

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

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

The Board of Directors of Harris-Fort Bend Counties Municipal Utility District No. 3 met in regular session on November 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, 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"); Amanda Benz and Raquel Garcia of Environmental Development Partners, LLC, ("EDP"); Kayla Crigger of Municipal Accounts & Consulting, L.P. ("MA&C"); Yvonne Luevano of Wheeler & Associates, Inc. ("Wheeler"); Merrie Talley of Talley Landscape Architects Inc. ("TLA"); Robin Humphrey of HdL Companies ("HdL"); Joseph Hopper of Storm Water Solutions, LP ("SWS"); and Abraham Rubinsky, and Hollie Rhodes of Schwartz, Page & Harding, L.L.P. ("SPH"). Deputy Blake Merrow of the Harris County Sheriff's Office ("HCSO") 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**

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 regular Board of Directors meetings held on September 25, 2023 and October 23, 2023, and its special meeting held on November 17, 2023. Following discussion, Director Anzalotti moved that the Board approve the minutes of its Board of Directors meeting held on September 25, 2023, as presented. Director Williams seconded said motion, which unanimously carried. The Board concurred to defer approval of the minutes of its Board of Directors meeting held on October 23, 2023 and November 17, 2023, until its next meeting.

## **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, 2023, 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 Williams 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 Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("PBFCM"), the District's Delinquent Tax Collections Attorneys. Mr. Rubinsky reminded the Board that PBFCM provides written reports on a quarterly basis.

## **APPROVAL OF AMENDED AND RESTATED AGREEMENT FOR SERVICES OF TAX ASSESSOR AND COLLECTOR BY AND BETWEEN THE DISTRICT AND WHEELER**

The Board considered the approval of an Amended and Restated Agreement for Services of Tax Assessor and Collector ("Agreement") by and between the District and Wheeler. In connection therewith, Mr. Rubinsky advised the Board that he had received a draft of the Amended and Restated Agreement from Wheeler and has provided proposed revisions to same, which are in the process of being made. After discussion, Director Welch moved that the Agreement for Services of Tax Assessor and Collector by and between the District and Wheeler be approved, effective December 1, 2023, subject to SPH's final revisions and approval, that the President be authorized to execute same on behalf of the Board and the District, and that SPH be authorized to acknowledge the TEC Form 1295 received in connection therewith. Director Williams seconded said motion, which unanimously carried.

Deputy Merrow entered the meeting at this time.

## **BOOKKEEPER'S REPORT**

Ms. Crigger presented to and reviewed with the Board the Bookkeeper's Report dated November 27, 2023, a copy of which is attached as **Exhibit B**, including the disbursements presented therein, and the Quarterly Investment Inventory Report for the period ending September 30, 2023. After discussion, it was moved by Director Witt that the Bookkeeper's Report be approved, and that the disbursements identified in the report be approved for payment, including additional check no. 8939 from the General Operating Account and excluding Director Breihan's electronic transfer of per diem payment from said account, and that the Quarterly Investment Inventory Report be approved and the Investment Officer be authorized to execute same on behalf of the Board and the District. Director Welch seconded said motion, which unanimously carried.

## **OPERATING BUDGET FOR FISCAL YEAR ENDING DECEMBER 31, 2024**

Ms. Crigger next presented a draft Operating Budget for the District's fiscal year ending December 31, 2024, and requested that the Directors and Consultants review same and provide MA&C with any comments prior to the next meeting, at which time said budget must be adopted. The Board then deferred taking any action relative to the operating budget for the District's fiscal year ending December 31, 2024.

## **ENGAGEMENT OF AUDITOR**

The Board next considered the engagement of an auditor to audit the District's financial statements and prepare the audit report for the fiscal year ending December 31, 2023. Mr. Rubinsky advised the Board that he has yet to receive anything from McGrath and Co. The Board then deferred action relative to the engagement of an auditor for the District's fiscal year ending December 31, 2024.

## **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, 2023, prior to the deadline of June 30, 2024. 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, 2023, prior to the applicable deadline.

## **HARRIS COUNTY SHERIFF'S OFFICE ("HCSO") SECURITY REPORT; STATUS OF HARRIS COUNTY COMMISSIONER'S COURT APPROVAL OF INTERLOCAL AGREEMENT FOR LAW ENFORCEMENT SERVICES**

Mr. Rubinsky next advised the Board that he had not received a HCSO Security Report for today's meeting. Deputy Merrow then provided a verbal report and advised the Board of various criminal activities in and around the District during the past month and HCSO's efforts relative to same. After discussion, the Board noted that no action was required on its part at this time relative to the HCSO Report.

Deputy Merrow exited the meeting at this time.

## **OPERATOR'S REPORT**

The Board next considered the Operator's Report. In connection therewith, Ms. Garcia presented to and reviewed with the Board the Operator's Report dated November 27, 2023, a copy of which is attached hereto as **Exhibit C**. Ms. Garcia 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 Pumpage Report, Wastewater Plant Discharge Report, Customer Service Report, Delinquent Notice/Service Disconnect Report, and Delinquent Accounts Report, as set forth therein. Ms. Garcia advised that flushing of the fire hydrants in the District will take place this week and may continue through December, 2023. She then reviewed the Notice of Water System Flushing to be distributed to the District's customers, which is included in the Operator's Report. Ms. Garcia then stated that she had no action items for the Board's consideration this month.

### **DISTRICT'S DROUGHT CONTINGENCY PLAN**

Mr. Rubinsky next advised the Board that the West Harris County Regional Water Authority resumed Stage 1 of its drought contingency plan on November 8, 2023, and that the District subsequently resumed Stage 1 of its Drought Contingency Plan as well.

### **STATUS OF DISTRICT'S WATER PRODUCTION FACILITIES AND DISCUSSION CONCERNING DISTRICT RESPONSE TO TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ") NOTICE OF VIOLATION**

Mr. Laseter reminded the Board that in response to the Notice of Violation for the Modified Comprehensive Compliance Investigation of Public Water Supply received from the TCEQ by letter dated November 18, 2022, VSE had submitted a written response dated December 2, 2022. He then advised that no response has been received from the TCEQ to date.

### **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 approved an invoice from Seaback for maintenance in the month of September 2023 in the amount of \$6,124.74. No action was required by the Board at this time.

### **STORM WATER QUALITY PERMITS**

The Board next recognized Mr. Hopper of SWS, who presented and reviewed a Storm Water Management Program Report for November 2023, a copy of which is attached hereto as **Exhibit D**. Mr. Hopper advised that all of the District's Storm Water Quality Permits have been renewed and that all of the storm water quality features are operating as intended. He then reviewed photos of the District's various facilities with the Board. Mr. Hopper advised that, unless otherwise directed, he will attend the Board's meetings on behalf of SWS no less than quarterly.

### **ENGINEER'S REPORT**

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

Mr. Laseter advised that the Channel Restoration and Erosion Prevention project by Storm Water Solutions has been completed, and that 75% turf establishment has been achieved and that, as a result, VSE recommends final acceptance of the project. Mr. Laseter also advised that W.W. Payton has mobilized and commenced clearing and grubbing operations in connection with the contract for construction of Water Plant No. 2 and Off-Site 12 inch Water Line. After discussion, upon motion by Director Welch, seconded by Director Anzalotti and unanimously carried, the Board voted to accept the Channel Restoration and Erosion Prevention project performed by Storm Water Solutions, in accordance with VSE's recommendation.

### **DEVELOPERS' REPORTS**

Mr. Baker updated the Board on the status of completion of his new retail development at Katy Ranch Crossing and provided an update on potential tenants. He further advised the Board that a new Pickleball Facility will be opening in January 2024.

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 draft utility commitments have been prepared to (i) Lofts at Katy Ranch, LP, and (ii) J.K. Moore Real Estate Limited Partnership, and are pending review and/or the receipt of certain information from Mr. Laseter or the developers.

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

In connection with the proposed annexation of Jose Criollo's 0.74 acre tract on Kingsland Boulevard, Mr. Rubinsky stated that he is still working on obtaining a Sanitary Sewer Easement required from the Katy Community Fellowship Church ("the Church") to serve the proposed annexation tract.

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

Ms. Talley next reported to the Board regarding the status of TLA's work on the design of Phase 1A of the District's Master Park Plan. She provided the Board with an overview of the District's expenses to date on Phase 1A and the process for invoicing the District in accordance with the Agreement between the District and TLA

Ms. Talley next advised the Board that she had received a proposal from Stephens Engineering to conduct the traffic study discussed at the Board's special meeting held on November 17, 2023, on an hourly basis, at a cost not to exceed \$19,000. After discussion, upon motion by Director Anzalotti, seconded by Director Witt and unanimously carried, the Board authorized TLA to contract with Stephens Engineering to perform the proposed traffic study in accordance with said proposal.

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

The Board deferred action on this matter at this time.

### **ANNUAL EMINENT DOMAIN FILING**

Mr. Rubinsky next advised the Board that, pursuant to Section §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 Anzalotti, seconded by Director Witt, 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, 2024.

### **ATTORNEY'S REPORT**

The Board considered the attorney's report. In connection therewith, Mr. Rubinsky next advised the Board that Masterson Advisors has provided its Annual Disclosure relative to MSRB Rule G-10, a copy of which is attached hereto as **Exhibit F**.

Mr. Rubinsky next advised the Board that, pursuant to Section 141.040 of the Texas Election Code, the District is obligated to publish a notice regarding the timeframe for candidates to submit applications for the District's Directors Election scheduled for May 4, 2024. Mr. Rubinsky noted that such notice must be posted by December 18, 2023, at (i) the in-district posting location for meeting notices and (ii) the District's administrative office. After discussion, Director Anzalotti moved that the Board authorize SPH to prepare and publish such notice on behalf of the Board and the District. Director Witt seconded said motion, which unanimously carried.

The Board next concurred to reschedule its regular meeting in December 2023 to Tuesday, December 26, 2023, at 10:00 A.M., because of the conflict with the Christmas holiday.

### **DISTRICT WEBSITE**

Mr. Rubinsky next advised the Board that he had not received an update from Off Cinco this month.

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

The Board deferred action on this matter at this time.

### **CLOSED SESSION**

The Board President announced at 1:30 p.m. that the Board would convene in Closed

Session, as authorized pursuant to Texas Government Code, Section 551.071, to discuss matters protected by attorney-client privilege. Those in attendance, with the exception of the Directors, Mr. Rubinsky, Ms. Rhodes, and Mr. Laseter, exited at this time.

At 2:02 p.m., the Board reconvened in Open Session.

Following discussion, it was moved by Director Williams, seconded by Director Anzalotti and unanimously carried, that SPH be authorized to prepare and send a demand letter to Premier at Katy, LLC for the nontaxable entity tap fee charges set forth in the District's Rate Order due to the change in tax status of the Premier at Katy apartments.

**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 Anzalotti, 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 Operator's Report
- Exhibit D SWS Storm Water Management Report
- Exhibit E Engineer's Report
- Exhibit F MSRB G-10 Letter

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