

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 249

Minutes of Special Meeting of Board of Directors  
January 20, 2011

The Board of Directors ("Board") of Harris County Municipal Utility District No. 249 ("District") met in special session at the Board's regular meeting place on January 20, 2011, in accordance with the duly posted Notice of Special Public Meeting, and the roll was called of the duly constituted officers and members of the Board, as follows:

Norman C. Adamek, President  
Willie Hodge, Vice President  
Daniel Stage, Secretary  
Ralph V. Palermo, Assistant Secretary  
Charles Albright, Director

and all of said persons were present, thus constituting a quorum.

Also present were Lisa Hernandez and Cory Burton of Municipal Accounts & Consulting, L.P. ("MA&C"); Ryan Fortner of Wheeler & Associates, Inc. ("Wheeler"); Eric Thiry of Environmental Development Partners L.L.C. ("EDP"); Aimee Ordeneaux of Best Trash, L.L.C. ("Best Trash"); Curtis Lacy and Sylvia Avila of WCA Waste Corporation ("WCA"); John Davis of Langford Engineering ("Langford"); Barbara Payne of Payne Communications, Inc. ("PCI"); Rocco Infantino of the Spring Lakes Homeowners Association ("HOA"), Roxanne Stage and Cindy Adamek, residents of the District; and Christopher T. Skinner 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.

**MINUTES**

The Board reviewed the draft minutes of its meeting held on December 16, 2010. After discussion of the minutes presented, Director Stage moved that the December 16, 2010, minutes be approved, as written. Director Palermo seconded said motion, which carried unanimously.

**COMMENTS FROM THE PUBLIC**

Mr. Infantino next addressed the Board regarding the District's timeline for conversion to surface water and requested that the HOA be provided with an information summary regarding the North Harris County Regional Water Authority's surface water

conversion schedule through 2020. A discussion ensued regarding same.

#### WEBSITE PROVIDER

There next ensued a discussion regarding the District's website provider. Mr. Skinner advised the Board that, as previously requested, SPH contacted Ms. Payne and requested her attendance at today's meeting. Ms. Payne then introduced herself to the Board and discussed the various services that are offered by PCI. The Board asked various questions, to which Ms. Payne responded. The Board also discussed various options for a more "user-friendly" website and for on-line payments for District customers. After a lengthy discussion on the matter, the Board requested that Ms. Payne submit a proposal and a form of contract for its consideration at next month's meeting.

#### REVIEW OF PROPOSALS FOR SOLID WASTE COLLECTION, DISPOSAL AND RECYCLING SERVICES

The Board next considered presentations regarding solid waste collection, disposal and recycling services. Mr. Lacy and Ms. Avila introduced themselves to the Board and presented WCA's proposal and then responded to questions.

Director Hodge exited the meeting at this time.

Ms. Ordeneaux then introduced herself to the Board and presented Best Trash's proposals and then responded to questions.

After discussion, Director Stage moved that SPH be authorized to (i) request a proposed contract from Best Trash for review and approval at next month's meeting and (ii) prepare and forward a notice of termination to the District's current solid waste collection provider, Waste Management of Texas, Inc. Director Albright seconded the motion, which carried unanimously.

#### TAX ASSESSOR-COLLECTOR'S REPORT

Mr. Fortner presented to and reviewed with the Board the tax assessor-collector's report dated as of December 31, 2010, including the checks presented for payment from the tax account, as listed therein, historical valuation and collection data, and the Delinquent Collections Listing as of December 31, 2010, copies of which are attached hereto as Exhibit A. After discussion, Director Palermo moved that the tax assessor-collector report be approved and that the checks identified therein be approved for payment. Director Adamek seconded said motion, which carried unanimously.

## DELINQUENT TAX COLLECTION ATTORNEYS REPORT

Mr. Skinner presented to and reviewed with the Board a Delinquent Tax Collection Attorneys Report, dated January 10, 2011, prepared by Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue"), the District's delinquent tax collection attorneys; a copy of the Report is attached hereto as Exhibit B. Mr. Skinner noted that no Board action was required at this time with respect to the accounts listed in such report.

## RESOLUTION CONCERNING EXEMPTIONS FROM TAXATION

Mr. Skinner outlined for the Board the various tax exemptions available for the District, including the exemptions provided for by Article VIII, Section 1-b of the Texas Constitution, and Section 11.13 of the Tax Code, as amended. He advised that under said provisions, the District may provide for the exemption of up to 20% (but not less than \$5,000, if granted) of the market value of residential homestead improvements for the year 2011, and the District may also exempt residential homesteads of persons who are under a disability for purposes of payment of disability insurance benefits under the Federal Old Age, Survivors and Disability Insurance Act, or its successor, or persons sixty-five years of age or older from ad valorem taxes levied by the District during the calendar year 2011, and, if any such exemptions are granted, they must be for not less than \$3,000 of the market value of such homesteads. After further discussion of the matter, Director Adamek moved that the District (a) grant the residential homestead exemption of 20%, but not less than \$5,000, and (b) grant an exemption for persons under a disability or sixty-five years of age or older in the amount of \$15,000 from ad valorem taxes levied by the District during the calendar year 2011, and that the Resolution attached hereto as Exhibit C relative to same be approved and adopted by the Board and the District. Director Stage seconded said motion, which carried unanimously.

## RESOLUTION AUTHORIZING AN ADDITIONAL PENALTY ON DELINQUENT PERSONAL PROPERTY TAXES

The Board next considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes, attached hereto as Exhibit D. Mr. Skinner advised that the Board is authorized, pursuant to Section 33.11 of the Texas Tax Code, as amended, to impose, under certain conditions, 60 days after the date the taxes become delinquent, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on personal property taxes that remain delinquent as of said 60th day, as more fully described in said Resolution. After discussion, it was moved by Director Adamek,

seconded by Director Palermo and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes be adopted by the Board.

#### **BOOKKEEPER'S REPORT**

Ms. Hernandez presented to and reviewed with the Board the bookkeeper's report dated January 20, 2011, including (i) the checks presented for payment from the General Operating Fund, Capital Projects Fund and the Sewage Treatment Plant ("STP") Account, (ii) a Fund Balance Report, (iii) a Pledged Securities Report, (iv) an Actual versus Budget Comparison for December 2010 for the Operating Fund and the STP Account, and (v) a Debt Service Payments Schedule, copies of which are attached hereto as **Exhibit E**. After discussion, it was moved by Director Palermo that the bookkeeper's report be approved and that the various checks identified therein be approved for payment. Director Stage seconded the motion, which carried unanimously.

Ms. Hernandez next presented to and reviewed with the Board a City of Houston Sales Tax Rebate Historical Income Report, a copy of which Report is included with **Exhibit E**.

Ms. Hernandez also presented and reviewed with the Board a Quarterly Investment Inventory Report, prepared by MA&C, relative to the District's various funds and accounts for the reporting period ending December 31, 2010, a copy of which Report is attached hereto as **Exhibit F**. After review of the Quarterly Investment Inventory Report and upon motion duly made by Director Palermo, seconded by Director Stage and carried unanimously, said Report was approved and the District's Investment Officer was authorized to execute same on behalf of the Board and the District.

#### **PROPOSAL FOR AMENDMENT AND EXTENSION OF ELECTRICITY POOL CONTRACT**

The Board considered a proposal to amend and extend the terms of the existing electricity pool contract established by Acclaim Energy Advisors ("Acclaim") and MA&C. In connection therewith, Mr. Burton presented to and reviewed with the Board a summary of the existing electricity pool contract terms and the terms of a proposed amendment and extension of same, a copy of which summary is attached hereto as **Exhibit G**. Mr. Burton noted that the current electricity pool contract with the Texas General Land Office, working through the commercial branch of Reliant Energy, expires in April 2014 and includes a fixed rate for electricity at \$0.08115/kWh. Mr. Burton stated that the proposed amendment and extension would initially reduce the fixed rate to approximately \$0.071/kWh for twenty-four (24) months (through March 2013). Thereafter, on behalf of the pool participants, Acclaim and MA&C

would negotiate subsequent six (6) to twelve (12) month rate locks for the natural gas component of the contract price to extend the electricity pool contract for an additional thirty-six (36) months (through April 2017). Mr. Burton stated that the District had previously appointed Mark Burton of MA&C to execute a Letter of Authorization on the District's behalf to secure the electricity rate for the initial pool, and he requested that the Board consider doing the same for the proposed amendment and extension. Mr. Burton then stated that an amendment to the current Electric Sales Agreement will be presented to the Board once all pool participants have decided whether to participate. After discussion, Director Adamek moved to (i) approve the amended and extended terms of the current electricity pool as presented, (ii) authorize Acclaim and [MA&C] to negotiate an acceptable electricity price and form of contract amendment, and (iii) appoint Mark Burton to act as agent on behalf of the District relative to same. Director Stage seconded said motion, which unanimously carried.

#### **RESOLUTION ADOPTING LIST OF QUALIFIED BROKERS**

The Board considered adopting a list of qualified brokers authorized to engage in investment transactions with the District. Mr. Skinner advised that, pursuant to the Public Funds Investment Act ("PFIA"), the Board is required to review, and revise as necessary, such list at least annually. He presented and reviewed with the Board the attached Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District, and a list of financial institutions, brokers and dealers attached thereto, together with a comparison of the list submitted and the list previously adopted by the Board, copies of which are attached hereto as **Exhibit H**. Mr. Skinner further noted that the broker list presented is a list of potential institutions with which the District may engage in investment transactions compiled with the input of the District's Investment Officer, but it is ultimately the Board's decision as to where the District's funds are actually placed. After discussion, Director Adamek moved that (i) the attached Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District be approved by the Board and the District, and (ii) that the President and Secretary be authorized to execute same. Director Stage seconded said motion, which unanimously carried.

#### **CODE OF ETHICS**

Mr. Skinner next distributed and reviewed with the Board an Order Adopting Amended and Restated Code of Ethics, Fees and Expense Policy, Policy Relating to Consulting Services, Uniform Financial Accounting and Reporting Standards, Policy Relating to Adoption of Annual Operating Budget, and Creating an Audit

Committee of the Board of Directors previously adopted by the Board on February 16, 2006, a copy of which is attached hereto as Exhibit I.

#### ENGINEERING REPORT

Mr. Davis presented and reviewed with the Board a written engineering report dated January 20, 2011, a copy of which report is attached hereto as Exhibit J, relative to the status of various projects within the District.

Mr. Davis next presented to and reviewed with the Board a Chloramination Disinfection Conversion Preliminary Cost Estimate, a copy of which is included with Exhibit J. Mr. Davis noted that the estimated cost for said conversion project is \$47,500. After discussion on the matter, Director Adamek moved that Langford be authorized to move forward with preparation of plans and specifications for said conversion project. Director Palermo seconded the motion, which carried unanimously.

Mr. Davis next advised the Board that the Storm Water Quality Permit for Spring Lakes, Section Eight (the "Permit"), will expire on January 31, 2011. Mr. Davis then presented and reviewed with the Board a Storm Water Quality Permit Application for renewal of the Permit and requested that the Board authorize the President to execute same on behalf of the Board and the District. After discussion on the matter, Director Stage moved that the President be authorized to execute said application for the renewal of the Storm Water Quality Permit for Spring Lakes, Section Eight on the behalf of the Board and the District. Director Palermo seconded the motion, which carried unanimously.

#### OPTIONS FOR EROSION REPAIRS OF AMENITY PONDS

There next ensued a discussion regarding the various options available to remedy the District's amenity pond erosion issues. Mr. Davis informed the Board that Langford and EDP are planning to lower the water levels in order to further investigate the issue.

#### STATUS OF PROPOSED ANNEXATION OF TRACT FOR HOME-OF-HOPE, TEXAS

The Board considered the status of the annexation of a tract of land for Home-of-Hope, Texas ("HOH"). In connection therewith, Mr. Skinner reminded the Board that the District had received a tap fee installment payment from HOH, as previously agreed in writing by HOH. Mr. Skinner also reminded the Board, however, that the District has not yet finalized the Development, Financing and Annexation Agreement (the "Agreement") with HOH. Accordingly, Mr. Skinner stated that SPH would work to finalize the Agreement and,

pending completion, would either hold the HOH payment in escrow or return same to HOH.

**PROPOSED ANNEXATION OF COMMERCIAL TRACT**

There next ensued a discussion regarding the possible annexation of a commercial tract of land located at the southeast corner of Highway 2920 and Interstate 45 frontage road. Mr. Skinner informed the Board that he had nothing new to report on the matter at this time.

**PROPOSED ANNEXATION OF SPLASHTOWN PROPERTY**

There next ensued a discussion regarding the proposed annexation of SplashTown Waterpark ("SplashTown") into the boundaries of the District. Mr. Skinner reminded the Board that the \$10,000 deposit previously requested has been received such that Langford is now working on an annexation feasibility study.

**REQUEST FROM HARRIS COUNTY FOR UTILITY SERVICE TO BAYER PARK**

Mr. Skinner reminded the Board that Harris County is requesting that the District consider providing out-of-district sanitary sewer service to Bayer Park and that the Board previously indicated that it is amenable to considering said request, subject to receipt of a deposit from Harris County to cover the costs of a feasibility study, an out-of-district service contract, and any other costs in connection therewith. Mr. Skinner then reminded the Board that SPH previously prepared and forwarded correspondence to Harris County requesting said deposit, but noted that no response has been received to date.

**OPERATIONS AND MAINTENANCE REPORT**

The Board considered the Operations and Maintenance Report. Mr. Thiry presented and reviewed in detail with the Board a written Operations Report prepared by EDP dated as of January 18, 2011, a copy of which is attached hereto as **Exhibit K**. There then ensued a discussion regarding recent graffiti activity that had occurred at the District's drainage facilities. The Board then requested that EDP remove or paint over the graffiti as soon as possible.

**CONSUMER CONFIDENCE REPORTS**

The Board next considered authorizing EDP to provide required information relative to Consumer Confidence Reports to any districts receiving water through emergency water interconnects with the District. Mr. Skinner advised that, pursuant to rules promulgated by the United States Environmental Protection Agency,

the District is required to provide a report containing various information regarding the District's water supply to applicable districts by April 1, 2011. After discussion, Director Adamek moved that the Board authorize EDP to provide the required information to any districts receiving water from the District through emergency water interconnects during 2010. Director Palermo seconded said motion, which unanimously carried.

#### **WATER LOSS AUDIT**

The Board next considered authorizing the District's operator and engineer to perform a 2010 Water Loss Audit. Mr. Skinner advised the Board that Section 16.0121 of the Texas Water Code requires any retail public utility providing potable water to perform and file a water loss audit with the Texas Water Development Board ("TWDB") every five (5) years. Mr. Skinner advised the Board that such Audit is due March 31, 2011 and that same may be performed on a calendar year or a fiscal year basis. After discussion on the matter, Director Stage moved that the District's operator and engineer be authorized to perform such water loss audit on a calendar year basis and provide same for the Board's review. Director Palermo seconded the motion, which carried unanimously.

#### **COMMUNICATIONS REGARDING SURFACE WATER CONVERSION POLICIES AND PRICING STRUCTURE**

The Board next considered the status of communications with the North Harris County Regional Water Authority ("NHCRWA"), Harris-Galveston Subsidence District and the Texas State Legislature relative to surface water conversion policies and pricing structure. In connection therewith, Mr. Skinner informed the Board that he had nothing new to report at this time.

#### **ISSUANCE OF UTILITY COMMITMENTS**

Mr. Skinner next advised the Board that Forestar (USA) Real Estate Group, Inc. ("Forestar") is requesting renewal of its utility commitment letter previously issued for its remaining undeveloped property in the District and discussed same with the Board. After a lengthy discussion, the Board deferred taking any action on the matter at this time.

#### **ATTORNEY'S REPORT**

Mr. Skinner advised the Board that he had nothing more of a legal nature to report at this time.



DISTRICT SECURITY ISSUES

The Board considered the report regarding District security issues. Mr. Skinner distributed the Harris County Sheriff Office's call sheet summary for December 2010, a copy of which is attached hereto as Exhibit I.

SOLICITATION OF PROPOSALS FOR RENEWAL OF DISTRICT INSURANCE POLICIES

The Board next considered authorizing the solicitation of proposals for renewal of the District's insurance policies. Mr. Skinner reported that the District's current insurance coverages acquired through AquaSurance, L.L.C. ("AquaSurance") expire on March 31, 2011. Following discussion, the Board concurred that SPH be authorized to solicit written proposals for the District's insurance policies for the term March 31, 2011 through March 31, 2012, from AquaSurance.

ADJOURN

There being no further business to come before the meeting, upon motion made by Director Stage seconded by Director Palermo and carried unanimously, the meeting was adjourned.

  
Secretary

LIST OF ATTACHMENTS TO MINUTES

- Exhibit A - Tax Assessor-Collector's Report
- Exhibit B - Delinquent Tax Report
- Exhibit C - Resolution Concerning Exemptions from Taxation
- Exhibit D - Resolution Authorizing an Additional Penalty on  
Delinquent Personal Property Taxes
- Exhibit E- Bookkeeper's Report
- Exhibit F - Quarterly Investment Inventory Report
- Exhibit G - Electricity Pool Summary
- Exhibit H - Resolution Adopting List of Qualified Brokers  
Authorized to Engage in Investment Transactions,  
with lists of qualified brokers
- Exhibit I - Code of Ethics
- Exhibit J - Engineer's Report
- Exhibit K - Operator's Report
- Exhibit L - District Security Report