

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 249

Minutes of Special Meeting of Board of Directors  
January 22, 2009

The Board of Directors ("Board") of Harris County Municipal Utility District No. 249 ("District") met in special session at the Board's regular meeting place on January 22, 2009, in accordance with the duly posted notice of special public meeting, and the roll was called of the duly constituted officers and members of the Board, as follows:

Norman C. Adamek, President  
Sue Cox, Vice President  
Daniel Stage, Secretary  
Willie Hodge, Assistant Secretary  
Douglas Haude, Assistant Secretary

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

Also present were Teresa Rosenbaum of Municipal Accounts & Consulting, L.P. ("MA&C"); Sissie Lawson of Wheeler & Associates, Inc. ("Wheeler"); Asim Tufail of Van De Wiele Engineering Incorporated ("VEI"); Edward Wade, a resident of the District; Rick Marriott of Southwest Water Company, Inc. ("SWWC"); and Christopher T. Skinner of Schwartz, Page & Harding, L.L.P. ("SPH").

The President called the meeting to order and declared it open for such business as might regularly come before the Board.

**MINUTES**

The Board first reviewed the draft minutes of its meeting held on December 18, 2008. There then ensued a discussion regarding various revisions. After discussion of the minutes presented, Director Cox moved that the December 18, 2008, minutes be approved, as revised. Director Stage seconded said motion, which passed unanimously.

**COMMENTS FROM THE PUBLIC**

The Board next considered comments from the public. Mr. Wade addressed the Board regarding its policy relative to distribution of draft minutes and noted that he would like to be provided with a copy of the draft minutes, the bookkeeper's report and tax assessor-collector's report on a monthly basis in advance of the Board's meeting. Mr. Wade further addressed the Board regarding the content of minutes of past months' meetings and the adequacy

thereof. Mr. Skinner addressed Mr. Wade and the Board, reassuring them that the minutes of previous meetings were in compliance and accurate with respect to the Board's actions. There then ensued a lengthy discussion regarding same. The Board then requested that an item regarding its policy relative to the distribution of draft minutes and consultant reports prior to Board meetings be placed on the agenda for its next meeting.

Mr. Wade next requested that Director Adamek's correspondence dated December 18, 2008, regarding legal representation of the District be attached as an exhibit to the minutes of the Board's December meeting.

#### **TAX ASSESSOR-COLLECTOR'S REPORT**

Ms. Lawson next presented and reviewed with the Board the tax assessor-collector's report dated as of December 31, 2008, including the checks and wire transfers presented for payment from the tax account, as listed therein, historical valuation and collection data, and a Delinquent Collections Listing as of December 31, 2008, copies of which are attached hereto as **Exhibit A**. After discussion, Director Haude moved that the tax assessor-collector report be approved and that the checks and wire transfers identified therein be approved for payment. Director Adamek seconded said motion, which carried unanimously.

#### **DELINQUENT TAX COLLECTION ATTORNEY'S REPORT**

Mr. Skinner presented and reviewed with the Board a Delinquent Tax Collections Report, dated January 15, 2009, prepared by Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue"), the District's delinquent tax collection attorneys; a copy of the Report is attached hereto as **Exhibit B**. Mr. Skinner noted that no Board action was required at this time with respect to the accounts listed in such report.

#### **AMENDMENT OF DELINQUENT TAX ATTORNEY CONTRACT**

The Board next considered amending its contract with the District's delinquent tax attorneys, Perdue, and SPH. Mr. Skinner advised that the Texas Tax Code now allows for imposition of a penalty on delinquent personal property taxes, in order to pay its delinquent tax attorney, sixty (60) days after the date the taxes become delinquent, that Wheeler had installed a program for application of the early penalty, and that, to provide for early collection by and payment to Perdue, an Amendment is required to said Contract. After discussion, Director Haude moved that the Amendment to the Tax Collection Agreement with Perdue and SPH, be approved and that the President be authorized to execute same on

behalf of the Board and the District. Director Cox seconded the motion, which carried unanimously.

**RESOLUTION AUTHORIZING AN ADDITIONAL PENALTY ON DELINQUENT PERSONAL PROPERTY TAXES**

The Board next considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes, a copy of which is attached hereto as **Exhibit C**. Mr. Skinner advised that, as discussed with respect to the above, the Board is authorized, pursuant to Section 33.11 of the Texas Tax Code, as amended, to impose, under certain conditions, 60 days after the date the taxes become delinquent, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on personal property taxes that remain delinquent as of said 60th day, as more fully described in said Resolution. After discussion, it was moved by Director Haude, seconded by Director Adamek and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes be adopted by the Board.

**SOLICITATION OF PROPOSALS FOR RENEWAL OF DISTRICT INSURANCE POLICIES**

The Board next considered authorizing the solicitation of proposals for renewal of District's insurance policies. Mr. Skinner reported that the District's current insurance coverages acquired through Anco-McDonald Waterworks Insurance Services, L.L.C. ("Anco") expire on March 31, 2009. Mr. Skinner then presented and reviewed with the Board correspondence received from Highpoint Insurance Group, LLC requesting the opportunity to present an insurance proposal to the Board for their consideration; a copy of said correspondence is attached hereto as **Exhibit D**. Following discussion, the Board concurred that SPH be authorized to solicit written proposals for the District's insurance policies for the term March 31, 2009 through March 31, 2010, from Anco, AquaSurance, L.L.C., HARCO Insurance Services and Highpoint Insurance Group, LLC.

**BOOKKEEPER'S REPORT**

Ms. Rosenbaum next presented and reviewed with the Board the bookkeeper's report dated January 22, 2009, including (i) the checks presented for payment from the General Operating Fund, Capital Projects Fund and the Sewage Treatment Plant Account, (ii) a Fund Balance Report, (iii) a Pledged Securities Report, (iv) an Actual vs. Budget Comparison for December 2008 for the Operating Fund and the STP Account, and (v) a Debt Service Payments Schedule, copies of which are attached hereto as **Exhibit E**. Ms. Rosenbaum noted that she was in receipt of a check from Harris County Water

Control and Improvement District No. 110 for its pro-rata share of the Wastewater Treatment Plant Headworks Rehabilitation project. Director Haude then inquired as to whether it would be more appropriate for the description of future projects to be included in a Capital Improvement Plan rather than being attached to the bookkeeper's report. After discussion, it was moved by Director Haude that the bookkeeping report be approved and that the various checks identified therein be approved for payment, except for check no. 3994, which was voided. Director Adamek seconded the motion, which carried unanimously.

**STATUS OF APPLICATION TO FEDERAL EMERGENCY MANAGEMENT AGENCY FOR REIMBURSEMENT OF ELIGIBLE HURRICANE IKE EXPENSES AND HAZARD MITIGATION GRANT PROGRAM**

The Board next considered the status of its applications to the Federal Emergency Management Agency ("FEMA") for possible reimbursement of Hurricane Ike related expenses and the Hazard Mitigation Grant Program. Mr. Skinner advised the Board that said applications have been submitted and are still under review by FEMA at this time.

**ENGINEERING REPORT**

Mr. Tufail next presented and reviewed with the Board a written engineering report dated January 22, 2009, a copy of which is attached hereto as **Exhibit F**, relative to the status of various projects within the District.

Mr. Tufail next advised the Board that the District's Storm Water Quality Permit for Spring Lakes, Section Eight is due to expire in March 2009 and requested that the Board consider authorizing the President to execute a Storm Water Quality Permit Application for renewal of said Permit. After discussion on the matter, Director Haude moved that the President be authorized to execute said Application. Director Stage seconded the motion, which carried unanimously.

Mr. Tufail next confirmed that all public streets within the District have been accepted by Harris County for maintenance.

**OPERATIONS AND MAINTENANCE REPORT**

The Board next considered the Operations and Maintenance Report. Mr. Marriott presented and reviewed in detail with the Board a written Operations Report prepared by SWWC for December 2008, a copy of which is attached hereto as **Exhibit G**.

Mr. Marriott next reminded the Board that SWWC televised the

sanitary sewer lines around Myrtle Springs and noted that no damage to the District's line was detected. Mr. Marriott also noted that a smoke test was conducted as well, that no leak was found, and that SWWC has received the written report confirming same. Mr. Tufail advised that VEI had reviewed the soil compaction reports covering the area in question, all of which reflect that adequate compaction was achieved. There then ensued a discussion regarding said test reports and prior subsidence issues on Myrtle Springs. Following said discussion, the Board requested that SWWC prepare and forward correspondence to the homeowner advising of the test results and analysis of same, and that no problems with the District's facilities were detected.

Director Haude next inquired about deposit refund check no. 3998 to Houston Master Craft in the amount of \$664.92 reflected on the bookkeeper's report. Director Haude stated that he did not believe Houston Master Craft is located within the boundaries of the District. After discussion, the Board requested that MA&C hold said check until SWWC has researched the matter further.

There next ensued a discussion regarding the rental meter on the hydrant at the Chevron gas station. Mr. Marriott then advised the Board that SWWC would research the matter further and remove the meter, if appropriate.

Mr. Marriott next advised the Board that an insurance claim had been submitted in connection with the failure of the bar screen at the wastewater treatment plant.

Mr. Marriott next advised the Board that the exterior lights at the Water Plant are now on a timer, which should keep them off during daylight hours.

Director Adamek next advised the Board that he has noticed an unusual substance in the drainage ditch located behind his house and presented and reviewed photographs of same with the Board. He then queried Mr. Marriott and Mr. Tufail as to whether the substance could be tested to determine composition. After discussion, the Board concurred that Mr. Tufail be authorized to determine the location of the Wastewater Treatment Plant outfall and determine the various testing options available relative to determining the composition of the substance.

#### **CONSUMER CONFIDENCE REPORTS**

The Board next considered authorizing the operator to provide required information relative to Consumer Confidence Reports to any districts receiving water through emergency water interconnects with the District. Mr. Skinner advised that, pursuant to rules

promulgated by the United States Environmental Protection Agency, the District is required to provide a report containing various information regarding the District's water supply to applicable districts by April 1, 2009. After discussion, Director Haude moved that the Board authorize the operator to provide the required information to any districts receiving water from the District through emergency water interconnects during 2008. Director Stage seconded said motion, which unanimously carried.

#### **NOTIFICATION OF PAYMENT OPTIONS**

There next ensued a discussion regarding the inclusion of notification language regarding payment options on District water bills. Mr. Marriott informed the Board that the District could either (i) include an insert with the water bills or (ii) include language on the water bills themselves. Mr. Marriott then discussed with the Board the various payment options currently available to District residents. There then ensued a discussion regarding the best way to include hyperlinks to the available payment options to the District's website. After discussion, the Board requested that SWWC include language advising of all of the payment options available on the next water bill.

#### **DISCUSSION REGARDING HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 110 ("NO. 110") LIFT STATION SITE**

There next ensued a discussion regarding the No. 110 Lift Station Site. Mr. Skinner reminded the Board that there is an existing easement for the area in which the lift station is situated, but VEI has advised that the fence recently installed by No. 110 does not match the boundary of said existing easement. Mr. Tufail then advised that VEI has prepared an overlay of the easement area versus the fenced area to determine the scope of any discrepancy and presented and reviewed same with the Board; a copy of said overlay is attached hereto as **Exhibit H**. After discussion, no action was taken by the Board on the matter at this time.

#### **RECYCLING SERVICES**

The Board next discussed the possible implementation of recycling services within the District. In connection therewith, Mr. Marriott advised the Board that a survey regarding same was included with last month's water bill, noted that 253 responses were received, and that approximately 53% of those responding were in favor of the implementation of recycling services and the attendant costs and approximately 47% were opposed to such recycling services and costs. After discussion, the Board deferred taking any action on the matter at this time.

## **ISSUANCE OF UTILITY COMMITMENTS**

The Board next deferred the issuance of utility commitments, as no new requests for same had been received. Mr. Skinner advised the Board that SPH had received a revised feasibility study for proposed service to the tract south of Cypresswood for Home-of-Hope, Texas, but that SPH had not had the opportunity to review same. The Board deferred further discussion on the matter until its next meeting.

## **DISTRICT WEBSITE**

There next ensued a discussion regarding updates to the District's website. In connection therewith, Director Adamek discussed various suggested changes and updates to the website. Mr. Skinner advised that, at the request of Director Adamek, SPH requested that Mr. Russell Lambert of The Texas Network attend tonight's meeting to discuss the District's website, but noted that Mr. Lambert was not able to attend.

## **ATTORNEY'S REPORT**

Mr. Skinner next advised the Board that SPH had forwarded to MA&C correspondence dated December 1, 2008, from the TCEQ regarding Regulatory Assessment Fees due January 30, 2009, and presented and reviewed a copy of same with the Board, which is attached hereto as **Exhibit I**.

Mr. Skinner next presented and reviewed with the Board a copy of correspondence received from Waste Management confirming there will be no fuel surcharge adjustment for the first quarter of 2009, a copy of which is attached hereto as **Exhibit J**.

Mr. Skinner next presented and reviewed with the Board correspondence received from the Harris County Sheriff's Office regarding an upcoming Citizen's Police Academy scheduled to begin January 29, 2009, a copy of which is attached hereto as **Exhibit K**.

There next ensued a discussion regarding the Spring Lakes Homeowners Association's green barriers and the ownership of the reserves and public utility easements. The Board requested that SPH research the ownership of the various "green barrier" tracts.

## **DISCUSSIONS NO. 110 REGARDING JOINT DRAINAGE FACILITIES**

Director Adamek reported regarding his discussions with the President of the Board of Directors of No. 110 concerning maintenance of the joint drainage facilities. Following discussion, the Board elected to defer any action regarding this matter.

**DISTRICT SECURITY ISSUES**

The Board next considered the report regarding District security issues. Mr. Skinner distributed the Harris County Sheriff's Office's call sheet summary for December 2008, a copy of which is attached hereto as **Exhibit L**.

**CHANGE IN MEETING LOCATION**

There next ensued a discussion regarding moving future meetings to a location within the District. Director Adamek then discussed the possibility of the Board holding its meetings at Salyers Elementary School. After discussion, the Board deferred taking any action relative to same

**OTHER MATTERS**

There next ensued a discussion regarding Director Adamek's correspondence dated December 18, 2008, regarding legal representation of the District. After a lengthy discussion, the Board deferred making any decisions relative to same until Director Hodge could be present.

**FUTURE AGENDA ITEMS**

The Board requested that the following items be added to the next agenda: (i) consideration of removal of Water Smart Program signs; (ii) updating of the District's website; and (iii) emergency water interconnect compatibility issues.

**ADJOURN**

There being no further business to come before the meeting, upon motion made by Director Stage seconded by Director Cox and carried unanimously, the meeting was adjourned.

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Secretary

LIST OF ATTACHMENTS TO MINUTES

- Exhibit A - Tax Assessor-Collector's Report
- Exhibit B - Delinquent Tax Report
- Exhibit C - Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes
- Exhibit D - Correspondence from Highpoint Insurance Group, LLC requesting opportunity to present insurance proposal
- Exhibit E- Bookkeeper's Report
- Exhibit F - Engineer's Report
- Exhibit G - Operator's Report
- Exhibit H - Easement overlay
- Exhibit I - Correspondence regarding Regulatory Assessment Fees
- Exhibit J - Correspondence from Waste Management regarding a fuel surcharge adjustment
- Exhibit K - Correspondence from HCSO regarding Citizen's Police Academy
- Exhibit L - District Security Report