

**MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94**  
**Minutes of Meeting of Board of Directors**  
**March 3, 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 March 3, 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 Jeanette Montes of Gulf Utility Services, Inc. ("Gulf Utility"); Jorge Diaz of McLennan & Associates, LP ("McLennan"); Delia Yanez of Assessments of the Southwest, Inc. ("ASW"); Barbara Nussa of Republic Services, Inc. ("Republic"); Brian Toldan of McCall Gibson Swedlund Barfoot PLLC ("McCall"); Jerry Rueschhoff, resident of the District; 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 February 4, 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 February 4, 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.

Mr. Creed addressed the Board regarding the status of the Amended Interlocal Agreement for Law Enforcement Services (the "Agreement") between the District and Montgomery County to add a fourth deputy. He advised that SPH has reviewed and approved the updated form of Agreement and that it has been executed by the District, as approved by the Board at the previous meeting. Mr. Creed stated that the Agreement has been forwarded to Montgomery County for execution.

### **ENGAGEMENT OF AUDITOR**

The Board next considered the engagement of an auditor to prepare the District's audit report for the fiscal year ending March 31, 2020. Mr. Toldan advised that the fee for the preparation of said audit report is estimated not to exceed \$11,250, and presented and reviewed with the Board an engagement letter, a copy of which is attached as **Exhibit A**. After discussion on the matter, Director Leonard moved that McCall be engaged to prepare the District's annual audit report for the fiscal year ending March 31, 2020, and that SPH be authorized to acknowledge the Texas Ethics Commission ("TEC") Form 1295 form on behalf of the District. Director Luggar seconded the motion. The motion carried with Directors Schultz, Leonard, Frost, and Luggar voting in favor of such motion, and Director Spitzmiller abstaining from the discussion and motion.

### **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 authorized the President to execute EES's letter of authorization. He advised that the letter has been provided to EES, and that EES will obtain pricing information during the above period for the Board's consideration at the next meeting.

### **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 advised that the District's document shred event is scheduled to be held on April 4, 2020, and that a notice regarding the event was included in customer water bills. A discussion ensued regarding including the document shred event information in the homeowners association's newsletter. Following discussion, Director Frost moved that the homeowner's association be authorized to include information regarding the document shred event in the newsletter. Director Leonard seconded the motion, which unanimously carried.

Mr. Toldan exited the meeting at this time.

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

Ms. Yanez next presented and reviewed with the Board the Tax Assessor/Collector's Report for the month of February 2020, including a delinquent listing as of February 28, 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 Schultz seconded the motion, which carried unanimously.

### **COMPLIANCE WITH TEXAS TAX CODE SECTIONS 26.17-26.18**

Ms. Yanez next addressed the Board concerning the new requirements of Texas Tax Code Sections 26.17-26.18, as added by Senate Bill No. 2 in the 2019 state legislative session. She advised that, pursuant to Section 26.17, the chief appraiser for each appraisal district is now required to maintain a publicly accessible database that contains certain information for all property within its boundaries. Ms. Yanez noted that the respective taxing units, including the District, are responsible for providing most of this information to the appraisal district and for updating it as necessary. She further advised that, pursuant to the separate provisions of Section 26.18, the District is now also required to maintain, or have access to, a generally accessible website that posts certain administrative and financial information about the District and to likewise update it as necessary. Ms. Yanez stated that ASW is prepared to address these requirements on behalf of the District and reviewed a proposed Fourth Amendment to Agreement for Services of Tax Assessor and Collector setting forth the terms for same, a copy of which is attached hereto as **Exhibit D**. She also requested that the Board implement the Positive Pay fraud protection program for all payments made by ASW on behalf of the District, as addressed in the amendment. Following discussion, upon motion made by Director Luger, seconded by Director Leonard and unanimously carried, the Board (i) authorized ASW to perform the necessary services to establish the District's compliance with these requirements, (ii) approved the attached amendment, and authorized the President to execute same, subject to final review by SPH, and (iii) approved implementation of the Positive Pay protection program, as discussed.

### **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.

### **OPERATIONS REPORT**

The Board next considered the Operations Report. Mr. Williams 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. Leslie Grimet of 2206 Olivia Springs Lane had contacted Gulf Utility to request that the Board waive a late fee charged to her account in the amount of \$34.62. A copy of Ms. Grimet'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. Grimet's account, in the total amount of \$34.62. Director Spitzmiller seconded the motion, which unanimously carried.

Mr. Williams next reported that Mr. Brennan Gude of 2447 Keegan Hollow Lane had contacted Gulf Utility to request that the Board waive any delinquent fees charged to his account through April 15, 2020. A copy of Mr. Gude'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 any delinquent fees charged to Mr. Gude's account through April 15, 2020. Director Spitzmiller seconded the motion, which unanimously carried.

Mr. Williams next reported that Ms. Elena Radu and Mr. Nichifor of 2426 Colonial Springs Lane had contacted Gulf Utility to request that the Board waive a late fee charged to their account in the amount of \$18.03. A copy of their 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. Radu's and Mr. Nichifor's account, in the total amount of \$18.03. Director Spitzmiller seconded the motion, which unanimously carried.

Mr. Williams next provided the Board with an update concerning the status of repair of the current well motor and installation of a new motor at water well no. 2. In that regard, he advised that the contractor is scheduled to install the new motor at water well no. 2 today.

A discussion ensued regarding the status of tree trimming projects within the District. Mr. Williams advised that the tree trimming projects authorized by the Board have been completed and that no further action is required at this time.

The Board next requested that the total arrears amounts and operating expenses for the previous month be included on future Operations Reports on the financial report page. Mr. Williams advised that Gulf Utility will update its future reports accordingly.

## **ENGINEER'S REPORT**

Mr. VanderWilt presented to the Board a written Engineer's Report, dated March 3, 2020, a copy of which report is attached hereto as **Exhibit F**, relative to the status of various projects within the District.

Mr. VanderWilt provided the Board with an update regarding clean out and repair of the storm sewer line along Spring Trails Bend and repair of the sinkhole located in Redbud Crossing by Camino Services, LLC ("Camino"). He advised that the invoice from the contractor in the amount of \$6,625.00 for repair of the sinkhole is attached to the Engineer's Report and is recommended for payment. Mr. VanderWilt stated that repairs to the sewer line are underway. Following discussion, Director Leonard moved that payment of the invoice to Camino be approved, as recommended by Costello. Director Frost 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. 2 in the total amount of \$106,110.00. A copy of said correspondence is attached to the Engineer's Report. Mr. VanderWilt noted that the District's share of the estimate is \$2,462.40.

Mr. VanderWilt next addressed the Board regarding erosion found at the drainage channel outfall, as discussed at previous meetings. He advised that the original contractor will inspect the site and provide a proposal for any necessary repairs for review by the Board at the next meeting.

**HISTORICAL BILLING FOR DISTRICT'S SHARE OF OPERATING COSTS ASSOCIATED WITH HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 92 ("NO. 92") WASTEWATER TREATMENT PLANT**

A discussion ensued regarding historical billing of the District's share of operating costs associated with the No. 92 wastewater treatment plant. Mr. VanderWilt stated that a service area map for the District's lift stations is attached to the Engineer Report, and advised that certain of the billings may need to be adjusted. He stated that Costello and McLennan are reviewing this matter and will further discuss it with the Board at the next meeting.

**COMCAST ENCROACHMENT UPON DISTRICT PROPERTY**

Mr. VanderWilt next advised that a utility company (Comcast) appears to have crossed the District's property line while installing their cable without an easement and/or permission from the District. Photos and a map of the impacted areas are attached to the Engineer's Report. Following discussion on the matter, Director Leonard moved that SPH be authorized 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. Director Spitzmiller seconded the motion, which unanimously carried.

**ASSOCIATION CONSTRUCTION PROJECTS WITHIN DISTRICT PROPERTY AND RELATED COMMUNICATIONS**

The Board next considered review of proposals to remove gravel and re-establish the topsoil within the area adjacent to the former wastewater treatment plant access road, as well as to install a barrier to prevent vehicular traffic through the area. In that regard, the Board reviewed a proposal provided by Seaback Maintenance Inc., a copy of which is attached hereto as **Exhibit G**, in the amount of \$11,165.00. It was noted that the Board reviewed a proposal at the previous meeting provided by Silversand Services for such work, in the amount of \$6,152.00. Following discussion, Director Lugger moved that the Board approve the proposal provided by Silversand Services. Director Leonard seconded the motion, which unanimously carried. It was noted that the homeowners association will execute the proposal provided by Silversand Services and will administer the work, and that the District will reimburse the association for such work in the amount of \$6,152.00 once completed.

The Board next considered an inquiry received from a District resident concerning a portion of a greenbelt located along Spring Trails Drive. Mr. Creed noted that the resident has advised that 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. Director Spitzmiller and Mr. Rueschhoff advised that they would inspect the area and further discuss this request at the next meeting.

### **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 been received and forwarded to the Board. Following discussion, Director Frost moved that the Board approve the proposal, authorize the Boy Scout to move forward with the project, and authorize Director Frost to execute any associated documentation on behalf of the Board. Director Spitzmiller seconded the motion, which unanimously carried.

### **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 March 3, 2020, including the District's Investment Report for the month of February 2020, copies of which are attached hereto as **Exhibit H**. After discussion, it was moved by Director Spitzmiller 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.

Mr. Diaz next presented for the Board's review a draft Operating Budget for the District's fiscal year ending March 31, 2021, a copy of which is attached to the Bookkeeper's Report. Following discussion, Director Spitzmiller moved that the Operating Budget for the District's fiscal year ending March 31, 2021, be adopted, as presented. The motion was seconded by Director Frost and passed unanimously.

### **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 advised the Board that the District is in receipt of an open records request from John Rigsdell requesting copies of certain documentation related to payments made to Director Luggier for District related service and expenses. He further advised that a response to the request has been provided.

Mr. Creed reminded the Board that, at the previous meeting, it was provided with a memorandum prepared by SPH regarding Cybersecurity Training for Certain Local Government Employees and Elected Officials, as contemplated in House Bill No. 3834. He provided an update to the Board regarding same. No action was taken at this time.

**EXECUTIVE SESSION**

At 1:22 p.m. the Board entered into Closed Session pursuant to Texas Government Code Section 551.071. All of those present other than the Board, Mr. Creed, and Ms. Eddlemon exited the meeting at this time.

The Board reconvened in Regular Session at 1:45 p.m.

**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.

**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.

/s/ Joseph Frost  
Secretary  
Board of Directors

## **LIST OF EXHIBITS**

EXHIBIT A	Engagement Letter – McCall Gibson Swedlund Barfoot PLLC
EXHIBIT B	Report provided by Republic Services, Inc.
EXHIBIT C	Tax Assessor/Collector's Report
EXHIBIT D	Fourth Amendment to Agreement for Services of Tax Assessor and Collector
EXHIBIT E	Operations Report
EXHIBIT F	Engineer's Report
EXHIBIT G	Proposal provided by Seaback Maintenance Inc.
EXHIBIT H	Bookkeeper's Report