

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94
Minutes of Meeting of Board of Directors
January 7, 2020

The Board of Directors (the "Board") of Montgomery County Municipal Utility District No. 94 (the "District") met in regular session, open to the public on January 7, 2020, at 1300 Post Oak Boulevard, Suite 1400, Harris County, Texas, in accordance with the duly posted notice of meeting, and the roll was called of the duly constituted members of said Board, as follows:

Jim Spitzmiller, President
Jason Schultz, Vice President
Joseph Frost, Secretary
Merry Leonard, Assistant Secretary
Eric Lugger, Assistant Secretary

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

Also present were Jon VanderWilt of Costello, Inc. ("Costello"); Michael Williams and Jamie Reib of Gulf Utility Services, Inc. ("Gulf Utility"); Jorge Diaz of McLennan & Associates, LP ("McLennan"); Brittany Bogard of Assessments of the Southwest, Inc. ("ASW"); Jerry Rueschhoff, resident of the District; Dave Ciarella of Enhanced Energy Services of America, LLC ("EES"); and Spencer Creed and Kristin Eddlemon 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 it.

PUBLIC COMMENTS

There were no comments from the public at this time. The Board deferred the adoption of a Resolution Adopting Public Comment Policies and Procedures.

MINUTES OF MEETING

The Board considered approval of the minutes of the Board meeting held on December 3, 2019. After discussion on the matter, it was moved by Director Leonard, seconded by Director Frost and unanimously carried, that the minutes of the Board meeting held on December 3, 2019, be approved, as written.

REPORT FROM THE MONTGOMERY COUNTY CONSTABLE'S OFFICE REGARDING SECURITY

The Board deferred review of a security report upon noting that a representative of the Montgomery County Constable's Office was not present at the meeting.

A discussion ensued regarding the proposed addition of a fourth deputy to the District's security contract. The Board concurred to further discuss this matter later in the meeting, upon review of the District's budget.

ENHANCED ENERGY SERVICES OF AMERICA, LLC

The Board next recognized Mr. Ciarella of EES. Mr. Ciarella addressed the Board regarding electricity brokerage services provided by EES and advised that he is present at today's meeting to discuss such services with the Board. He then presented and reviewed with the Board information which sets forth such services, a copy of which is attached hereto as **Exhibit A**, and requested that the Board consider authorizing EES to be the District's electricity broker. Following discussion, Director Lugger moved that (i) the District engage EES as the District's exclusive electricity broker from February 1, 2020, through April 30, 2020, (ii) the President be authorized to execute EES's letter of authorization, and (iii) EES be authorized to obtain pricing information during the above period for the District's next electricity services contract. Director Leonard seconded the motion, which unanimously carried.

REPORT BY REPUBLIC SERVICES, INC.

The Board deferred review of a report from Republic Services, Inc. ("Republic") upon noting that a representative of Republic was not present at the meeting.

Mr. Creed advised that the District is in receipt of a request from a resident that the Board consider increasing the schedule for recycling services to once per week. Following discussion, the Board noted that it had previously obtained a quote for such increased schedule and it felt the current schedule was sufficient, and concurred not to take further action at this time.

TAX ASSESSOR/COLLECTOR'S REPORT

Ms. Bogard next presented and reviewed with the Board the Tax Assessor/Collector's Report for the month of December 2019, including a delinquent listing as of January 2, 2020, copies of which are attached hereto as **Exhibit B**. After discussion, it was moved by Director Spitzmiller that the Tax Assessor/Collector's Report be approved and the disbursements identified therein be approved for payment. Director Leonard seconded the motion, which carried unanimously.

DELINQUENT TAX REPORT

Mr. Creed reminded the Board that the District's delinquent tax attorneys, Perdue, Brandon, Fielder, Collins & Mott, L.L.P., provide written reports on a quarterly basis, and advised that no report was received for presentation at today's meeting.

EXEMPTIONS FROM TAXATION

Mr. Creed outlined for the Board the various tax exemptions available for the District, including the exemptions provided for by the Texas Constitution and the Texas Tax Code, as amended. He advised that under said provisions, the District may provide for the exemption of up to 20% (but not less than \$5,000, if granted) of the market value of residential homestead improvements for the year 2020, and the District may also exempt residential homesteads of persons who are under a disability for purposes of payment of disability insurance benefits under the Federal Old Age, Survivors and Disability Insurance Act, or its successor, or persons sixty-five years of age or older from ad valorem taxes levied by the District during the calendar year 2020, and, if any such exemptions are granted, they must be for not less than \$3,000 of the market value of such homesteads. After further discussion of the matter, Director Spitzmiller moved that the District (a) not grant the residential homestead exemption, and (b) grant an exemption for persons under a disability or sixty-five years of age or older in the amount of \$10,000 from ad valorem taxes levied by the District during the calendar year 2020, and that the Resolution relative to same, attached hereto as **Exhibit C**, be approved and adopted by the Board and the District. Director Leonard seconded said motion, which carried unanimously.

ADDITIONAL PENALTY ON DELINQUENT PERSONAL PROPERTY TAXES

The Board considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes, attached hereto as **Exhibit D**. Mr. Creed advised that the Board is authorized pursuant to 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 Frost, seconded by Director Leonard and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes be adopted by the Board.

OPERATIONS REPORT

The Board next considered the Operations Report. Mr. Williams introduced Ms. Reib to the Board and advised that she would be working with him on the District going forward. He then distributed a written report prepared by Gulf Utility, a copy of which is attached hereto as **Exhibit E**, and reviewed same with the Board.

Mr. Williams reported that Ms. Theresa Johnson of 28330 Hollow Springs Lane had contacted Gulf Utility to request an adjustment to her account due to a high water bill. A copy of the Ms. Johnson's appeal is attached to the Operations Report. Mr. Williams advised that there are no signs of a leak at the home and that the customer's water meter has been tested and is functioning properly. Following discussion on the matter and consideration of the relevant facts and circumstances, Director Spitzmiller moved that Ms. Johnson's request be denied. Director Luggar seconded the motion, which unanimously carried.

Mr. Williams next reported that Mr. Dewayne Whisenhunt of 27518 Chris Ridge Court had contacted Gulf Utility to request that the Board waive a late fee charged to his account in the amount of \$24.29 due to payment being mistakenly made online with an expired credit card. A copy of Mr. Whisenhunt's appeal is attached to the Operations Report. After discussion on the matter and consideration of the circumstances of the appeal, Director Spitzmiller moved that Gulf Utility be authorized to waive the late fee charged to Mr. Whisenhunt's account, in the total amount of \$24.29. Director Lugger seconded the motion, which unanimously carried.

Mr. Williams next reported that Mr. and Mrs. Evans of 1903 Lora Meadows Court had contacted Gulf Utility to request an adjustment to their account due to a high water bill. A copy of the Evans' appeal is attached to the Operations Report. Mr. Williams advised that there are no signs of a leak at the home and that the customer's water meter has been tested and is functioning properly. Following discussion on the matter and consideration of the relevant facts and circumstances, Director Spitzmiller moved that the Evans' request be denied. Director Lugger seconded the motion, which unanimously carried.

Mr. Williams next presented and reviewed with the Board a list of accounts deemed as uncollectible by Gulf Utility, a copy of which is included with the Operations Report. He requested that the Board consider authorizing Gulf Utility to deem said accounts as uncollectible. Following discussion, the Board requested that Gulf Utility look into referring such accounts to a collection agency for handling. Mr. Williams advised that he will do so and will report back to the Board at the next meeting.

Mr. Williams next provided the Board with an update on tree trimming projects within the District. He advised that the tree trimming projects that were previously authorized by the Board are in progress. No action was taken by the Board at this time.

Mr. Williams next advised that repair of the drainage culvert located along Spring Trails Bend has been completed by Gulf Utility, as previously authorized by the Board.

Mr. Williams next addressed the Board regarding the repair of two (2) sinkholes in the District, located near Water Plant No. 1, and advised that repair of the sinkholes has been completed by Gulf Utility, as previously authorized by the Board.

Mr. Williams next advised that Gulf Utility has completed cleaning of the District's lift stations, as previously authorized by the Board.

CONSUMER CONFIDENCE REPORT

The Board next considered authorizing Gulf Utility to provide required information to districts receiving water from the District relative to Consumer Confidence Reports. Mr. Creed advised the Board that pursuant to Consumer Confidence Report requirements promulgated by the United States Environmental Protection Agency, the District is required to provide, by April 2020, a report containing various information regarding the District's water supply to any other water supplier which has received water from the District during the past year. After discussion on the matter, Director Spitzmiller moved that the Board authorize Gulf Utility to provide the

required information as set forth hereinabove. Director Leonard seconded said motion, which carried unanimously.

ENGINEER'S REPORT

Mr. VanderWilt presented to the Board a written Engineer's Report, dated January 7, 2020, a copy of which report is attached hereto as **Exhibit F**, relative to the status of various projects within the District.

Mr. VanderWilt addressed the Board regarding the status of the repair of the unauthorized drainage swale within the District by the homebuilder(s) working within Montgomery County Municipal Utility District No. 119 ("No. 119"). He advised that No. 119 has repaired the area of the unauthorized swale and constructed the new drainage swale, and that he will inspect the area and report back to the Board at the next meeting.

Director Lugger stated that erosion appears to be developing at one of the drainage channel outfalls and that he will provide the location to Mr. VanderWilt so that he may inspect it. Mr. VanderWilt advised that he will inspect the channel, along with a reported drainage issue located in Section 3 and the improvements currently being constructed at the Wastewater Treatment Plant by No. 119.

Mr. VanderWilt next advised that Augusta Landscape Services ("Augusta") has planted the remaining trees within the landscaping easement between the District and No. 119, and that Costello recommends that the Board approve payment of Pay Estimate No. 2 and Final (including Change Order No. 2) in the amount of \$3,167.75. Following discussion, Director Spitzmiller moved that the Board approve payment of Pay Estimate No. 2 and Final (including Change Order No. 2) to Augusta in the amount of \$3,167.75, as recommended by Costello. Director Lugger seconded the motion, which unanimously carried.

The Board next considered the status of the District's release of an access easement in connection with the entrance to the former access road to the Wastewater Treatment Plant. Mr. Creed reminded the Board that it previously authorized SPH to prepare a release of easement and the execution of same by the President on behalf of the Board and the District. Mr. VanderWilt reminded the Board that No. 119 has confirmed the prior plant access road is no longer required. Mr. Creed advised that the release of easement has been prepared and that it will be recorded upon execution by Director Spitzmiller.

ASSOCIATION CONSTRUCTION PROJECTS WITHIN DISTRICT PROPERTY AND RELATED COMMUNICATIONS

A discussion ensued regarding an inquiry received requesting installation of landscaping and irrigation of the common areas along Anthony Trails and which border the adjoining district. Mr. Rueschhoff advised that the Spring Trails Community Association (the "Association") has requested that the District consider re-establishing vegetation in the area of the entrance to the former access road to the Wastewater Treatment Plant. He noted that the Association would handle landscaping and irrigation of the area, as well as the area to the north, once the District's

portion of the project is complete. A discussion ensued regarding the installation of a temporary barrier to restrict access to the area by residential and commercial vehicles. Following discussion, the Board requested that the Association and Gulf Utility both provide proposals from landscapers for the work requested to be performed by the District, and that Gulf Utility also provide a proposal to install a barrier to restrict vehicle access to the area.

Ms. Bogard and Mr. Ciarella exited the meeting at this time.

STORMWATER MANAGEMENT PROGRAM

The Board considered the status of the District's Stormwater Management Program ("SWMP"), including any training necessary under the SWMP and comments from the public. A discussion ensued regarding the proposed Boy Scout sewer medallion project. Mr. Creed reminded the Board that, at a previous meeting, the Board requested that the Boy Scout provide a video presentation of his proposal in connection with the application of medallions on the District's storm sewer inlets. It was noted that such presentation has not yet been received.

ISSUANCE OF UTILITY COMMITMENTS

The Board deferred consideration of issuance of utility commitments after noting that no requests had been received.

BOOKKEEPER'S REPORT

Mr. Diaz next presented and reviewed a written Bookkeeper's Report dated January 7, 2020, including the District's Investment Report for the month of December 2019, copies of which are attached hereto as **Exhibit G**. After discussion, it was moved by Director Leonard that the Board approve the Bookkeeper's Report and Investment Report, and authorize the District's Investment Officer to execute the Investment Report on behalf of the Board and the District. Director Frost seconded the motion, which carried unanimously.

The Board reviewed the District's budget as it relates to the proposed addition of a fourth deputy to the District's security contract. Following discussion, the Board requested that the Montgomery County Constable's Office be contacted to confirm whether the previously provided cost proposal is still accurate and, if not, to provide an updated proposal.

RESOLUTION ADOPTING LIST OF QUALIFIED BROKERS AUTHORIZED TO ENGAGE IN INVESTMENT TRANSACTIONS WITH THE DISTRICT

The Board considered adopting a list of qualified brokers authorized to engage in investment transactions with the District. Mr. Creed advised that, pursuant to the Public Funds Investment Act, the Board is required to review, and revise if necessary, such list at least annually. He presented to and reviewed with the Board a Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District (the "Resolution"), and a list of financial institutions, brokers and dealers attached thereto, together with a comparison of the list submitted and the list previously adopted by the Board, copies of which

are attached hereto as **Exhibit H**. Mr. Creed further noted that the broker list presented is a list of potential institutions with which the District may engage in investment transactions compiled with the input of the District's Investment Officer, but it is ultimately the Board's decision as to where the District's funds are actually placed. After discussion, Director Frost moved that the Resolution be approved, and that the President and Assistant Secretary be authorized to execute same on behalf of the Board and the District. Director Schultz seconded said motion, and the motion carried with Directors Schultz, Lugger, Frost, and Leonard voting aye and Director Spitzmiller abstaining from the discussion and vote.

STATUS OF WEBSITE

The Board considered the status of the District's website. It was noted that Apollo IT Consulting, LLC did not provide a report this month.

AUTHORIZE PREPARATION AND SUBMISSION OF DISTRICT INFORMATION TO TEXAS COMPTROLLER OF PUBLIC ACCOUNTS FOR INCLUSION IN THE SPECIAL PURPOSE DISTRICT PUBLIC INFORMATION DATABASE

Mr. Creed next informed the Board that, pursuant to provisions of Chapter 403, Government Code, and Chapter 203, Local Government Code, the District is required to submit information to the Texas Comptroller of Public Accounts (the "Comptroller") for inclusion in the Special Purpose District Public Information Database. Following discussion, Director Leonard moved that the District's auditor, McCall Gibson Swedlund Barfoot, PLLC ("McCall") be authorized to prepare the required information and submit same to the Comptroller for inclusion in the Special Purpose District Information Database. Director Frost seconded the motion, which unanimously carried.

RENEWAL OF INSURANCE COVERAGES

The Board next considered authorizing solicitation of proposals for renewal of the District's insurance coverages. Mr. Creed advised the Board that the District's current coverage is with Arthur J. Gallagher & Co. and will expire on March 31, 2020. Following discussion, Director Spitzmiller requested that SPH solicit a renewal proposal from Arthur J. Gallagher & Co. for the District's insurance coverages for the term April 1, 2020, through March 31, 2021. Director Leonard seconded said motion, which unanimously carried.

ATTORNEY'S REPORT

Mr. Creed advised that he had nothing further of a legal nature to report other than those items which were previously addressed in the meeting.

POSSIBLE FUTURE AGENDA ITEMS

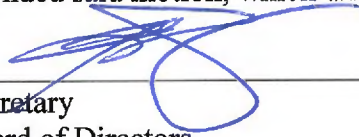
The Board considered items for placement on future agendas. No specific agenda items, other than routine and ongoing matters, were requested.

SUPPLEMENTAL AGENDA

The Board considered the calling of a Directors Election in accordance with the requirements of the Texas Water Code. There was presented the Order Calling Directors Election (the "Order") attached hereto as **Exhibit I** calling such election to be held on May 2, 2020. It was noted that the terms of office of Directors Schultz and Luggier expire in May of this year. In reviewing the Order with the Board, Mr. Creed advised that the Order provides for the conducting of the Directors Election by the Montgomery County Elections Administrator, jointly with elections of other political subdivision, using County election officials, voting equipment, and polling locations at a shared expense. Although the Montgomery County Elections Administrator will conduct the Directors Election, Mr. Creed advised that the Texas Water Code and the Texas Election Code authorize the Board to designate an agent to perform certain duties in connection with the Directors Election, and that the Order named Kristin Eddlemon as such agent (the "Election Agent"). Mr. Creed further advised the Board that notice of the Directors Election must be given in accordance with the requirements of the Texas Election Code. He advised the Board that notice of the Directors Election could be given by one or more of the following methods: (i) publishing the notice in a newspaper published in the territory of the District or of general circulation in the District at least ten (10) days before the election, but not more than thirty (30) days before the election; (ii) posting the notice at a public place in the District at least twenty-one (21) days before the election; or (iii) mailing the notice to each registered voter in the District at least ten (10) days before the election. He further advised that, in addition to the above, notice must be posted at the location used for posting notices of the meetings, and on the District's website, at least twenty-one (21) days before the election. Following discussion of the options, the Board concurred that notice of the Directors Election be given by posting same at the locations where notice of meetings of the Board are posted, and on the District's website, as such posting meets all legal requirements under the Texas Election Code. After discussion on the matter, Director Spitzmiller moved that said Order be passed and adopted, that the President or Vice President and Secretary or Assistant Secretary be authorized to execute the Order, and that the Election Agent be authorized and directed to make necessary arrangements for the Directors Election in accordance with the Order. Director Schultz seconded said motion, which unanimously carried. Mr. Creed advised the Board that if each candidate whose name is to appear on the ballot is unopposed as of 5:00 p.m. on February 21, 2020, the Board may thereafter cancel the Directors Election in accordance with the Texas Election Code.

ADJOURN

There being no further business to come before the Board, Director Spitzmiller moved that the meeting be adjourned. Director Frost seconded said motion, which unanimously carried.



Asst. Secretary
Board of Directors

LIST OF EXHIBITS

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| EXHIBIT A | Information provided by Enhanced Energy Services of America, LLC |
| EXHIBIT B | Tax Assessor/Collector's Report |
| EXHIBIT C | Resolution Concerning Exemptions From Taxation |
| EXHIBIT D | Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes |
| EXHIBIT E | Operations Report |
| EXHIBIT F | Engineer's Report |
| EXHIBIT G | Bookkeeper's Report |
| EXHIBIT H | Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District |
| EXHIBIT I | Order Calling Directors Election |