

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94
Minutes of Meeting of Board of Directors
June 2, 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 June 2, 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 Frost, thus constituting a quorum.

Also attending the meeting via telephone conference call were Jon VanderWilt of Costello, Inc. ("Costello"); Jeanette Montes of Gulf Utility Services, Inc. ("Gulf Utility"); Jorge Diaz of McLennan & Associates, LP ("McLennan"); Dave Ciarella of Enhanced Energy Services of America, LLC ("EES"); Sergeant Ronny Glaze of the Montgomery County Constable's Office ("MCCO"); Brittany Keeswood of Assessments of the Southwest, Inc. ("ASW"); Barbara Nussa of Republic Services, Inc. ("Republic"); John Rigsdell, Jerry Rueschhoff, 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 President called the meeting to order and declared it open for such business as might regularly come before the Board.

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 May 5, 2020. After discussion on the matter, it was moved by Director Leonard, seconded by Director Schultz and unanimously carried, that the minutes of the Board meeting held on May 5, 2020, be approved, as written.

REPORT FROM THE MONTGOMERY COUNTY CONSTABLE'S OFFICE REGARDING SECURITY

Sergeant Glaze next presented and reviewed security reports provided by the Montgomery County Constable's office for the months of April 2020 and May 2020, copies of which reports are attached hereto as **Exhibit A**. A discussion ensued regarding the enforcement of certain proposed restrictions to be posted within common areas owned by the District and the prosecution of trespassers by the Montgomery County Constable's office. Mr. Rueschhoff advised that the Spring Trails Community Association, Inc. (the "Association") will move forward with installation of the proposed signage as discussed.

Sergeant Glaze exited the meeting at this time.

STATUS OF NEW CONTRACT FOR ELECTRICITY SERVICES FOR TERM BEGINNING IN 2024

The Board next considered the status of a new contract for electricity services for the term beginning in 2024. Mr. Creed reminded the Board that, at a previous meeting, it authorized the President or Vice President 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 up to forty-eight (48) months. Mr. Ciarella addressed the Board at this time presented and reviewed a pricing update to the Board, a copy of which is attached hereto as **Exhibit B**. He then requested authorization from the Board to extend the maximum term of the contract from forty-eight (48) months to forty-nine (49) months. Following discussion on the matter, Director Spitzmiller moved that the President or Vice President be authorized to execute an electricity contract with a term of forty-nine (49) months, subject to the price not exceeding \$0.0362 per kWh and subject to SPH's review of the contract. Director Lugger 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 C**. 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 May 2020, including a delinquent listing as of May 28, 2020, copies of which are attached hereto as **Exhibit D**. After discussion, it was moved by Director Schultz 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.

OPERATIONS REPORT

The Board next considered the Operations Report. Ms. Montes presented a written report prepared by Gulf Utility, a copy of which is attached hereto as **Exhibit E**, and reviewed same with the Board.

Ms. Montes advised that a fire hydrant located within the District needs to be replaced at a cost of approximately \$6,500. Following discussion, Director Leonard moved that Gulf Utility be authorized to replace the fire hydrant at a cost of approximately \$6,500. Director Schultz seconded the motion, which unanimously carried.

The Board next discussed the disposition of delinquent accounts during the pendency of the COVID-19 Pandemic. Following discussion, the Board concurred that Gulf Utility be authorized to continue (i) suspension of termination of water service and any related delinquent fees for District customer accounts through the end of June 2020, (ii) sending letters to those customers who become delinquent, and (iii) waiving the fee charged to District customers for such letter under the District's Rate Order.

Mr. Creed next reported provided the Board with an update regarding the District's pending insurance claim for repair of water well no. 2. He reminded the Board that the District objected to the exclusion of \$18,250 of its claim as non-covered maintenance expense. He advised that the insurer has indicated its intent to approve \$6,500 of the claim in connection with chlorination disinfections costs, and to once again deny \$11,750 of the claim associated with mechanical cleaning of the well components before the system was put back into service. Mr. Creed further advised that he is awaiting a formal written response from the insurer and will present same to the Board upon receipt.

Director Lugger requested that Gulf Utility instruct its meter readers to begin parking trucks further away from the entry to the gated sections in order to allow the gates to properly open. Ms. Montes advised that she would do so.

ENGINEER'S REPORT

Mr. VanderWilt presented to the Board a written Engineer's Report, dated June 2, 2020, a copy of which report is attached hereto as **Exhibit F**, relative to the status of various projects within the District.

Mr. VanderWilt advised that a new sinkhole located within the District is in need of repair, and that Camino Services has provided a proposal in the amount of \$7,150 to repair same. Following discussion, Director Lugger moved that the Board approve the proposal provided by Camino Services. Director Schultz 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. 5 in the total amount of \$346,095. A copy of said correspondence is attached to the Engineer's Report. Mr. VanderWilt noted that the District's share of the estimate is \$26,368.20. Following discussion, Director Lugger moved that the Board concur in the District's payment of its share of Pay Estimate No. 5 to No. 119. Director Schultz seconded the motion, which unanimously carried.

A discussion ensued regarding a request received from a District resident who resides on Eden Meadows to trim the trees located on District property and along the fence line. Following discussion, Director Schultz authorized the trimming of the trees to be performed in the area behind two homes where there is not currently a buffer between the fence line and the trees, at a cost not to exceed \$1,000. Director Spitzmiller seconded the motion, which unanimously carried. Mr. VanderWilt advised that he will coordinate with Gulf Utility to address the matter.

HISTORICAL BILLING FOR DISTRICT'S SHARE OF OPERATING COSTS ASSOCIATED WITH HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 92 ("NO. 92") AND 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, Gulf Utility, and McLennan are reviewing this matter and preparing an analysis to review and discuss with the Board at the next meeting. Mr. Creed noted that it appears that the District may have overpaid for operating costs over the last twelve (12) month period. Following discussion on the matter, the Board requested that the analysis be completed for review by the Board at the next meeting.

ASSOCIATION CONSTRUCTION PROJECTS WITHIN DISTRICT PROPERTY AND RELATED COMMUNICATIONS

Mr. Rueschhoff requested the Board's approval for the Association to relocate certain equipment located along the Turtle Creek walking trail at the Association's expense. Following discussion, Director Spitzmiller moved that the Board approve the Association's request to relocate the equipment along the trail. Director Leonard seconded the motion, which unanimously carried.

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. No action was taken by the Board.

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 June 2, 2020, including the District's Investment Report for the month of May 2020, copies of which are attached hereto as **Exhibit G**. 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 Leonard seconded the motion, which carried unanimously.

UNCLAIMED PROPERTY REPORT

The Board considered the approval of an Unclaimed Property Report (the "Report") as of March 1, 2020, and authorization for McLennan to file the Report with the State Comptroller prior to July 1, 2020. After discussion on the matter, Director Leonard moved that McLennan be authorized to prepare and file the Report with the State Comptroller prior to July 1, 2020. Director Schultz seconded said motion, which unanimously carried.

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.

VOTING SYSTEM ANNUAL FILING FORM

The Board considered approval of a Voting System Annual Filing Form. Mr. Creed advised the Board that under the Texas Election Code, the District is required to complete and file a form provided by the Secretary of State regarding information related to District elections. After discussion, Director Leonard moved that the SPH be authorized to complete the Voting System Annual Filing Form and to file same with the Secretary of State's office. Director Luggner seconded the motion, which unanimously carried.

REQUEST OF RECORDS MANAGEMENT OFFICER

The Board considered a request from the District's Records Management Officer, a copy of which is attached hereto as **Exhibit H**, to destroy SPH's handwritten notes of Board meetings

LIST OF EXHIBITS

- EXHIBIT A Security Reports for April 2020 and May 2020
- EXHIBIT B Report provided by Enhanced Energy Services of America, LLC
- EXHIBIT C Report provided by Republic Services, Inc.
- EXHIBIT D Tax Assessor/Collector's Report
- EXHIBIT E Operations Report
- EXHIBIT F Engineer's Report
- EXHIBIT G Bookkeeper's Report
- EXHIBIT H Records Destruction Request