

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 365

October 20, 2011

The Board of Directors (the "Board") of Harris County Municipal Utility District No. 365 (the "District") met in regular session, open to the public, on the 20th day of October, 2011, at the offices of Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2400, Houston, Texas, outside the boundaries of the District, and the roll was called of the members of the Board:

Joe Myers	President
Megan Bradley	Vice President
Alan Silverman	Assistant Vice President
Matthew Lund	Secretary
Michael Vandewater	Assistant Secretary

and all of the above were present.

Also present at the meeting were Brian Bare of SWWC Services, Inc. ("SWWC"); Michael Keefe of Bob Leared Interests, Inc.; Michael Murr of Murr, Inc.; Shirley McLennan of McLennan & Associates; Chris Burke of Sander Engineering Corporation ("SEC"); Greg Coleman of Beazer Homes Texas LP; Cherie Cross with Environmental Allies; Michael Wear of MNEW Properties; Prasad Maragani of Vatani Consulting Engineers, PLLC; Sgt. James Blackledge and Lt. Stephen Cupit of Harris County Constable Office, Precinct 4 ("Precinct 4"); and Alia Vinson and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

PUBLIC COMMENT

Ms. Cross discussed services provided by Environmental Allies, including mowing services.

SECURITY REPORT

Sergeant Blackledge and Lt. Cupit discussed patrol services available through Precinct 4. Lt. Cupit said that the Commissioners Court may consider contracts providing for 70% of a law enforcement officer's time for districts that currently have 70% contracts with the Harris County Sheriff's Office. Following discussion, the Board requested that Precinct 4 submit an agreement to the District for 70% of one patrol officer's time beginning January 1, 2012.

## MINUTES

The Board considered approving the minutes of the September 22, 2011, regular meeting. Upon a motion made by Director Bradley and seconded by Director Vandewater, the Board voted unanimously to approve the minutes for the September 22, 2011 special meeting, as revised.

## TAX ASSESSMENT AND COLLECTION MATTERS

Mr. Keefe reviewed the District's monthly tax report, noting that 99.7% of the 2010 taxes had been collected as of the end of September, 2011, and reviewed delinquent accounts. Mr. Keefe also reported regarding historical collections. After discussion, Director Lund moved to approve the tax assessor/collector's report, and the checks drawn on the District's tax account. Director Silverman seconded the motion, which passed unanimously. A copy of the tax assessor/collector's report is attached.

## PUBLIC HEARING REGARDING DISTRICT'S TAX RATE, ORDER LEVYING TAXES, AND AMENDMENT TO INFORMATION FORM

The Board opened the public hearing on the District's proposed tax levy. Mr. Keefe confirmed that notice of the proposed levy had been published. There being no public comment, the Board then closed the public hearing and considered an Order Levying Taxes, reflecting a tax rate of \$0.52 per \$100 valuation consisting of \$0.375 for debt service and \$0.145 for operations and maintenance. Upon a motion made by Director Silverman and seconded by Director Vandewater, the Board unanimously voted to adopt the Order Levying Taxes as presented.

Ms. Vinson also reviewed the District's proposed Amendment to Information Form to reflect the District's 2011 tax rate. After discussion, Director Silverman moved to approve the Amendment to Information Form and filing it with the Texas Commission on Environmental Quality ("TCEQ") and in the Harris County Deed Records. Director Vandewater seconded the motion, which passed by unanimous vote.

## PUBLIC HEARING REGARDING TAXATION OF GOODS-IN-TRANSIT UNDER TEXAS TAX CODE SECTION 11.253 AND RESOLUTION TO TAX GOODS-IN-TRANSIT

Ms. Vinson discussed a tax exemption for goods-in-transit, as defined in Section 11.253, Texas Tax Code, and as amended by Article 48 of Senate Bill No. 1 of the First Called Session of the 82<sup>nd</sup> Texas Legislature. Ms. Vinson reported that goods-in-transit will be exempt from taxation in the 2012 tax year and each year thereafter unless the District takes action by the end of the 2011 to tax such goods-in-transit. The Board opened a public hearing regarding the taxation of goods-in-transit. There being no members of the public in attendance wishing to address the Board, the public hearing

was closed. Ms. Vinson presented a Resolution to Tax Goods-in-Transit ("Resolution") for the Board's consideration. After review and discussion, Director Bradley moved to adopt the Resolution and direct that the Resolution be filed appropriately and retained in the District's official records. Director Vandewater seconded the motion, which passed unanimously.

#### RESOLUTION NOMINATING CANDIDATE FOR BOARD OF DIRECTOR ELECTION FOR HARRIS COUNTY APPRAISAL DISTRICT

The Board took no action on this agenda item.

#### FINANCIAL AND BOOKKEEPING MATTERS

Ms. McLennan reviewed with the Board the bookkeeper's report, investment report, budget comparison, and the bills and checks presented for payment. After review and discussion, and upon a motion made by Director Lund and seconded by Director Vandewater, the Board voted unanimously to: (1) approve the bookkeeper's report; and (2) approve the checks presented for payment.

#### ARBITRAGE REBATE STUDY FOR SERIES 2001 BONDS

The Board next considered engaging Omnicap, LLC to provide arbitrage rebate and yield restriction compliance services in connection with the District's Series 2001 Bonds. Upon a motion by Director Vandewater and a second by Director Lund, the Board voted unanimously to engage Omnicap, LLC to prepare a five year excess earnings report.

#### OPERATION OF DISTRICT WATER, SANITARY SEWER, AND STORMWATER FACILITIES

Mr. Bare reviewed the written operations report with the Board, a copy of which is attached. He reviewed routine maintenance and repairs in the District, including replacement of 25 meters pursuant to the District's meter replacement policy, cleaning of the chlorine contact basin at the wastewater treatment plant and preventative maintenance at District water plants.

Mr. Bare then discussed with the Board damages incurred by the District when a contractor, that was not working for the District, hit a water main last week on Barker Cypress Road. He said that invoices for damages thus far total \$5,400, that he is expecting an additional invoice, and that all invoices will be submitted with the SWWC November invoice to the District. The Board discussed invoicing the contractor for damages and for water lost, including surface water fees. Mr. Bare then recommended that the District consider performing a valve survey. Director Myers requested that SWWC provide the Board with a map showing the location of the valves in the District.

Mr. Bare reported that the District's monthly water accountability was 99.4%. He provided test results on effluent at the wastewater treatment plant and samples taken at the Dry Clean Supercenter. He also presented a request from the customer at 16614 Hamilton Park Drive for a payment plan for delinquent service payments. Upon a motion made by Director Vandewater and seconded by Director Silverman the Board voted unanimously to approve the District operator's report and to authorize SWWC to offer a 3 month payment plan to the customer at 16614 Hamilton Park Drive for the delinquent portion of his utility bill.

The Board then conducted a hearing on the termination of utility service to delinquent accounts. Mr. Bare reported that the persons on the termination list were mailed written notice prior to this meeting in accordance with the Rate Order, notifying them of the opportunity to appear before the Board of Directors to explain, contest, or correct the utility service bill and to show reason why utility service should not be terminated for reason of nonpayment. Director Vandewater moved that, since the customers on the termination list were neither present at the meeting nor had presented any statement on the matter, utility service should be terminated in accordance with procedures set forth in the District's Rate Order, with the exception of Barry Sims for whom payment arrangements have been made. Director Silverman seconded the motion, which carried unanimously. A copy of the termination list is attached.

#### REPORT REGARDING DEVELOPMENT IN THE DISTRICT

The Board received a report from Mr. Coleman regarding the number of homes sold to date and current sales within The Park at Arbordale and planning for future phases.

Ms. Vinson discussed the status of conveyance of the privately owned sanitary sewer line within Coles Crossing South. She said that the developer has identified a waterline easement that was erroneously deeded to the District and that the developer has asked that the District agree to the rescission of the easement and the acceptance of a new waterline easement in its place. Upon a motion by Director Bradley and a second by Director Vandewater, the Board voted unanimously to rescind the easement and accept a new waterline easement.

#### REPORT ON RECREATIONAL AND LANDSCAPE FACILITIES

Mr. Murr reported that he contacted Harris County regarding limbs hanging over Jarvis Road and pruning trees within the right of way and that Harris County is scheduled to perform the work.

Mr. Murr and the Board then discussed ongoing issues with water fountains along the trails, including water ponding issues at the fountain on Coles Crossing

Drive. Mr. Murr said that he contacted John Parker with Association Repairs and the manufacturer and is working on a resolution.

Mr. Murr then reported on the status of preparation of a schematic plan/site analysis in connection with a Sidewalk Connection Artery Plan and Design necessary to apply for grant funding for a connecting trail system.

#### ENGINEERING MATTERS

The Board reviewed a written engineer's report submitted by SEC on the status of various projects in the District as follows in these minutes. A copy of the engineer's report is attached.

#### STORMWATER CHANNEL MAINTENANCE

Mr. Burke said that the September invoices for mowing of the dry detention pond were submitted by Seaback Maintenance for payment. The Board discussed current costs of maintenance and requested that the District engineer provide a per acre cost analysis of current services through Seaback Maintenance and request a cost per acre estimate from Environmental Allies.

The Board next discussed an illegal connection to the District's drainage ditch along the southwest border of the commercial property at State Highway 290. Mr. Burke described the outfalls on the east side of the ditch. Mr. Margani said that Mr. Wear complied with all permitting and inspection requirements of Harris County and that he and Mr. Wear were unaware that the ditch was not a public drainage right of way. Ms. Vinson discussed options available to Mr. Wear to remedy the illegal connection. The Board concurred to either require Mr. Wear to remove the outfalls or take the necessary steps to enter into an Out-of-District Services Agreement with the District. Following discussion, Director Vandewater authorized ABHR to request that Mr. Wear deposit \$5,000 against the costs of a feasibility study if Mr. Wear is interested in entering into an Out-of-District Services Agreement and to authorize ABHR to send a letter to Harris County notifying them of the violation. Director Bradley seconded the motion which passed unanimously.

#### JARVIS ROAD WIDENING

Mr. Burke next reported regarding Harris County's schedule for the widening of Jarvis Road and the status of obtaining a written agreement between the District and Harris County.

## UTILITY AVAILABILITY REQUESTS

Mr. Burke updated the Board on the status of the design and land plan for Saltgrass Steakhouse.

## FUTURE WATER SUPPLY, INCLUDING WATER CAPACITY ANALYSIS

There was no additional discussion on this agenda item.

## WELL RUN TIMES AND DROUGHT CONTINGENCY MEASURES

Mr. Burke reviewed well run times provided by the District's operator and said that GM Services is checking well levels. The Board discussed voluntary water conservation signs posted through the District and concurred to leave the signs posted due to ongoing drought conditions.

## CORROSION AT WATER PLANT NO. 2

Mr. Burke reported that SEC will inspect ground storage tank no. 2 and repair ground storage tank no. 1 in the winter at the same time that water well no. 3 is down for rehabilitation.

## REHABILITATION OF WATER WELL NO. 3

Mr. Burke reported that he received bids for the rehabilitation of water well no. 3 and recommended that the Board award the contract to the low qualified bidder, Alsay, Inc., in the amount of \$119,092. After discussion, based on the engineer's recommendation, and because it would result in the best and most economical completion of the project, Director Silverman moved to approve the award of the contract to Alsay, Inc, subject to review and approval of payment and performance bonds. Director Vandewater seconded the motion which passed unanimously.

## ELEVATED STORAGE TANK WAIVER

Mr. Burke reported that SEC continues to work on the elevated storage tank waiver request to be submitted to the TCEQ later this year.

## SANITARY SEWER SERVICE TO ENTOUCH FACILITY ON SPRING CYPRESS ROAD

Mr. Burke reported that he received bids for the extension of sanitary sewer lines to serve the Entouch facility on Spring Cypress Road and recommended that the Board award the contract to the lowest qualified bidder, Bay Utilities, Inc., in the amount of \$77,472. After discussion, based on the engineer's recommendation, and because it would result in the best and most economical completion of the project, Director

Silverman moved to approve the award of the contract to Bay Utilities, Inc., subject to review and approval of a payment bond. Director Lund seconded the motion which passed unanimously.

DEEDS, EASEMENTS, AND ENCROACHMENTS

There was no action on this agenda item.

PUBLIC COMMUNICATIONS

The Board discussed establishing protocol for notifying the public in the event of water outages or other emergencies.

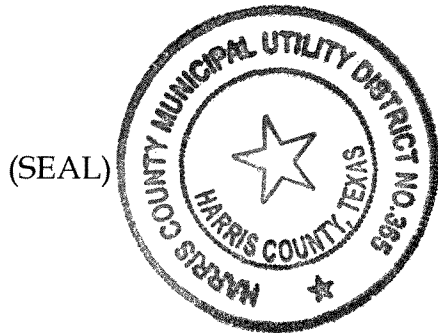
POSSIBLE CONSOLIDATION OF DISTRICT AND HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 364, INCLUDING FORMATION OF CONSOLIDATION COMMITTEE

Ms. Vinson and the Board discussed the proposed consolidation of the District and No. 364 and preliminary meetings of the consolidation committee.

NOVEMBER REGULAR AND SPECIAL MEETING AGENDA

The Board discussed the November special and regular meeting dates and agendas.

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



  
Secretary, Board of Directors

LIST OF ATTACHMENTS TO MINUTES

Minutes  
Page

tax assessor/collector's report.....	2
delinquent tax report.....	2
Order Levying Taxes.....	2
operations report.....	3
termination list.....	4
engineer's report.....	5