

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 365

March 22, 2012

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 22<sup>nd</sup> day of March, 2012, 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, except Director Myers, thus constituting a quorum.

Also present at the meeting were Cathy Falke of SWWC Services, Inc. ("SWWC"); Kristen Scott of Bob Leared Interests, Inc.; Shirley McLennan of McLennan & Associates; Chris Burke of Sander Engineering Corporation ("SEC"); Greg Coleman of Beazer Homes Texas LP; Michael Murr of Murr, Inc.; Paul Bland, District resident; and Susan Edwards, Alia Vinson and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

PUBLIC COMMENT

Mr. Bland complimented and commended the directors on their service to the District.

MINUTES

The Board considered approving the minutes of the February 9, 2012, special meeting, and the February 16, 2012, regular meeting. Upon a motion made by Director Silverman and seconded by Director Lund, the Board voted unanimously to approve the minutes of the February 9, 2012, special meeting, and the February 16, 2012, regular meeting, both as submitted.

TAX ASSESSMENT AND COLLECTION MATTERS

Ms. Scott reviewed the District's monthly tax report, noting that 97.8% of the 2012 taxes had been collected as of the end of February, 2012, and reviewed delinquent accounts. Ms. Scott also reported regarding historical collections. After discussion, Director Silverman moved to approve the tax assessor/collector's report, and the checks

drawn on the District's tax account. Director Vandewater seconded the motion, which passed unanimously. A copy of the tax assessor/collector's report is attached.

The Board next considered a request for waiver of penalty and interest from the homeowners at 16603 Hamilton Park Drive for 2007, 2008, 2009 and 2010. Following discussion and after carefully considering the information provided by the Harris County Appraisal District through the District tax assessor collector, the Board determined that the Harris County Appraisal District erroneously placed a cap on two merged tax accounts for the years 2007 through 2010. Upon a motion by Director Silverman and a second by Director Lund, the Board voted unanimously to waive the assessed penalties and to waive interest accrued through February 1, 2012, because of the error made by the Harris County Appraisal District.

#### RESOLUTION CONCERNING EXEMPTIONS FROM TAXATION

The Board also considered adopting a Resolution Concerning Exemptions from Taxation ("Resolution"), which provides for the exemption from ad valorem taxation of \$20,000 of the appraised value of residence homesteads of individuals who are disabled or are sixty-five years of age or older, but rejects a general homestead exemption as well as any exemption for travel trailers. Upon a motion made by Director Silverman and seconded by Director Vandewater, the Board voted unanimously to adopt the Resolution as described.

#### FINANCIAL AND BOOKKEEPING MATTERS

Ms. McLennan reported that SWWC has not yet reconciled the District's recent cash summary reports. Ms. McLennan then reviewed with the Board the bookkeeper's report, investment report, and the bills and checks presented for payment. Ms. McLennan reported on current interest rates. After review and discussion, and upon a motion made by Director Silverman and seconded by Director Vandewater, the Board voted unanimously to: (1) approve the bookkeeper's report; and (2) payment of the bills with the exception of check no. 2765 to Association Repairs.

#### AUDITOR TO PERFORM AGREED UPON PROCEDURES REVIEW/REPORTING REGARDING SWWC SERVICES

Ms. Edwards discussed potential auditing issues for the District's fiscal year end as a result of ongoing accounting issues with regard to SWWC's data conversion and failure to provide an allocation of funds billed and received. Ms. Edwards said that the District's auditor is recommending that the Board conduct an agreed upon procedures review/reporting. Ms. McLennan said that she will also be submitting an invoice to the District for additional bookkeeping services required as a result of SWWC's data conversion issues. After discussion, Director Silverman moved to engage BKD, Inc. to perform an agreed upon procedures review/reporting of SWWC District accounts and to request that SWWC reimburse the District for both the audit and additional

bookkeeping fees. Director Vandewater seconded the motion which passed unanimously.

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

Ms. Falke updated the Board on SWWC's engagement of a consultant for an independent review of cash reports.

Ms. Falke then reviewed the written operations report with the Board, a copy of which is attached. Ms. Falke discussed maintenance and repairs completed during the month of February, 2012, including 2 new connections at Park at Arbordale, purchased water from Northwest Harris County Municipal Utility District No. 10, repair of two tap line leaks, removal of debris from the pumps at lift station no. 2 and well production testing at water plant no. 3. She also addressed previous customer service complaints and reported on the status of the valve and manhole survey. The Board then reviewed a Water Smart application and concurred with the water conservation goals outlined by the District engineer.

Ms. Vinson reported that ABHR is awaiting an update from Mitchell & Duff, LLP, regarding collection of damages from the contractor that broke water lines on Barker Cypress Road.

Ms. Falke provided test results on effluent at the wastewater treatment plant and reported that the Dry Clean Supercenter wastewater samples taken during November, 2011, and February, 2012, exceeded permitted contaminant levels. The Board discussed fines and penalties, including adding the fines to the customer water bill, and requested that the Dry Clean Supercenter attend the next regular meeting of the Board of Directors to discuss payment of penalties and a plan to achieve compliance with permitted wastewater quality levels.

Following discussion, Director Silverman moved to (1) accept the District operator's report; (2) approve the Water Smart application and authorize the District operator to file the application; (3) assess a fine of \$1,500 to the Dry Clean Supercenter for violation of the District's Rate Order in November, 2011 and February, 2012; and (4) authorize the District operator to include the Dry Clean Supercenter's unpaid fines in the customer utility billing. Director Vandewater seconded the motion which passed unanimously.

The Board then conducted a hearing on the termination of utility service to delinquent accounts. Ms. Falke 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 Silverman 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. Director Vandewater 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, current sales within The Park at Arbordale, and planning for future phases. A copy of the report is attached.

Ms. Miller discussed the status of conveyance of the privately owned sanitary sewer line within Coles Crossing South.

#### REPORT ON RECREATIONAL AND LANDSCAPE FACILITIES

Mr. Murr reported on the status of the District's application for funding through a Texas Parks and Wildlife grant program.

Mr. Murr next reviewed three proposals from Silversand Services to install plants on the north trail east of the tennis center, to seed the parking lot area on Jarvis Road and correct the handicap access sign, and to mulch newly planted trees along the Jarvis Road trail.

Upon a motion by Director Vandewater and a second by Director Silverman, the Board voted unanimously to approve the three proposals from Silversand Services to install plants on the north trail east of the tennis center, seed the parking lot area on Jarvis Road and correct the handicap access sign, and mulch newly planted trees along the Jarvis Road trail.

#### 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.

Mr. Burke said that Seaback Maintenance mowed in February, 2012, but that no invoice was processed for payment. Mr. Burke next reviewed a proposal from Seaback Maintenance in the amount of \$1,700 for overseeding some areas remaining bare from the summer drought.

Mr. Burke reported regarding seepage at the wastewater treatment plant basin and said that SEC is working on obtaining proposals.

Mr. Burke updated the Board on the status of the proposed Saltgrass Steakhouse and utilities, including easements required to serve it.

Mr. Burke reported on the status of repairs to the ground storage tank at water plant no. 2. He said that Gemini finished blasting the ground storage tank no. 2, applied a prime coat to identify holes and counted approximately 500 holes. He said that the contractor estimated a cost of about \$20,000 to repair the holes and about \$50,000 or \$55,000 to replace the tank bottom. Mr. Burke said that he has requested additional proposals for replacing the tank bottom as well as soliciting any other repair options and will present the information at the April joint meeting. Mr. Burke reported that ground storage tank no. 1 should be online mid-April, 2012, and that no crack was found in the hydro-pneumatic tank at water plant no. 1.

Mr. Burke also reported that the coating of the hydro-pneumatic tank interiors at the Telge plant is complete, but the plant remains offline until rehabilitation of water well no. 3 is complete. Mr. Burke then updated the Board on the rehabilitation of water well no. 3 and recommended that the Board authorize the contractor to do supplemental bid items to superchlorinate, agitate and airlift water well no. 3 for an additional \$12,950.

Mr. Burke reported on pending improvements to U.S. Highway 290 and said that SEC sent comments to the Texas Department of Transportation regarding the location of the District waterline.

Upon a motion by Director Vandewater and a second by Director Silverman, the Board voted unanimously to (1) approve the engineer's report; and (2) authorize supplemental bid items to superchlorinate, agitate and airlift for an additional \$12,950 at water well no. 3.

#### INTERLOCAL AGREEMENT WITH HARRIS COUNTY FLOOD CONTROL DISTRICT

Ms. Vinson reported that the Interlocal Agreement with Harris County Flood Control District ("HCFCD") for mowing District channels expires April 30, 2012 and HCFCD requires a letter from the District to prepare the renewal contract. Upon a motion by Director Silverman and a second by Director Vandewater, the Board voted unanimously to authorize ABHR to send a letter requesting renewal of the Interlocal Agreement with HCFCD for mowing District channels.

#### REQUIRED DOCUMENTATION OF EMINENT DOMAIN AUTHORITY IN TEXAS WITH THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

Ms. Vinson stated that pursuant to Chapter 2206.101(d), Texas Government Code, as added by Senate Bill 18, 82<sup>nd</sup> Regular Session, the District is required to file documentation of its eminent domain authority in Texas with the Texas Comptroller of Public Accounts. Ms. Vinson reviewed the Required Documentation of Eminent Domain Authority in Texas with the Board. Following review and discussion, Director Silverman moved to authorize ABHR to file the Required Documentation of Eminent Domain Authority in Texas with the Texas Comptroller of Public Accounts and direct

that the Documentation be filed appropriately and retained in the District's official records. Director Bradley seconded the motion, which passed by unanimous vote.

SECURITY REPORT

The Board discussed ongoing patrol issues within the District.

PUBLIC COMMUNICATIONS

The Board discussed public communications services provided through Classic Messaging LLC.

POSSIBLE CONSOLIDATION OF DISTRICT AND HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 364

Ms. Vinson reported that the consolidation committee meeting of March 19, 2012, was deferred until April, 2012.

APRIL REGULAR, JOINT, AND SPECIAL MEETING AGENDAS

The Board discussed the April regular, joint and special meeting dates and agendas.

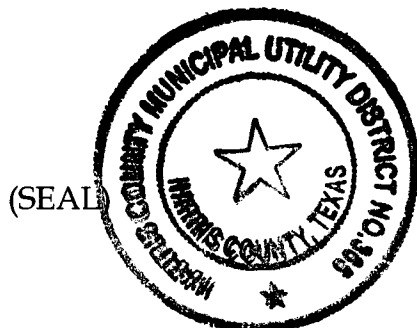
2012 DIRECTORS ELECTION

Ms. Vinson discussed the status of preparation for the 2012 Directors Election. The Board concurred to post notice of election on the District website.

EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE

The Board determined that it was not necessary to meet in executive session.

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



  
Secretary, Board of Directors

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