENT, OFFICIAL BONDS OATH OF OFFICE, AND AFFIDAVIT OF CURRENT DIRECTOR**

The Board next discussed the appointment of a Director to fill the vacancy on the Board. Ms. Henderson reminded the Board that Mr. Williams has expressed an interest in serving on the Board. The Board then considered the acceptance of Qualification Statement of Appointed Officer, Bond, Oath of Office, and Affidavit of Current Director for Danny Williams. After discussion on the matter, it was moved by Director Welch, seconded by Director Witt, and unanimously carried that the Board approve said Bond, accept said Statement, Oath, and Affidavit and declare Danny Williams to be a duly appointed and qualified Director of the District.

## **ELECTION NOT TO DISCLOSE CERTAIN INFORMATION**

Ms. Henderson advised that pursuant to Section 552.024 of the Texas Government Code, as amended, Director Williams may elect to withhold public access to certain information in the custody of the District and that such election must be made within fourteen days of taking office. She then noted that Director Williams has submitted a completed Election Not to Disclose Certain Information for the District's records concurrently with the aforesaid Statement, Oath, and Affidavit.

## **ELECTION OF OFFICERS OF BOARD OF DIRECTORS**

The Board next considered the election of officers. Nominations for the office of Assistant Secretary were considered first. Director Williams was nominated for that office, and there being no further nominations, they were closed. A vote was called, and upon motion duly made by Director Welch, seconded by Director Anzalotti, and unanimously carried, Director Williams was duly elected Assistant Secretary of the Board and the District.

The Board concurred that all other Directors remain in their current officer positions.

## **DISTRICT REGISTRATION FORM**

The Board next considered approving an updated District Registration Form, as required by the rules of the Texas Commission on Environmental Quality ("TCEQ"). Ms. Henderson explained that, in accordance with the Texas Water Code, municipal utility districts are required to file a District Registration Form identifying the names, mailing addresses, officer positions, and terms of directors with the TCEQ within thirty (30) days after an election or appointment. She advised that, with the Board's approval, SPH will complete an updated District Registration Form and will file the form with the TCEQ. After further discussion of the matter, Director Anzalotti moved that the Board authorize SPH to complete the District Registration Form as discussed and file same with the TCEQ. Director Witt seconded said motion, which unanimously carried.

## **PREPARATION AND MAINTENANCE OF LOCAL GOVERNMENT OFFICERS LIST**

The Board next considered authorizing the preparation and maintenance of an updated local government officers list in connection with conflict of interest disclosure requirements of the District. Director Welch moved that said local government officers list be updated as necessary. Director Witt seconded said motion, which carried unanimously.

## **DIRECTOR TRAINING REQUIREMENTS**

Ms. Henderson discussed with Director Williams certain training requirements for public officials. She advised that public officials, including directors of a municipal utility district, must complete separate training courses regarding the Texas Open Meetings Act ("OMA") and the Texas Public Information Act ("PIA"), within ninety (90) days of assuming the responsibilities of office. Ms. Henderson presented and reviewed with Director Williams a Memorandum prepared by SPH which summarizes the training requirements. Ms. Henderson

further advised that it is the responsibility of each District to ensure that they complete the required training by the appropriate deadline, and to provide evidence of same to SPH for the District's records.

### **DISCUSSION OF CONFLICTS DISCLOSURE REPORTING REQUIREMENTS**

Ms. Henderson next discussed with Director Williams the conflicts disclosure reporting requirements for officers of certain local governmental entities, including water districts, pursuant to Chapter 176 of the Texas Local Government Code. She then presented to Director Williams a Memorandum prepared by SPH which summarizes the conflicts disclosure requirements and questionnaire for completion regarding conflict of interest disclosure reporting. Director Williams then completed the conflict of interest questionnaire for the District's records.

Merrie Talley entered the meeting at this time.

### **APPROVAL OF MINUTES**

The Board next considered approval of the minutes of its Board of Directors meetings held on September 26, 2022, and October 24, 2022. Ms. Henderson noted a minor revision to each set of minutes. Following discussion, Director Welch moved that the Board approve the minutes of its Board of Directors meetings held on September 26, 2022, and October 24, 2022, as revised. Director Witt seconded said motion, which unanimously carried. Per Ms. Henderson's request, the Board deferred approval of the minutes of its Board of Directors meetings held on July 25, 2022, and August 22, 2022.

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

Ms. Luevano presented to and reviewed with the Board the Tax Assessor-Collector's Report dated as of October 31, 2022, a copy of which is attached hereto as **Exhibit A**, including the disbursements presented for payment from the Tax Account. After discussion, Director Welch 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 Witt seconded said motion, which carried unanimously.

### **DELINQUENT TAX COLLECTIONS REPORT**

Ms. Henderson 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. Ms. Henderson advised that she expects the next report to be presented at the January 2023 Board meeting.

### **BOOKKEEPER'S REPORT**

Ms. Crigger presented to and reviewed with the Board the Bookkeeper's Report dated November 28, 2022, and the Quarterly Investment Report for the period ending September 30, 2022, copies of which are attached as **Exhibit B**, including the disbursements presented for payment from the District's General Operating Account. Ms. Henderson noted that check no.

8534 in the amount of \$1,250 is for the annual membership fee of the District to the Katy Area Economic Development Council ("Katy EDC"). Director Witt recommended the Board maintain its membership in Katy EDC. Upon motion made by Director Anzalotti, seconded by Director Witt, and unanimously carried, the Board approved (i) the Bookkeeper's Report, including the checks presented for payment from the District's various accounts, except for check no. 8514, which was voided, and (ii) the Quarterly Investment Report for the period ending September 30, 2022, and authorized the District's Investment Officer to execute same on behalf of the Board and the District.

### **OPERATING BUDGET FOR FISCAL YEAR ENDING DECEMBER 31, 2023**

Ms. Crigger next presented to the Board and consultants a copy of a draft operating budget for the District's fiscal year ending December 31, 2023, a copy of which is attached to the Bookkeeping Report. After discussion, Ms. Crigger requested that the Directors and consultants review the proposed budget and provide any comments to same to MA&C in advance of the next scheduled Board meeting.

### **COMPLIANCE WITH TEXAS GOVERNMENT CODE CHAPTER 2265 RELATIVE TO ENERGY REPORTING**

There was next a discussion regarding the District's compliance with Texas Government Code, Chapter 2265, relative to energy reporting requirements. In connection therewith, Ms. Crigger presented to and reviewed with the Board an Energy Cost and Usage Report provided by Acclaim Energy Advisors for the District for the period November 2021 through October 2022, a copy of which is attached to the Bookkeeper's Report, and noted that said Report satisfies the legal requirements of the applicable law. The Board reviewed said Report and noted that no further action was required in connection with said matter at this time.

### **ENGAGEMENT OF AUDITOR**

The Board next considered engagement of an auditor to audit the District's financial statements and prepare the audit report for the fiscal year ending December 31, 2022. Ms. Garcia then presented to and reviewed with the Board an engagement letter from McGrath relative to the preparation of the District's audit report for the fiscal year ending December 31, 2022, a copy of which is attached hereto as **Exhibit C**. Ms. Garcia reviewed McGrath's auditing standards and process, and noted that the estimated cost for said audit would be \$17,000. Upon a motion made by Director Welch, seconded by Director Anzalotti, and carried unanimously, the Board voted to engage McGrath to prepare the District's annual audit for the fiscal year ending December 31, 2022.

### **AUTHORIZE DISCLOSURE COUNSEL TO FILE ANNUAL CONTINUING DISCLOSURE REPORT**

The Board next considered authorizing the District's Disclosure Counsel, McCall Parkhurst & Horton, L.L.P. ("McCall Parkhurst"), to prepare the District's annual Continuing Disclosure Report and file same with the appropriate repositories for fiscal year ending December 31, 2022, prior to the deadline of June 30, 2023. After discussion on the matter, it

was moved by Director Welch, seconded by Director Williams, and unanimously carried, that McCall Parkhurst be authorized to prepare the District's annual Continuing Disclosure Report and file same with the appropriate repositories for fiscal year ending December 31, 2022, prior to the applicable deadline.

### **OPERATOR'S REPORT**

The Board next considered the Operator's Report. In connection therewith, Ms. Lavine presented to and reviewed with the Board the Operator's Report dated November 28, 2022, a copy of which is attached hereto as **Exhibit D**. Ms. Lavine discussed various matters contained in the Report 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. In connection with increasing the District's ability to utilize water capacity it owns in the Cimarron Municipal Utility District water system, Ms. Lavine reported that the District has been able to use approximately 86 equivalent single-family connections of its capacity in such system on average during the past month. Following discussion, it was noted that no action was required by the Board in connection with the Operator's Report.

Director Anzalotti exited the meeting at this time.

### **OPERATOR'S IMPLEMENTATION OF CENTRAL BANK ELECTRONIC LOCK BOX PROGRAM**

Ms. Falke advised that the implementation of the Central Bank program and the related documentation has been previously completed and that no action was required by the Board on this matter at this time.

### **AMENDMENT OF RATE ORDER**

Ms. Henderson next advised the Board that the District had received a notice from the West Harris County Regional Water Authority (the "Authority") concerning an increase of its Groundwater Reduction Plan fee from \$3.70 to \$3.95 per 1,000 gallons of water pumped, effective January 1, 2023, a copy of which is attached hereto as **Exhibit E**. Ms. Henderson advised the Board that the District is currently charging an additional 5% on top of the Authority's fee to account for water loss in the District's system. Ms. Falke then recommended that, given the District's historical water accountability, the Board consider charging an additional 8% to its customers to be able to cover the amount of water loss in the District's system. After discussion, it was moved by Director Welch, seconded by Director Witt, and unanimously carried, that the District's Rate Order be amended to increase the Groundwater Reduction Plan fee charged to the District's customers to \$4.26 per 1,000 gallons of metered water, and that any and all Rate Orders heretofore adopted by the Board be revoked and that the Rate Order attached hereto as **Exhibit F** be passed and adopted, effective as of January 1, 2023.

## **STATUS OF DISTRICT'S WATER PRODUCTION FACILITIES AND IMPLEMENTATION OF DROUGHT CONTINGENCY PLAN**

Discussion ensued regarding the status of the District's water production facilities and its Drought Contingency Plan. Ms. Falke advised that the West Harris County Regional Water Authority ("WHCRWA") has lifted its Stage 1 water conservation measures.

Mr. Laseter next informed the Board that the District was in receipt of a Notice of Violation for the Modified Comprehensive Compliance Investigation of Public Water Supply, from the TCEQ dated November 18, 2022, for possible non-compliance with applicable requirements for Public Water Supply, a copy of which is attached hereto as **Exhibit G**. In connection therewith, Mr. Laseter advised the Board that VSE and SPH are reviewing relevant documents and the status of the District's facilities to determine how best to respond to the TCEQ regarding said Notice. Following discussion, Mr. Laseter advised the Board that additional information would be provided to the Board at the next meeting.

## **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 an invoice from Seaback for the month of October 2022 in the amount of \$4,374.75, and an additional invoice from Seaback for \$31,446.20 for the Fall overseed and fertilizing. Mr. Laseter then reported that Seaback has advised that for the routine removal of alligator weed from the District's Drainage Outfall Channel the cost is \$5,500, to be completed quarterly or on an as-needed basis. After discussion on the matter, it was moved by Director Welch, seconded by Director Williams, and unanimously carried, that the Board authorize Seaback to remove, on an as-needed basis, alligator weed from the channel at a cost of \$5,500.

## **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, Ms. Talley gave a lengthy update to the Board with respect to the design plan and various items for the Board to consider, such as lighting, security, and future maintenance. The Board then discussed whether the Authority will reimburse the District for its costs related to the reuse facilities. Ms. Talley further advised that a geotechnical study is needed, and that TLA has received one proposal from QC Laboratories. She noted that since QC Laboratories is unable to perform the soil borings in the dry ponds, TLA is seeking another proposal for the Board's consideration next month. Following discussion, no action was required by the Board at this time.

## **ENGINEER'S REPORT**

Mr. Laseter presented to and reviewed in detail with the Board a written Engineer's Report dated November 28, 2022, a copy of which is attached hereto as **Exhibit H**, 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 review and approval of Storm Water Pollution Prevention Plans or Storm Water Quality Management Plans related to construction within or on behalf of the District; (ii) the three-year plan to supplement water well production/capacity at Water Well No. 1; (iii) the Water Meter Easements required from Kilcommins Group Development Companies, LLC; (iv) renewal and/or transfer of the District's Storm Water Quality Permits; or (v) 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 VSE has completed approximately 90% of the construction plans for this project.

As to the design of Water Plant No. 2 and the acquisition of Water Plant No. 2 Site and related easements, Ms. Henderson advised the Board that SPH is in the process of reviewing comments to the deed and related easements received from the Bing family's legal counsel, and that the proposed utility commitment and Utility Development Agreement ("UDA") for the Bing family are in process. She advised the Board that such commitment letter and UDA will not be approved until the deed and related easements have been completed and executed. Ms. Henderson then advised that SPH is coordinating a meeting with Mr. Laseter and Director Witt to discuss the comments received from the Bing family's legal counsel prior to the December Board meeting.

In connection with the 0.320 MGD Expansion of the Permanent WWTP, Mr. Laseter recommended that Pay Application No. 13 from C-4 Partners in the amount of \$276,288.62, a copy of which is included in the Engineer's Report, be approved for payment. Mr. Laseter further noted that a Notice To Proceed had been issued to Storm Water Solutions, LLC for the Channel Restoration and Erosion Prevention Project.

In connection with the Sanitary Sewer Easement required from Katy Community Fellowship Church, Mr. Laseter advised that the easement is still pending approval by the Katy Community Fellowship Church. Ms. Henderson reminded the Board that said easement is needed in order to serve Mr. Criollo's annexation tract.

Ms. Henderson noted that SPH is still in the process of reviewing the request received from DE Corp. on behalf of the WHCRWA 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 provided comments to the plans provided by the NFBWA and is waiting to receive revised plans addressing same before issuing the requested Letter of No Objection.

After discussion on these matters, it was moved by Director Welch, seconded by Director Williams, and unanimously carried, that (i) the Engineer's Report be approved; and (ii) Pay Application No. 13 from C-4 Partners in the amount of \$276,288.62 be approved for payment.

## **DEVELOPERS' REPORTS**

Mr. Baker updated the Board on the status of development of Katy Ranch Crossing by Katy ABC. Mr. Baker advised that his second office building and the retail development sections are approximately 98% leased out, and noted that a new multifamily development will begin construction next year. Mr. Laseter noted that construction continues on the Premier @ Katy Apartments, Phase II and Phase II Bella Professional Park projects.

## **UTILITY COMMITMENTS**

In connection with the request of REKHA Engineering, Inc. for water and sewer service to serve Katy Surgical Center to be developed on a 2.5 acre tract located at 130 Bella Katy Drive in I-10 Bella Terra Unrestricted Reserve "A", Mr. Laseter noted that VSE is still waiting for information and documentation for the proposed utility commitment. Ms. Henderson noted that the proposed utility commitment to Paul Bing had been discussed under the Engineer's Report.

Ms. Talley exited the meeting at this time.

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

In connection with the proposed annexation of Mr. Criollo's 0.74 acre tract on Kingsland Blvd, Ms. Henderson noted that this matter had been discussed under the Engineer's Report. No action was required by the Board in connection with this matter.

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

The Board deferred discussion concerning the potential use of the District's dry ponds for recreational purposes until its next Board meeting.

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

Ms. Henderson next presented for the Board's review HCSO Contract Report for the month of October 2022, a copy of which is attached hereto as **Exhibit I**. She advised the Board that a proposal from Flock Safety for the installation of security cameras around certain areas of the District had been circulated to the Board for its review, and that Flock Safety will give a presentation on same for the Board's consideration at the December Board meeting.

## **ANNUAL EMINENT DOMAIN FILING**

Ms. Henderson next advised the Board that, pursuant to §2206.154, Texas Government Code, all political subdivisions with the power of eminent domain, including the District, are required to file an annual eminent domain report by February 1 of each year with the Texas Comptroller of Public Accounts (the "Comptroller"). She requested the Board's authorization for SPH to prepare and file such annual report. After discussion, it was moved by Director Welch, seconded by Director Williams, and unanimously carried, that the Board authorize SPH

to file the annual eminent domain report with the Comptroller on behalf of the District prior to February 1, 2023.

**ATTORNEY'S REPORT**

The Board next considered the attorney's report. In connection therewith, Ms. Henderson presented an Annual Disclosure provided by Masterson Advisors, LLC pursuant to Municipal Security Rulemaking Board Rule G-10, a copy of which is attached hereto as **Exhibit J**.

Ms. Henderson advised the Board that, due to the Christmas holiday, SPH's office is closed during the Board's regularly scheduled December Board meeting, and that SPH will coordinate with the Board to reschedule the December Board meeting during the week of December 19-23.

**DISTRICT WEBSITE**

Ms. Henderson 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 October 2022, copies of which are attached hereto as **Exhibit K**. No action was required of the Board on this matter.

**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 concurred that a Closed Session would not be required in connection with the matters discussed at today's meeting.

**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 Welch, seconded by Director Witt and unanimously carried, the meeting was adjourned.

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Secretary

## LIST OF EXHIBITS

- Exhibit A Tax Assessor/Collector's Report
- Exhibit B Bookkeeper's Report
- Exhibit C Engagement Letter for from McGrath & Co., PLLC in Connection with Audit for FYE December 31, 2022
- Exhibit D Operator's Report
- Exhibit E West Harris County Regional Water Authority's Notice of Fee Increases
- Exhibit F Rate Order, effective January 1, 2023
- Exhibit G Correspondence from TCEQ dated November 18, 2022, regarding Notice of Violation for the Modified Comprehensive Compliance Investigation of Public Water Supply
- Exhibit H Engineer's Report
- Exhibit I HCSO Security Patrol Report
- Exhibit J MSRB Rule G-10 disclosure from Masterson Advisors LLC
- Exhibit K Off Cinco's Monthly Reports