

**HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 401**  
**Minutes of Meeting of Board of Directors**  
**April 20, 2020**

The Board of Directors of Harris County Municipal Utility District No. 401 met by teleconference on April 20, 2020, 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  
Sandee 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 via teleconference were Jeff Vogler and Andres Aranzales of Van De Wiele and Vogler, Inc. ("VDWV"); 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"); Mark Michna of Acclaim Energy ("Acclaim"); Sergeant Hight of the Harris County Precinct Four Constable's Office ("HCCO"); Sherrilyn Phelps, resident; Kara Richardson of Marks Richardson PC ("MRPC") and Miranda Jones Rajevac of MRPC.

The President called the meeting to order.

SECURITY PATROL

As the first order of business, the Board considered the report from the HCCO regarding security services in the District. Sergeant Hight reviewed the March 2020 Patrol Statistics, a copy of which is attached hereto as Exhibit A.

PUBLIC COMMENT

The Board deferred comments from the public, as no members of the public were present.

APPROVE MINUTES

The Board next considered approval of the minutes of the Board meetings held on February 3, 2020, February 10, 2020 and February 17, 2020. After discussion, Director Atchison made a motion to approve the minutes of the meetings of February 3, 2020, February 10, 2020 and February 17, 2020, as presented. Director Wright seconded the motion. A roll call vote was conducted and with all five directors present voting in the affirmative, the motion unanimously carried.

## EMERGENCY PREPAREDNESS MEASURES RELATED TO COVID-19

The Board next considered a discussion regarding emergency preparedness measures related to the COVID-19 pandemic, including the delegation of certain duties and establishment of certain meeting procedures. Ms. Richardson stated that, effective March 16, 2020, the Governor took action to suspend certain general laws, including provisions of the Texas Open Meeting Act, to the extent necessary to allow the governing bodies of state agencies and local political subdivisions to conduct meetings by telephone conference call and to avoid congregate settings in physical locations. She reported that pursuant to Chapter 418 of the Texas Government Code, the Board may adopt a plan for the continuity of functions of the District and take action without a quorum of the Board during a disaster declared by the Governor or during another catastrophic event. After discussion, Director Atchison moved to adopt the Order Declaring the Existence of an Emergency and a Disaster; Adopting a Plan for the Continuity of Functions of the District During Such Emergency and Disaster; Delegating Certain Administrative Duties to Certain Authorized Officers During Such Emergency and Disaster; Establishing Meeting Procedures During Such Emergency and District; and Containing Other Provisions Relating to the Subject and authorize the Board President to serve as Treasurer Pro Tem of the Board and in such capacity, to execute all checks, wires and disbursements on behalf of the Board and the District for the duration of the pandemic. Director Solis seconded the motion, carried unanimously.

## PRESENTATION FROM ACCLAIM ENERGY

The Board next considered a presentation related to energy procurement by Acclaim Energy. Mr. Michna presented and reviewed an Electricity Market Update, a copy attached hereto as Exhibit B. He stated that the District's current contract is with Hudson Energy at a rate of \$0.04297 per kWh with an end date of March 31, 2024. He then discussed the electricity pool market with a proposed contract rate of \$0.03995 with an end date of April 30, 2029. Director Wright discussed her apprehension with a contract end date of April 30, 2029 and Director Thomas agreed. The Board next asked about the savings per year and savings over the next nine (9) years. Mr. Michna stated that the new contract will provide savings of \$3,800 per year and \$19,000 over nine (9) years. After discussion, Director Atchison made a motion to participate in the electricity pool at a contract rate of \$0.03995 per kWh with an end date of April 30, 2029, and to authorize Director Fesler to execute the Contract on behalf of the Board and the District. Director Thomas seconded the motion which carried unanimously.

## SOLID WASTE COLLECTION SERVICES

The Board next considered a discussion related to solid waste collection services for the District. No one present had anything new to report.

## BOOKKEEPING REPORT

Ms. Viator presented and reviewed the bookkeeper's report dated April 20, 2020, a copy of which is attached hereto as Exhibit C. After discussion, Director Atchison made a motion to approve the bookkeeper's report and to authorize payment for the invoices listed therein. Director Fesler seconded said motion, which carried unanimously.

### TAX ASSESSOR-COLLECTOR'S REPORT

Ms. Goin next presented and reviewed the tax assessor-collector's report dated March 31, 2020, a copy of which is attached hereto as Exhibit D. 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 carried unanimously.

### RESOLUTION AUTHORIZING ADDITIONAL PENALTY ON DELINQUENT TAXES

Ms. Richardson next advised the Board that pursuant to Section 33.07 of the Tax Code, as amended, the Board is authorized to impose, under certain conditions, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due to the District on July 1 on taxes that remain delinquent as of July 1 of the year in which they become delinquent. After discussion, Director Atchison made a motion to adopt the Resolution Authorizing Additional Penalty on Delinquent Taxes, attached hereto as Exhibit E. Director Thomas seconded the motion, which carried unanimously.

### UNCLAIMED PROPERTY REPORT

The Board next considered authorizing the preparation of an Unclaimed Property Report by the District's bookkeeper and tax assessor-collector, as necessary, which is to be filed with the State Comptroller prior to July 1, 2020. After discussion on the matter, Director Atchison made a motion to authorize the District's bookkeeper and tax assessor-collector to research the District's accounts to determine the necessity of preparing an Unclaimed Property Report, and, if such reports are necessary, authorize the District's bookkeeper and tax assessor-collector to file same with the State Comptroller prior to July 1, 2020. Director Thomas seconded the motion, which carried unanimously.

### APPROVE AUDIT RELATIVE TO PAYMENT OF PROCEEDS OF THE DISTRICT'S \$1,030,000 UNLIMITED TAX BONDS, SERIES 2020 AND \$3,360,000 UNLIMITED TAX BONDS, SERIES 2020A

Mr. Jenkins next presented the draft developer reimbursement audit for the disbursement of proceeds of the District's \$1,030,000 Unlimited Tax Bonds, Series 2020 and \$3,360,000 Unlimited Tax Bonds, Series 2020A (the "Bonds"), attached hereto as Exhibit F. He reviewed the draft audit reports prepared by McCall in connection with the reimbursement of costs to 2920 Venture, Ltd. ("2920") and Hendricks Interests, LLC ("Hendricks") from the proceeds of the bonds. After discussion on the matter, Director Atchison moved that said reports be approved by the Board, as presented, and that 2920 and Hendricks be paid in accordance with the audit reports. Director Thomas seconded the motion, which carried unanimously.

### DISTRICT INFORMATION FORM

Ms. Richardson next reviewed with the Board an Amendment to the Second Amended and Restated District Information Form in connection with the Bonds. After discussion, Director Thomas made a motion to approve the Form and to authorize the Board members present to execute same. Director Atchison seconded the motion, which carried unanimously.

## PROPOSED ISSUANCE OF SERIES 2020 UNLIMITED TAX REFUNDING BONDS

The Board next considered the issuance of bonds to refund portions of the District's outstanding Series 2009 and Series 2011 Unlimited Tax Bonds. Ms. Shelton reviewed the Refunding Effects analysis with the Board, attached as Exhibit G. She noted that the proposed refunding projects a total present value savings of 9.589708%, based on the market rates in effect as of today. Ms. Shelton next recommended that the Board set a minimum parameter of net present value savings to the District of at least 3% and a maximum bond issue size of \$1,500,000. She further recommended that the District designate SAMCO Capital Markets as the underwriters for the proposed bond issue. After discussion on the matter, Director Wright made a motion to authorize the Board to proceed with the sale of the proposed bonds to SAMCO Capital Markets in an amount not to exceed \$1,500,000 if the net present value savings to be realized from the sale of the bonds is at least 4%. Director Atchison seconded the motion, which carried unanimously.

The Board next considered the approval of a Preliminary Official Statement ("POS") in connection with the issuance of the District's proposed Unlimited Tax Refunding Bonds, Series 2020 (the "Bonds"). Ms. Shelton reviewed the draft POS with the Board and recommended that the Board approve same, contingent upon review and approval of same by the District's consultants, attached hereto as Exhibit H. After discussion, Director Wright moved to approve the POS, contingent upon its review and approval by the District's consultants, and to authorize Masterson to finalize the POS in connection with the Bonds. Director Atchison seconded the motion, which carried unanimously.

The Board next considered approval and execution of a Paying Agent/Registrar Agreement with Regions Bank, Houston, Texas in connection with the Bonds. After discussion, Director Wright moved to approve the Paying Agent/Registrar Agreement with Regions Bank, Houston, Texas and authorized the President to execute same on behalf of the Board and District. Director Atchison seconded the motion, which carried unanimously.

The Board next considered the designation of a Verification Agent in connection with the issuance of the Bonds. Ms. Richardson advised the Board that the Attorney General requires that the District engage an independent auditor to conduct an audit to verify the savings to be realized by the District as a result of the refunding bond issue. After discussion, Director Wright moved to engage the services of Public Finance Partners, LLC to act as verification agent for the Bonds. Director Atchison seconded the motion, which carried unanimously.

The Board next considered authorizing Directors to act on behalf of the Board to receive and act upon proposals for the purchase of the Bonds, including approval of a Plan of Financing and execution and approval of an Officer's Pricing Certificate, Bond Purchase Agreement, Notice of Bond Redemption, General Certificate, Signature Identification and No-Litigation Certificate and any other documents required in connection with the sale of the Bonds. After discussion, Director Wright moved to authorize the President and Secretary to act on behalf of the Board to receive and act upon proposals for the purchase of the Bonds, approve a Plan of Financing and execute, approve and, if necessary, attest on behalf of the Board and District, an Officers Pricing Certificate, Bond Purchase Agreement, Notice of Bond Redemption, General Certificate and Signature Identification and No-Litigation Certificate and any other documents required in connection with the sale of the Bonds, all contingent upon the terms of the sale being within the

parameters adopted by the Board earlier in the meeting, and to authorize the District's Attorneys to prepare a transcript of the proceedings and take whatever other actions they deem necessary in connection with the sale of the Bonds. Director Atchison seconded the motion, which carried unanimously.

The Board next considered adoption of an Order authorizing the issuance, sale and delivery of the Bonds. Ms. Richardson reviewed the terms and provisions of the Bond Order with the Board. After discussion, Director Wright moved to adopt the Order and authorize the President to execute and Secretary to attest same on behalf of the Board and District. Director Atchison seconded the motion, which carried unanimously.

The Board next considered authorizing the completion and distribution of a Final Official Statement to be prepared by Masterson. After review, Director Wright moved to authorize the completion and distribution of a Final Official Statement. Director Atchison seconded the motion, which carried unanimously.

#### DEVELOPER'S REPORTS

The Board next deferred consideration of the developer's report 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 April 20, 2020, a copy of which is attached hereto as Exhibit I.

#### APPROVAL TO ADD BOLLARDS AND/OR FENCING

The Board next considered approval to add bollards and/or additional fencing in certain areas of the District to deter unauthorized activity. The Board discussed the recent activity near the WWTP including motorcycles riding in the area and gaining access from the Sugarberry neighborhood. Director Thomas stated that the situation has worsened, and people are now fishing in the detention ponds. He suggested that the Board re-consider hiring four-wheeler patrol. Mr. Vogler stated that he will research the ownership of the subject property. He stated that VDVW will prepare an exhibit and research the feasibility of adding bollards to the subject property.

#### ENGINEER'S REPORT

Mr. Vogler presented and reviewed the Engineer's Report, attached hereto as Exhibit J, and reviewed the items listed therein with the Board.

Mr. Vogler reported on the approval of plans and specifications for sidewalk modifications at Inverness Crossing Blvd and Fanwick Drive. He stated that VDVW will submit the plans and specifications to the review agencies this week.

Mr. Vogler next reported on the status of the Water Main Loop. He stated that the project is on hold pending easement acquisition.

Mr. Vogler next reported on the status of the construction contract with D&L Quality Painting (“D&L”) for the Water Plant No. 1 improvements. He presented Pay Application No. 1 and Final in the amount of \$30,805.00 and recommended that the Board approve payment of Pay Application No. 1 and Final. After discussion, Director Atchison made a motion to approve payment of Pay Application No. 1 and Final, as set out above. Director Wright seconded the motion, which carried unanimously.

Mr. Arranzales next presented a proposal for professional environmental engineering services from Phase Engineering, Inc. to conduct a survey for bald eagle nests in the amount of \$750. The Board took no action on the matter.

Director Atchison requested that VDVW follow-up regarding the installation of stop signs within the District.

### PREVAILING WAGE RATE SCALES

The Board next considered the annual review of the Resolution Adopting Prevailing Wage Rate Scale for Construction Projects. Ms. Richardson noted that Harris County and the City of Houston have both adopted the wage rates adopted by United States Department of Labor for Harris County projects and presented the list of such rates for the Board’s review. After discussion, Director Atchison made a motion to adopt the Resolution Adopting Prevailing Wage Rate Scale for Construction Projects based on the Department of Labor rates for Harris County projects. Director Wright seconded the motion, which carried unanimously.

### OPERATIONS REPORT

Mr. Shelnett presented and reviewed the operations report for March 2020, a copy of which is attached hereto as Exhibit K. He reported that the District accounted for 93% of the water pumped during the month of March and that the District’s facilities operated in compliance with its respective permits during the month.

Mr. Shelnett reported that the North Harris County Regional Water Authority has decided to delay the increase in authority fees scheduled to take effect on April 1, 2020 until July 1, 2020.

Mr. Shelnett next presented and reviewed correspondence from MOC regarding the COVID-19 pandemic and the procedures currently being taken by MOC. He stated that the District is waiving the disconnection of service for delinquent accounts.

Director Fesler asked whether more people are flushing wipes and other non-flushable items into the toilet. Mr. Shelnett stated that MOC can prepare a notice advising residents to avoid flushing wipes and other non-flushable items down the toilet and explaining that such items can clog sanitary sewer lines and damage or create operational problems for the District’s other sanitary sewer facilities.

### AUTHORIZE OPERATOR TO PREPARE CONSUMER CONFIDENCE REPORT

The Board next considered authorizing the operator to prepare a draft Consumer Confidence Report. After discussion, Director Atchison moved to authorize the operator to

prepare a Consumer Confidence Report. Director Wright seconded the motion, which carried unanimously.

### CYBERSECURITY AWARENESS TRAINING REQUIREMENTS

The Board next discussed cybersecurity awareness training requirements. Ms. Richardson stated that the Board should have received an email containing a cybersecurity awareness training video for Board members to complete prior to June 14, 2020. She stated that Board members should complete the training video and submit the certificate of completion to MRPC.

### ORDER DECLARING CANDIDATES ELECTED

The Board next considered the adoption of an Order Declaring Candidates Elected and the cancellation of the May 2, 2020, Director Election. Ms. Richardson advised that in accordance with Subchapter C, Chapter 2 of the Election Code and Section 2.052 of the Election Code, after 5:00 p.m. on February 21, 2020, the District may cancel the Director election if each candidate whose name appears on the ballot and/or has registered as a write-in candidate is unopposed in such election and the Board of Directors of the District can declare such unopposed candidates to be re-elected for an additional term. Ms. Richardson presented a certificate declaring all candidates unopposed and presented and reviewed various portions of the attached Order Declaring Candidates Elected. After discussion, Director Atchison moved that the Order be adopted by the Board declaring Directors Fesler, Wright and Solis re-elected for an additional term expiring in May 2024, and that the President be authorized to execute and the Secretary to attest same on behalf of the Board and the District. Director Thomas seconded the motion, which carried unanimously.

### ITEMS FOR FUTURE AGENDAS

The Board next considered items for future agendas. Mr. Vogler requested that an item be added to the agenda for the next meeting to consider approval of a Resolution Adopting Rules for the Electronic Submission of Bids.

### ADJOURN

There being no further business to come before the Board, the meeting was adjourned.

DocuSigned by:  
  
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Secretary, Board of Directors

ATTACHMENTS TO MINUTES OF BOARD OF DIRECTORS  
April 20, 2020

- A. Patrol Report
- B. Acclaim Energy Presentation
- C. Bookkeeper's Report
- D. Tax Assessor-Collector Report
- E. Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes
- F. Draft Reimbursement Audit
- G. Updated Analysis of Refunding Effects
- H. Draft POS
- I. Detention and Drainage Facilities Report
- J. Engineer's Report
- K. Operations Report