

MINUTES OF MEETING OF BOARD OF DIRECTORS
April 27, 2010

THE STATE OF TEXAS
COUNTY OF FORT BEND FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 81

The Board of Directors (the "Board") of Fort Bend County Municipal Utility District No. 81 (the "District") met in regular session, open to the public, at the Fort Bend County Commissioner Precinct 3 Office Building, 8100 Highway 359 South, Fulshear, Texas 77441, on April 27, 2010, at 9:00 a.m.; whereupon roll was called of the directors, to-wit:

President	-	J.B. DuBois, Jr.
Vice President	-	Robert Machen
Secretary	-	Victor J. Zdunkewicz
Assistant Secretary	-	Joseph Ray LeBlanc
Treasurer	-	Robert Pfaffenberger

All members of the Board were present. Also attending all or part of the meeting were Mr. Harlen Wunsch of Severn Trent Environmental Services, Inc. ("ST"), operators for the District; Mr. Kenneth Byrd of Equi-Tax, Inc. ("Equi-Tax"), tax assessor and collector for the District; Mr. Terry Holland of Myrtle Cruz Inc. ("MCI"), bookkeeper for the District; Mr. Kenneth Martinec of Jones & Carter, Inc. ("J&C"), engineers for the District; Mr. Walter Douglas, resident of the District; Mr. Trent Thomas, alderman of the City of Weston Lakes (the "City"); Mr. Jack Marshall and Mr. Russell Van Beustring of the Weston Lakes Property Owners Association ("POA"); Mr. Robin Dunn, of ABC Quality Leasing Company ("ABC"); and Mr. Adrian Patterson and Ms. Nancy Green of Fulbright & Jaworski L.L.P. ("F&J"), attorneys for the District.

The meeting was called to order and, in accordance with notice posted pursuant to law, copies of certificates of posting of which are attached hereto as *Exhibit A*, the following business was transacted:

1. **Minutes.** Consideration was given to the minutes of the regular meeting of March 23, 2010, previously distributed to the Board. Upon motion made by Director Pfaffenberger, seconded by Director Machen, after full discussion and the question being put to the Board, the Board voted unanimously to approve the minutes of the regular meeting of March 23, 2010, as presented.

2. **Attorney's Report.** The Board discussed the Lease Agreement between the District and the POA ("Lease Agreement") and the Deed of Surplus Property and Agreement for Use of Diesel Fuel During Natural Disaster ("Surplus Fuel Agreement"), copies of which are attached hereto as *Exhibit B*. In response to a question from Mr. Patterson, Mr. Van Beustring reported that Mr. Dunn was an employee of the POA when both agreements were executed but since that time, the POA and Mr. Dunn's business relationship has changed. Mr. Van Beustring

stated that an agreement between the POA and ABC was prepared when Mr. Dunn formed ABC and obtained ownership of the equipment and a portion of the fuel. In response to a question from Mr. Patterson, Mr. Van Beustring stated that he would provide Mr. Patterson a copy of the agreement between the POA and ABC. Mr. Patterson reported that since the legality of the Lease Agreement and Surplus Fuel Agreement has changed, both agreements need to be amended to reflect the new business relationship between all parties involved. Discussion ensued regarding the City's priority over hazardous material storage and clarification of the back lot area on section 2(B) of the Lease Agreement. Mr. Patterson reported that upon receipt of the agreement between the POA and ABC, he would redraft the Lease Agreement and Surplus Fuel Agreement.

3. **Tax Assessor Collector's Report and Standby Fee Report.** Mr. Byrd presented to and reviewed with the Board the Tax Assessor and Collector's Report for March, 2010, a copy of which is attached hereto as *Exhibit B*. Mr. Byrd reported that the District has collected 95.5% of its 2009 taxes and 66% of its 2010 standby fees.

Mr. Byrd requested the Board's direction regarding the sale of the Pfordresher lot that has outstanding taxes of approximately \$10,000. Director Machen reported that he would contact Mr. Reichardt and request that he provide the Board a written request to purchase the foreclosed Pfordresher lot at a public auction and to assume all financial obligations. Discussion ensued. Upon motion by Director Machen, seconded by Director LeBlanc, the Board voted four in favor, with Director Zdunkewicz abstaining, to approve Mr. Reichardt's written request to purchase the foreclosed Pfordresher lot at a public auction, to assume all financial obligations and to refund any taxes collected over the amount to the owner.

Upon motion by Director Pfaffenberger, seconded by Director Machen, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Tax Assessor and Collector's Report and to authorize payment of check no. 2227 from the Tax Account in the amount, to the person, and for the purpose described in the Tax Assessor and Collector's Report.

4. **Other business.** Director Pfaffenberger reported that as authorized by the Board in March, he contacted electricity providers and selected American Enerpower to provide the Board electricity rates from energy providers. Director Pfaffenberger stated that he is working with Dick Lewis at American Enerpower to secure a fixed rate today for implementation when the current contract expires in November. Extensive discussion ensued regarding the usage rates and variable costs, such as bandwidth provisions. Upon motion by Director Machen, seconded by Director LeBlanc, after full discussion and the question being put to the Board, the Board voted unanimously to authorize Director Pfaffenberger to work with American Enerpower to execute a three-year electricity contract on behalf of the Board.

4. **Bookkeeper's and Investment Report.** Mr. Holland presented to and reviewed with the Board the Bookkeeper's Report and Investment Report, a copy of which is attached hereto as *Exhibit D*. In response to a question from Director Zdunkewicz, Mr. Holland explained that the reason for the general operating fund balance discrepancy in the beginning market value of the Investment Report and on the ending investments on the cash flow summary of the Bookkeeper's Report was because checking accounts are not considered investments.

Mr. Holland reported that an additional check in the amount \$46,963 for the water well rework is included with the checks which were distributed to the Board for approval. Upon motion by Director Zdunkewicz, seconded by Director Machen, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Investment Report, the Bookkeeper's Report, and the payment of the District's bills noted therein.

5. **Operations Report.** Mr. Wunsch reviewed with the Board the invoice items, work orders and tolls. Mr. Wunsch reported that the new Hansen work order system was implemented on April 1, 2010 by ST.

Mr. Wunsch reported that when the plastic closures on the locks at the water and sewer plants are broken, it alerts the operator that someone visited the plant. Mr. Wunsch stated that the log book needs to be signed each time an individual enters one of the plants.

Mr. Holland requested that ST forward an address list to MCI so that the District can refund approximately \$45,000 to \$48,000 remaining in the builder deposit accounts to builders. Mr. Holland stated that the money will be transferred to the State of Texas if it has not been refunded to the appropriate builder after three years. Mr. Wunsch stated that many of the addresses are no longer valid, but that he would forward that information to Mr. Holland.

Mr. Wunsch presented to and reviewed with the Board the Operations Report, a copy of which are attached hereto as *Exhibit E*. Mr. Wunsch reported that nine months and 318,469,000 gallons remain on the District's Fort Bend County Subsidence District ("FBCSD") water permit. Mr. Wunsch stated that the District pumped 14,649,000 gallons of water in the month of March and that the water accountability for the month was 91.38%.

In response to a question from Director Zdunkewicz, Mr. Wunsch responded that he did not receive a request for electronic billing by a customer, but that he would check with ST to verify receipt of a letter.

Director DuBois reported that the District's Water Smart application was approved. Director DuBois reported that he met with the Water Smart Steering Committee and learned that Water Smart approved 90 district applications. Director DuBois stated that the Associated Water Board Directors ("AWBD") Conference will honor veterans of war. Director DuBois reported that the AWBD booth at the conference will provide wii games and that the winner of the games will receive a wii machine only if he/she attends the AWBD luncheon on Saturday.

Director DuBois reported that he surveyed the homes in the District which were listed as "under construction" and determined that 15% of the builder homes are inhabited by residents. Director DuBois stated that he contacted WCA and verified that WCA will reduce the District's garbage charges from 50% to 15% beginning April 1, 2010.

Mr. Wunsch requested the Board's approval to send five accounts to NCO for collection. Mr. Wunsch reported that 32 accounts are on the delinquent list and requested the Board's approval to disconnect the accounts on April 29, 2010, if payment is not received by 5:00 p.m. on April 28, 2010. Upon motion by Director Pfaffenberger, seconded by Director Machen, after full discussion and the question being put to the Board, the Board voted

unanimously to approve the Operator's Report to send five accounts to NCO for collection, and to disconnect the accounts on the delinquent list on April 29, 2010, if payment is not received by 5:00 p.m. on April 28, 2010.

6. **Developer's Report.** There was no report.

7. **Engineer's Report.** Mr. Martinec reviewed with the Board the Engineer's Report, a copy of which is attached hereto as *Exhibit F*.

Mr. Martinec reported on Weston Lakes Section 19, Phase 2 and stated that J&C conducted the one-year inspection of the utilities on March 26, 2010 and noted no items of concern.

Mr. Martinec stated that the operator determined that the conduit and force main on the lift station in Section 19 were separated from the wet well. Mr. Martinec stated that ground settling surrounding the lift station appeared to be the cause of the issue. Mr. Martinec discussed the matter with ST and recommended that ST repair the conduit and replace a small portion of the force main with steel pipe.

Mr. Martinec reported on the water well no. 2 reworking project and noted that the contractor, Alsay Inc. submitted pay estimate no. 1 in the amount of \$46,953. Mr. Martinec recommended that the Board approve payment. Mr. Martinec stated that J&C requested that the contractor submit a schedule of completion for J&C to present to the Board. Mr. Martinec stated that the pump should be installed Thursday and that bacteriological samples would follow installation until the no contamination is seen. Mr. Martinec reported that the District might receive water quality complaints following the installation. Mr. Martinec estimated that the costs for the rework are under budget for both construction and engineering.

Upon motion by Director Machen, seconded by Director Pfaffenberger, after full discussion and the question being put to the Board, the Board voted unanimously to approve pay estimate no. one to Alsay Inc. in the amount of \$46,953 and to approve the Engineer's Report.

8. **Public Comments.** Mr. Douglas reported that he accesses the District's website.

Mr. Thomas reported on the City's emergency planning and training.

Director DuBois reported that the AWBD will allow the elementary school teachers to teach the Water Smart program to 82 children this year.

9. **Other business matters.** Director DuBois stated that the new contract with WCA began April 1, 2010 and the recycle service began April 6, 2010.

Director Machen informed the resident at 32903 Whitburn Trail that the District has agreed to deflect the lights at the WWTP.

Upon motion by Director LeBlanc, seconded by Director Machen, after full discussion and the question being put to the Board the Board voted unanimously to adjourn the meeting.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, the meeting was adjourned.

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The above and forgoing minutes were passed and approved by the Board of Directors on May 25, 2010.

President, Board of Directors

ATTEST:

Secretary, Board of Directors