

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

all of whom participated in the meeting via telephone conference call, with the exception of Director Spitzmiller, thus constituting a quorum.

Also attending the meeting via telephone conference call were Jon VanderWilt of Costello, Inc. ("Costello"); Michael Williams and Jeanette Montes of Gulf Utility Services, Inc. ("Gulf Utility"); Jorge Diaz of McLennan & Associates, LP ("McLennan"); Brittany Keeswood of Assessments of the Southwest, Inc. ("ASW"); Dave Ciarella of Enhanced Energy Services of America, LLC ("EES"); Barbara Nussa of Republic Services, Inc. ("Republic"), who entered later in the meeting as noted herein; Jerry Rueschhoff, John Rigsdell, and John Kessler, residents of the District; and Spencer Creed and Kristin Eddlemon of Schwartz, Page & Harding, L.L.P. ("SPH").

EXPLANATION OF TELEPHONE CONFERENCE CALL MEETING PROCEDURES AND CALL TO ORDER

Mr. Creed explained to the Board the procedures to be used during the telephone conference call meeting. In connection therewith, he informed the participants that the meeting would be recorded, and requested that participants clearly state his or her name before speaking, including when making or seconding a motion. Mr. Creed further explained that he would conduct a roll call vote for all motions and that Board members should wait to vote on a motion until his or her name has been called. Similarly, Mr. Creed stated that a full roll call of all participants would be conducted at the start of each telephone conference meeting for attendance purposes.

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

PUBLIC COMMENTS

Mr. Rigsdell addressed the Board regarding certain work being performed by AT&T along Anthony Trails Lane and north of Jason Hills Lane, and inquired as to whether such work is being performed within a District easement. Mr. VanderWilt advised that the work being

performed by AT&T appears to be within a public right-of-way, and that any concerns should be addressed to Montgomery County.

Ms. Nussa entered the meeting at this time.

Mr. Rigsdell made an inquiry regarding payment for the electricity usage in connection with street lighting. He expressed concerns that the District may be paying for electricity usage for street lights located within the Harmony subdivision. Following discussion, the Board requested that Mr. Rigsdell provide an address and photos of the area in question for review, to which Mr. Rigsdell agreed.

Mr. Rueschhoff inquired about the status of the addition of a fourth deputy to the District's security contract with Montgomery County. Mr. Creed advised that Montgomery County has stated the fourth deputy has been added to the contract and that such deputy began serving within the District on April 4, 2020.

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 March 3, 2020. After discussion on the matter, it was moved by Director Lugger, seconded by Director Schultz and unanimously carried, that the minutes of the Board meeting held on March 3, 2020, 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.

ENHANCED ENERGY SERVICES OF AMERICA, LLC ("EES")

Mr. Creed next reminded the Board that, at a previous meeting, it engaged EES as the District's exclusive electricity broker for the period of February 1, 2020, through April 30, 2020, and that Mr. Ciarella is in attendance at today's meeting to present contract pricing information. Mr. Ciarella addressed the Board on behalf of EES regarding a proposed contract for electricity services for the District and presented a summary of potential pricing for such services, a copy of which is attached hereto as **Exhibit A**. Following discussion, Director Lugger moved that the President, or Vice President in the President's absence, be authorized to execute an electricity contract on behalf of the District beginning in 2024, at a price not to exceed \$0.0362 per kWh and with a term of four (4) years. Director Frost seconded the motion, which unanimously carried.

Mr. Ciarella exited the meeting at this time.

REPORT BY REPUBLIC SERVICES, INC.

Ms. Nussa next addressed the Board on behalf of Republic and presented a report, a copy of which is attached hereto as **Exhibit B**. She noted that Republic is experiencing increased levels of trash to be collected as more people are staying home during the pandemic. No action was taken by the Board at this time.

TAX ASSESSOR/COLLECTOR'S REPORT

Ms. Keeswood next presented and reviewed with the Board the Tax Assessor/Collector's Report for the month of March 2020, including a delinquent listing as of April 1, 2020, copies of which are attached hereto as **Exhibit C**. After discussion, it was moved by Director Leonard that the Tax Assessor/Collector's Report be approved and the disbursements identified therein be approved for payment. Director Lugger 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.

Ms. Nussa exited the meeting at this time.

RESOLUTION AUTHORIZING ADDITIONAL PENALTY ON DELINQUENT REAL PROPERTY TAXES

The Board considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes. Mr. Creed advised that the Board is authorized, pursuant to Section 33.07 of the Texas Tax Code, as amended, to impose, under certain conditions on July 1, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on taxes that remain delinquent as of July 1 of the year in which they become delinquent. After discussion, it was moved by Director Leonard, seconded by Director Frost and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes, attached hereto as **Exhibit D**, be adopted by the Board.

OPERATIONS REPORT

The Board next considered the Operations Report. Mr. Williams presented 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. Kim McLean of 1410 Kallie Hills Lane had contacted Gulf Utility to request that the Board waive a late fee charged to her account in the amount of \$17.76 due to payment being made with an expired credit card. A copy of Ms. McLean's appeal

is attached to the Operations Report. After discussion on the matter and consideration of the circumstances of the appeal, Director Leonard moved that Gulf Utility be authorized to waive the late fee charged to Ms. McLean's account, in the total amount of \$17.76. Director Frost seconded the motion, which unanimously carried.

Mr. Williams advised that the new motor had been installed at water well no. 2 and that there were no difficulties with the installation.

CONSUMER CONFIDENCE REPORT

The Board considered authorizing Gulf Utility to prepare a draft Consumer Confidence Report ("CCR") for review by the Board. Mr. Creed advised that pursuant to CCR requirements promulgated by the United States Environmental Protection Agency and the Texas Commission on Environmental Quality ("TCEQ"), the District is required to provide a report containing various information regarding the District's water supply to all customers of the District by July 1, 2020. After discussion on the matter, it was moved by Director Leonard, seconded by Director Schultz and unanimously carried, that Gulf Utility be authorized to prepare a draft CCR and SPH be authorized to review same for compliance with the TCEQ's regulatory requirements and its 2020 template.

IDENTITY THEFT PREVENTION PROGRAM

The Board then considered review of the District's Identity Theft Prevention Program (the "Program"). In connection therewith, Mr. Williams presented Gulf Utility's annual report and advised the Board regarding the District's experience with identity theft during the prior year, current identity theft methods, the types of accounts maintained by the District and the District's business arrangements with other entities. He recommended that no changes be made to the District's Program. After discussion on the matter, the Board concurred that no changes were necessary to the District's Program at this time.

ENGINEER'S REPORT

Mr. VanderWilt presented to the Board a written Engineer's Report, dated April 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 erosion found at the drainage channel outfall, as discussed at previous meetings. He advised that the original contractor, Solid Bridge Construction, LLC, has provided a bid to repair the rip rap in the outfall channel in the amount of \$45,600. Mr. VanderWilt stated that Costello will solicit bids from two (2) other contractors for this project and will present the bids to the Board at the next meeting.

Mr. VanderWilt provided the Board with an update regarding clean out and repair of the storm sewer line along Spring Trails Bend by Camino Services, LLC ("Camino"). He advised that repairs to the sewer line have been completed, and that a Change Order has been submitted for additional damage to the line that was repaired by Camino in the amount of \$5,550, a copy of

which attached to the Engineer's Report. Following discussion, Director Frost moved that payment of the Change Order to Camino be approved, as recommended by Costello. Director Leonard seconded the motion, which unanimously carried.

Mr. VanderWilt next provided the Board with an update concerning the status of improvements to the wastewater treatment plant by Montgomery County Municipal Utility District No. 119 ("No. 119"). He advised that No. 119's engineer provided correspondence to the District regarding Pay Estimate No. 3 in the total amount of \$202,023. A copy of said correspondence is attached to the Engineer's Report. Mr. VanderWilt noted that the District's share of the estimate is \$8,208.

Mr. VanderWilt next advised that Costello received a request from the Spring Trails Community Association (the "Association") to install signage on various property owned by the District regarding deforestation and access restrictions. He further advised that Costello has no objection to the requested installation of the signs by the Association, to which the Board concurred.

A discussion ensued regarding the status of communications with Comcast regarding damage to property located near Anthony Trails Lane, Spring, Texas 77386. Mr. VanderWilt reminded the Board that, at the previous meeting, it authorized SPH to prepare and forward a letter to Comcast requesting that (i) a Comcast representative contact the District to discuss the dedication of an appropriate easement for its cable installation, (ii) Comcast cover the District's costs associated with the review and preparation of such easement, and (iii) Comcast repair and restore the impacted area to its conditions existing prior to its work in the area. He advised that Comcast has recently relocated its lines to be within the public right of way and that the granting of an easement is no longer necessary. Mr. VanderWilt advised he will request that Comcast repair the areas where the existing surface was damaged.

HISTORICAL BILLING FOR DISTRICT'S SHARE OF OPERATING COSTS ASSOCIATED WITH HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 92 ("NO. 92") AND MONTGOEMRY COUNTY MUNICIPAL UTILITY DISTRICT NO. 119 ("NO. 119") WASTEWATER TREATMENT PLANTS

A discussion ensued regarding historical billing of the District's share of operating costs associated with the No. 92 and No. 119 wastewater treatment plants. It was noted that Costello and McLennan are reviewing this matter and will further discuss it with the Board at the next meeting.

ASSOCIATION CONSTRUCTION PROJECTS WITHIN DISTRICT PROPERTY AND RELATED COMMUNICATIONS

Mr. Rueschhoff addressed the Board and advised that removal of the gravel and re-establishment of the topsoil in the area adjacent to the former wastewater treatment plant access road has been completed by Silversand Services. Mr. Creed reminded the Board that, at the previous meeting, it approved the proposal provided by Silversand Services and agreed to reimburse the Association for this project upon completion.

The Board next discussed the inquiry received from a District resident concerning a portion of a greenbelt located along Spring Trails Drive. Mr. Creed reminded the Board that the resident has advised the greenbelt is being irrigated by another resident in an attempt to deter residents from walking down the path and has requested to install pavers in the area at their own expense. Mr. Rueschhoff advised that he and Director Spitzmiller inspected the area following the last Board meeting. Following discussion, the Board concurred to defer taking any action pending further discussion with Director Spitzmiller.

Mr. Creed next advised that SPH received correspondence from the Association advising that it has plans to replace the gate operator equipment and operating systems located within certain reserve tracts at the entrance to the District's gated sections. Mr. VanderWilt advised that Costello has no objections to this project.

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 Boy Scout's proposal in connection with the application of medallions on the District's storm sewer inlets. Mr. Creed reminded the Board that it approved the Boy Scout's presentation at the previous meeting, and that he has been authorized to complete the project.

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 April 7, 2020, including the District's Investment Report for the month of March 2020, 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 Schultz seconded the motion, which carried unanimously.

Mr. Diaz reminded the Board that it requested that McLennan prepare a cash flow analysis that depicts the impact on the District's operating account of varying levels of delinquent utility accounts during the next six months. He then presented such analysis to the Board, a copy of which is attached to the Bookkeeper's Report. No action was taken by the Board at this time.

Director Lugger requested that Mr. Diaz add an item to the future bookkeeping reports to compare the District's actual delinquency levels to this analysis.

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.

ATTORNEY'S REPORT

The Board next considered the attorney's report. In that regard, Mr. Creed discussed matters related to the District's 2020 Directors Election. He reminded the Board that it previously agreed to postpone the election until November 3, 2020, in light of the COVID-19 Pandemic.

EXECUTIVE SESSION

The Board determined it would not be necessary to enter into Closed Session pursuant to Texas Government Code, Section 551.071.

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.

Ms. Keeswood addressed the Board and requested authorization to waive penalties through July 1, 2020, associated with defaults on existing payment plans for payment of District taxes. Following discussion, the Board agreed that ASW be authorized to waive such penalties, as requested.

SUPPLEMENTAL AGENDA

ORDER POSTPONING DIRECTORS ELECTION

Mr. Creed stated that the Governor of Texas issued a proclamation on March 13, 2020, certifying that the COVID-19 pandemic poses an imminent threat of disaster and declaring a state of disaster for all counties in Texas. As a result of such proclamation, effective March 18, 2020, the Governor suspended Sections 41.0052(a) and (b) of the Texas Election Code, and Section 49.103 of the Texas Water Code, to allow political subdivisions that would hold their general and special elections on May 2, 2020, to postpone such elections to the next uniform election date occurring on November 3, 2020. Mr. Creed reminded the Board that the District ordered a general election to be held on May 2, 2020 for the election of two (2) directors (the "Election"), and that in light of the challenges of conducting the Election on the May 2, 2020 uniform election day, it determined that the Election be postponed to the next uniform election date occurring on November 3, 2020 in accordance with the Governor's recommendation. In connection therewith, he presented an Order Postponing Directors Election (the "Order"), attached hereto as **Exhibit H**. He then explained the provisions of the Order in detail with the Board. Following discussion, Director Frost moved that the Order be adopted as presented and the District's Election Agent be authorized to post a copy of the Order at the public places used

for the posting of meeting notices of the District prior to April 20, 2020. Director Leonard seconded the motion which unanimously carried.

ADJOURN

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

/s/ Joseph Frost
Secretary
Board of Directors

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LIST OF EXHIBITS

EXHIBIT A	Proposal from Enhanced Energy Services of America, LLC
EXHIBIT B	Report provided by Republic Services, Inc.
EXHIBIT C	Tax Assessor/Collector's Report
EXHIBIT D	Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes
EXHIBIT E	Operations Report
EXHIBIT F	Engineer's Report
EXHIBIT G	Bookkeeper's Report
EXHIBIT H	Order Postponing Directors Election