

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 401
Minutes of Meeting of Board of Directors
August 19, 2019

The Board of Directors of Harris County Municipal Utility District No. 401 met at Staybridge Suites, 10011 Farm to Market Road 2920, Harris County, Texas 77385, on August 19, 2019, in accordance with the duly posted notice of meeting, and the roll was called of the duly constituted officers and members of said Board of Directors, as follows:

Blair Fesler, President
Mark Atchison, Vice-President
Santee Wright, Secretary
Raul Solis, Assistant Vice President/Secretary
Jordan Thomas, Assistant Vice President/Secretary

and all of said persons were present, thus constituting a quorum.

Also present were Lisa Bonham of Jones & Carter, Inc. ("J&C"); Scott Shelnett of Municipal Operations & Consulting, Inc. ("MOC"); Mike Scott of Champions Hydro-Lawn, Inc. ("Champions"); Robin Goin of Bob Leared Interests, Inc. ("BLI"); Stephanie Viator of District Data Services, Inc. ("DDSI"); Debbie Shelton of Masterson Advisors, LLC ("Masterson"); Deputy Rodriguez and Corporal Benson of the Harris County Precinct Four Constable's Office ("HCCO"); Michael Brazzell, resident; and Kara Richardson of Marks Richardson PC ("MRPC").

The President called the meeting to order.

APPROVE MINUTES

As the first order of business, the Board considered approval of the minutes of the Board meeting held on July 15, 2019. After discussion, Director Atchison made a motion to approve the minutes of the meeting of July 15, 2019, as presented. Director Wright seconded the motion, which carried unanimously.

PUBLIC COMMENT

The Board considered comments from the public. Mr. Brazzell introduced himself to the Board and stated that he recently moved into the District and is a current director for another municipal utility district.

SECURITY PATROL

The Board next considered the report from the HCCO regarding security services in the District. Corporal Benson introduced himself to the Board and advised that he is the evening shift deputy in the patrol area. He next reviewed the July 2019 Patrol Statistics, a copy of which is attached hereto as Exhibit A. He stated that the District is very quiet and has very little criminal activity.

Director Fesler next stated that communications with the HCCO have improved over the past month. He noted that he will be going on a ride along with a deputy next week.

Director Fesler next discussed the potential purchase of ATVs by the District to be used to patrol the area between Albury Trails and Sugarberry where there has been a history of criminal mischief activity. He stated that he received pricing information from Captain Zitzman for ATVs currently used by the HCCO, noting that Timberlane Utility District had recently purchased the same type of ATV. He stated that the cost to purchase and outfit an ATV for security patrol use is approximately \$12,000. He noted that the District would also need to provide a shed to house the ATV when not in use. He also noted that Harris County will not permit the contract officers to use the ATV and that the District would need to hire off-duty officers for such patrol services. He stated that off-duty officers are usually paid around \$40 per hour. The Board then discussed insurance requirements for off duty officers and ATV ownership and operation. Ms. Richardson advised that she will look into any requirements for same.

Director Thomas then asked about the status of the construction of additional fencing near the Albury Trails Detention Ponds. Mr. Scott stated that the staking is complete and that the installation work will begin next week. Director Thomas recommended that the District hold off on a decision regarding the purchase of an ATV and the hiring of off-duty officers until after the fence has been installed to see if the additional fencing helps curb the criminal mischief activity. Director Solis then asked about the recent reports of fires and gunshots near the subject property. Director Atchison stated that he walked the entire property and found no evidence of shell casings. Corporal Benson stated that he is aware of the reports but that he has not noticed any such activity and that HCCO is patrolling the area more often to lookout for such activity. Director Thomas noted that he has heard gunshots on numerous occasions. Corporal Benson stated that he believes the gunshots are coming from the area between the Sugarberry neighborhood and the District, and that such area is under the jurisdiction of the Harris County Sheriff's Department. He noted that the Sheriff is aware of the reports and they are actively patrolling the area. The Board then concurred to hold off on a decision regarding the purchase of ATVs until after the fence has been installed.

APPROVAL OF CONTRACT WITH OFF CINCO

The Board next deferred consideration of the approval of a contract with Off Cinco for website design and maintenance for the District. The Board requested that the item be removed from the agenda.

Director Wright then asked about the percentage of District customers who use online bill pay to pay their water bill as such information might be an indication of how many residents might utilize a District website. Mr. Shelnett stated that 919 of the District's 1,186 customer accounts utilized some form of online bill payment last month.

BOOKKEEPING REPORT

Ms. Viator presented and reviewed the bookkeeper's report dated August 19, 2019, a copy of which is attached hereto as Exhibit B. She stated that the funds invested at Texas Term matured on July 24, 2019 and the interest rates are currently at 2.17%. The Board concurred to keep the funds invested at Texas Term. After discussion, Director Atchison made a motion to approve the

bookkeeper's report, authorize payment for the payments listed therein, and authorize investment of funds at Texas Term. Director Thomas seconded said motion, which unanimously carried.

TAX ASSESSOR-COLLECTOR'S REPORT

Ms. Goin next presented and reviewed the tax assessor-collector's report dated July 31, 2019, a copy of which is attached hereto as Exhibit C. After discussion on the report presented, Director Atchison made a motion to approve the tax assessor-collector's report and to authorize payment of the checks listed therein. Director Thomas seconded the motion, which unanimously carried.

REVIEW AND APPROVE AMENDED AGREEMENT FOR SERVICES OF TAX ASSESSOR AND COLLECTOR

The Board next considered the review and approval of an Amended Agreement for Services of Tax Assessor and Collector with Bob Leared Interests. Ms. Goin presented the Amended Agreement and an executed TEC Form 1295 from Bob Leared Interests. After discussion, Director Atchison made a motion to approve the Amended Agreement for Services of Tax Assessor and Collector and authorize the President to execute same on behalf of the Board and the District. Director Thomas seconded the motion, which unanimously carried.

DELINQUENT TAX REPORT

Ms. Richardson next presented the delinquent tax report dated August 19, 2019, by the District's delinquent tax attorney, Perdue, Brandon, Fielder, Collins & Mott, LLP, a copy of which is attached hereto as Exhibit D.

TAX RATE RECOMMENDATION

Ms. Shelton next presented an analysis and recommendation regarding the proposed 2019 debt service and maintenance tax rate, a copy of which is attached hereto as Exhibit E. Ms. Shelton recommended that the District keep the debt service tax rate at \$0.73 for 2019 since the District will likely need to increase the debt service tax rate next year by shifting some of the maintenance tax to the debt service. Mr. Brazzell asked about the age of the District's infrastructure. Ms. Bonham responded that the District was created in 2004 and then gave a brief overview of the age of the infrastructure. The Board then discussed the options regarding the debt service and maintenance tax rates. After discussion, Director Atchison made a motion to authorize the District's Tax Assessor/Collector to publish notice of a public hearing on the adoption of a combined proposed 2019 tax rate of \$.9975 per \$100 of assessed valuation consisting of a \$0.73 debt service tax and a \$0.2675 maintenance tax, with such hearing to be held at the District's next regular meeting. Director Wright seconded said motion, which carried unanimously.

DEVELOPER'S REPORTS

The Board next considered the developer's report and deferred same as no developer was present at the meeting.

FACILITY SITE MAINTENANCE

Mr. Scott presented and reviewed a detention and drainage facilities report from Champions dated August 19, 2019, a copy of which is attached hereto as Exhibit F.

Mr. Scott stated that he will bring proposals next month for application of herbicide to the detention pond areas due to the increasing amount of alligator weeds in the pond areas.

Mr. Scott stated that Champions found a woman passed out in the concrete drainage channel in Albury Trails and that Champions called EMS to deal with the situation. He noted that, upon arrival, the EMS driver drove through the locked gate at the lift station, thereby damaging the gate. He stated that MOC is overseeing the gate repairs.

ENGINEER'S REPORT

Ms. Bonham presented and reviewed the Engineer's Report, attached hereto as Exhibit G, and reviewed the items listed therein with the Board.

Ms. Bonham reported on the status of the design for an additional water line across Willow Creek. She stated that J&C will resubmit the plans for approval once the easements are conveyed to the District.

Ms. Bonham reported on the WWTP re-rating and stated that J&C received the additional data and anticipates submitting the re-rate application to the Texas Commission on Environmental Quality ("TCEQ") this month. She stated, however, it does not appear that the District will have to expand the WWTP based on the initial report but that she is waiting until the report is finalized to make a final determination.

Ms. Bonham next reported on the Water Plant No. 1 improvements. She stated that J&C solicited and received bids for the project and recommends awarding the contract to the low bidder, D&L Quality Painting ("D&L"), with a bid of \$35,805. She then presented an executed TEC Form 1295 from D&L. After discussion, Director Atchison made a motion to award the contract to D&L in the amount of \$35,805. Director Thomas seconded the motion, with unanimously carried.

REVIEW AND APPROVE PROFESSIONAL SERVICES AGREEMENT WITH JONES & CARTER, INC.

The Board next considered the review and approval of a restated Professional Services Agreement with J&C. Ms. Bonham presented the Agreement to the Board and reviewed in detail the proposed changes. Director Fesler suggested that some members of the Board might like to see how J&C's fees compare to other engineering firms. Ms. Richardson then discussed the Professional Services Procurement Act, noting that a governmental entity is not allowed to make decisions regarding the engagement of certain types of professional services, including engineering services, based upon pricing. She noted that the law provides that entities choose such service providers based upon their qualifications and then may negotiate pricing after choosing the service provider. After discussion, Director Atchison made a motion to approve the Professional Services Agreement with J&C and authorize the President to execute same on behalf of the Board and the District. The motion failed for lack of a second. Director Thomas requested that the Board

defer action on the matter until next month's meeting so that the Directors can review the contract in detail and ask questions about same to Ms. Bonham. The Board concurred to defer the decision to next month's meeting.

STATUS OF BOND APPLICATION REPORT

The Board next considered the status of a Bond Application Report ("Report") relative to the District's proposed Series 2019 Bonds. Ms. Bonham reminded the Board that J&C sent the Report to the TCEQ on July 12, 2019 and that the Report is currently pending with the TCEQ.

OPERATIONS REPORT

Mr. Shelnett presented and reviewed the operations report for July 2019, a copy of which is attached hereto as Exhibit H. He reported that the District accounted for 93% of the water pumped during the month of July and that the District's facilities operated in compliance with its respective permits during the month. Director Thomas asked about the accountability and Mr. Shelnett stated that it may be related to the flushing.

Mr. Shelnett next requested that the Board authorize MOC to turn one (1) delinquent account totaling \$221.61 over to Collections Unlimited ("CU"), as shown on the list attached to the Operator's Report. After discussion, Director Atchison made a motion to authorize MOC to turn over the one (1) subject account to CU, as set out above. Director Thomas seconded the motion, which passed unanimously.

Mr. Shelnett stated that MOC has added the mandatory language required by Senate Bill 239 to the water bill.

Mr. Shelnett reported that Cummins Southern Plain is scheduled to replace the controller at the lift station with a controller with wireless access, which was approved at last month's meeting. He also stated that NTS will be replacing the generator controller display. Mr. Shelnett stated that MOC has contacted the insurance company regarding the deductible for both.

Mr. Shelnett next reported that MOC installed the "no swimming" signage around the detention and amenity ponds.

Director Atchison then asked about well run times at the Water Plant and whether or not the District's drought plan had been triggered due to the recent heat and lack of rain. Mr. Shelnett stated that the Water Plant was pushing the sixteen (16) hour trigger a couple weeks ago, but that the usage was not long enough in duration to trigger any drought plan restrictions.

Mr. Shelnett stated that MOC is repairing the gate at the lift station near Mystic Stone that was damaged by the EMS and that the repairs are estimated to cost approximately \$2,000.

Director Thomas stated that there are several entries on the invoice related to high water usage checks and asked what criteria MOC uses to trigger such checks. Mr. Shelnett stated that MOC investigates high usage when the Beacon report indicates water usage over 10,000 gallons of water during the month.

APPROVE RESOLUTION REGARDING INFORMATION STORED ON PRIVATELY-OWNED DEVICES

The Board next considered the approval of the attached Resolution Regarding Information Stored on Privately-Owned Devices. Ms. Richardson reported that Senate Bill 944 will require that a current or former officer or employee of a governmental body who maintains public information on a privately owned device to forward or transfer the public information to the governmental body or a governmental body server for preservation or preserve the information in its original form in a backup or archive and on the privately owned device for the time prescribed by the governmental body's records retention program. She stated that in order to comply with the requirements of Senate Bill 944, MRPC is recommending that each Board member transfer all public information created or received by such Board member to a Google email address for archiving with the District's records. She noted that MRPC has set up the email address of harriscountymud401@gmail.com for the District for such purposes. After discussion, Director Atchison made a motion to approve the Resolution and authorize the President to execute and the Secretary to attest same on behalf of the Board and the District. Director Thomas seconded the motion, which unanimously carried. She noted that she will forward a memo to each Board member prior to September 1 giving information on best practices with respect to the implementation of the new law.

EXECUTIVE SESSION

The Board next recessed into Executive Session at 8:18 p.m. to discuss real property matters pursuant to §551.072, Texas Government Code and pending or contemplated litigation or a settlement offer pursuant to §551.071, Texas Government Code. The Board returned from executive session at 8:29 p.m.

RECONVENE IN OPEN SESSION

The Board next considered taking action relative to real property matters pursuant to §551.072, Texas Government Code and contemplated litigation or a settlement offer pursuant to §551.071, Texas Government Code. After discussion, Director Thomas made a motion to authorize MRPC to engage a condemnation lawyer on behalf of the District to proceed with condemnation of the waterline easement property from the Inverness POA. Director Atchison seconded the motion, which unanimously carried.

ITEMS FOR FUTURE AGENDAS

The Board next considered items for future agendas. Director Solis asked about the sidewalk near the Water Plant which is noted as being connected to the Water Plant driveway. Ms. Bonham stated that a developer is performing the connection as a punchlist item from Harris County.

ADJOURN

There being no further business to come before the Board, on motion made by Director Atchison, seconded by Director Thomas and unanimously carried, the meeting was adjourned.


Secretary, Board of Directors

ATTACHMENTS TO MINUTES OF BOARD OF DIRECTORS

August 19, 2019

- A. Patrol Report
- B. Bookkeeper's Report
- C. Tax Assessor-Collector Report
- D. Delinquent Tax Report
- E. Tax Rate Recommendation
- F. Detention and Drainage Facilities Report
- G. Engineer's Report
- H. Operations Report
- I. Resolution Regarding Information Maintained on Privately-Owned Devices