

MINUTES  
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 26

July 5, 2011

The Board of Directors (the "Board") of Brazoria County Municipal Utility District No. 26 (the "District") met in regular session, open to the public, on the 5th day of July, 2011, at the Village of Emerald Bay Clubhouse, 11814 North Clear Lake Loop, Pearland, Texas, inside the boundaries of the District, and the roll was called of the members of the Board:

Michael Parks	President
Melissa Slade	Secretary
Caralynn Prade	Assistant Vice President
Herbert Fain	Assistant Secretary
Fred E. Weary Jr.	Director

and all of the above were present, thus constituting a quorum.

Also present at the meeting were James Ross of LJA Engineering & Surveying, Inc.; Erin Garcia of Myrtle Cruz, Inc.; David Patterson of Assessments of the Southwest, Inc.; and Angela Lutz and Kristen Hogan of Allen Boone Humphries Robinson LLP ("ABHR").

MINUTES

The Board considered approving the minutes of the June 7, 2011, regular meeting and the June 21, 2011, special meeting, which were provided in advance of the meeting. After review and discussion, Director Prade moved to approve the minutes as submitted. Director Fain seconded the motion, which passed unanimously.

APPROVE SWORN STATEMENT, OFFICIAL BOND, AND OATH OF OFFICE OF NEW DISTRICT DIRECTOR, OPEN MEETINGS ACT AND PUBLIC INFORMATION ACT TRAINING REQUIREMENTS, AND CONFLICT OF INTEREST DISCLOSURE REQUIRED UNDER CHAPTER 176 OF THE TEXAS LOCAL GOVERNMENT CODE

The Board considered approving the Sworn Statement, Official Bond, and Oath of Office documents of Director Weary related to his appointment to the Board at the June 21, 2011, special meeting. Director Weary presented the executed documents, effective June 21, 2011.

Ms. Lutz presented a memorandum to Director Weary regarding the Open Meetings Act and Public Information Act training requirements. She stated that each elected or appointed public official is required to complete a course of training

regarding responsibilities of the governmental body and its members under the Texas Open Meetings Act, Chapter 551, within 90 days of taking the oath of office. Ms. Lutz then discussed the methods by which Director Weary can receive the required training and requested that he forward his certificate of completion to ABHR for the District's records.

Ms. Lutz discussed the requirements for directors and consultants to disclose certain conflicts of interest, pursuant to Chapter 176 of the Texas Local Government Code. She reviewed a memorandum with Director Weary along with the forms adopted by the Texas Ethics Commission for making disclosures under Chapter 176.

After review and discussion, Director Prade moved to approve the Sworn Statement, Oath of Office, and Official Bond of Director Weary and direct that, once executed and notarized, they be filed appropriately and retained in the District's official records, authorize Director Weary to complete the required Open Meetings Act training and provide his certificate of completion to ABHR for the District's records, and direct Director Weary to review the conflicts of interest disclosure forms and file the necessary forms with ABHR for any disclosable conflicts. Director Fain seconded the motion, which passed unanimously.

REORGANIZE THE BOARD AND AUTHORIZE EXECUTION OF DISTRICT REGISTRATION FORM

The Board next considered reorganization of the Board. Upon a motion made by Director Prade and seconded by Director Slade, the Board voted unanimously to authorize execution and filing of a revised District Registration Form reflecting the following positions of the Directors:

- |                   |                          |
|-------------------|--------------------------|
| Michael Parks     | President                |
| Herbert Fain      | Vice President           |
| Melissa Slade     | Secretary                |
| Caralynn Prade    | Assistant Vice President |
| Fred E. Weary Jr. | Assistant Secretary      |

SUPPLEMENTAL SECURITY SERVICES

Director Parks said he will contact the City of Pearland (the "City") police department to request that Officer Natasha Lucas attend District meetings held in the evenings within the District.

DEVELOPMENT IN THE DISTRICT, APPROVAL OF ANY DEVELOPER REIMBURSEMENT REPORTS, AND DISBURSEMENT OF FUNDS

There was no discussion on this item.

## ASSOCIATION OF WATER BOARD DIRECTORS CONFERENCES

The Board discussed the Association of Water Board Directors ("AWBD") summer conference. Ms. Garcia stated that the expenses submitted by Directors Parks, Prade, and Fain were reviewed to verify compliance with the District's Travel Reimbursement Guidelines. She added that Director Slade has not submitted her expenses for reimbursement. The Board then considered authorizing attendance at the AWBD winter conference in Dallas. Following review and discussion, Director Prade moved to authorize reimbursement of eligible expenses to Directors Parks, Prade, and Fain, in accordance with the District's Travel Reimbursement Guidelines, and authorize any interested Directors to attend the AWBD winter conference. Director Fain seconded the motion, which passed by unanimous vote.

## FINANCIAL AND BOOKKEEPING MATTERS

Ms. Garcia distributed and reviewed the bookkeeper's report, including the investment report and list of checks presented for approval, a copy of which is attached. She presented additional checks to Directors Parks and Fain for reimbursement of their AWBD summer conference expenses, noting such checks will be reflected on next month's report. Ms. Garcia said she will present a draft budget for the fiscal year ending September 30, 2012, at next month's meeting. After review and discussion, Director Prade moved to approve the bookkeeper's report and payment of the bills. Director Slade seconded the motion, which passed unanimously.

## TAX ASSESSMENT AND COLLECTION MATTERS

Mr. Patterson distributed and reviewed the tax assessor/collector's report, including the delinquent tax roll, a copy of which is attached. He noted that the 2010 taxes were 98.75% collected as of June 30, 2011. Mr. Patterson reported on the account on the delinquent tax roll reflecting the City as the owner, noting that he is working with Mr. Ross to look into the matter further. Discussion then ensued regarding the delinquent tax account in the name of Office Condos at Reflection Bay and Mr. Patterson said he will determine whether such entity is an affiliate of SCR C24 Investment, L.P. ("C24"). Ms. Hogan confirmed that the District continues to hold the check to C24 for reimbursement from Series 2011 bond proceeds, net of delinquent taxes owed to the District, pending receipt of written confirmation from C24's bankruptcy attorney that C24 may accept reimbursement from the District without seeking bankruptcy approval and pending receipt of an executed receipt for the reimbursement.

Mr. Patterson next distributed and reviewed a letter from a District taxpayer requesting a waiver of penalties and interest since the taxpayer claims there was a fire in his home and he did not receive his mail while staying with friends during repairs. A copy of the letter is attached. In response to questions from the Board, Mr. Patterson and Ms. Lutz discussed the Tax Code provisions which prohibit taxing entities from

waiving penalties and interest on tax accounts unless the governing body determines that "an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district in which the taxing unit participates caused or resulted in the taxpayer's failure to pay the tax before delinquency."

Mr. Patterson then presented and reviewed a delinquent tax report from Perdue, Brandon, Fielder, Collins & Mott, L.L.P., a copy of which is attached to the tax assessor/collector's report. He said the report incorrectly reflects outstanding taxes owed by C24, which have been paid.

After review and discussion, Director Prade moved to approve the tax assessor/collector's report and the delinquent tax report and deny the request for a waiver of penalties and interest since the Board did not find that an error was made by the District or its officers or agents or the appraisal district. Director Slade seconded the motion, which passed unanimously.

#### ARTICLES FOR NEWSLETTERS AND WEBSITE:

Ms. Hogan said ABHR is working with Off Cinco to add the information and links discussed at last month's meeting to the website. Director Parks requested periodic reports on website statistics, if available. Ms. Hogan said she will ask Shannon Staley of Off Cinco to provide such reports on a monthly basis.

The Board considered information to be included in the District's monthly notice published in the Shadow Creek Area Community Newsletter and the homeowners association newsletter, *The Current*. After discussion, the Board directed ABHR to repeat the notice directing residents to the website for information about District meetings, but to bold and increase the font size of the website address included in the notice.

#### ENGINEERING MATTERS

Mr. Ross distributed and reviewed the engineering report, a copy of which is attached. He noted there were no action items for the Board's consideration. Discussion ensued regarding remaining development in the District.

#### COMMENTS FROM DIRECTORS AND THE PUBLIC

The Board noted that no members of the public were in attendance despite repeated requests for District meetings to be held in the District to allow more residents to attend. The Board discussed its prior decision to hold a series of meetings in the District in the evenings in response to these requests. After discussion, the Board concurred to consider the time and location for District meetings on a month-by-month basis after consideration of schedules.



Director Parks discussed seminars he attended at the AWBD summer conference regarding efforts of other water districts to work with developers and/or homeowners associations to acquire vacant land to develop parks or sports fields or other facilities desired by the community. Discussions ensued regarding potential opportunities for such types of developments in Shadow Creek Ranch.

The Board discussed the City's drought contingency and disaster preparedness plans and concurred to include links to the City's website for such information on the District website.

SCHEDULE FOR NEXT MEETING

The Board concurred to schedule next month's regular meeting for August 2, 2011, at 7:00 p.m. at the Village of Emerald Bay Clubhouse.

There being no further business to come before the Board, Director Prade moved to adjourn the meeting. Director Slade seconded the motion, which passed unanimously.



Secretary, Board of Directors

ACTION LIST

1. Director Weary will complete the required Open Meetings Act training and provide his certificate of completion to ABHR for the District's records, and will review the conflicts of interest disclosure forms and file the necessary forms with ABHR for any disclosable conflicts.
2. Director Parks will contact the City to request that Officer Natasha Lucas attend District meetings held in the evenings within the District.
3. The bookkeeper will present a draft budget for the fiscal year ending September 30, 2012, at next month's meeting.
4. The tax assessor/collector will work with the engineer to look into the delinquent tax accounts in the names of the City and Office Condos at Reflection Bay.
5. The attorney will work with Off Cinco to add the recommended information and links to the website and to request monthly statistics reports.
6. The attorney will prepare the requested notice for the newsletters.

LIST OF ATTACHMENTS TO MINUTES

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