

## HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 249

### Minutes of Meeting of Board of Directors October 20, 2011

The Board of Directors (the "Board") of Harris County Municipal Utility District No. 249 (the "District") met in regular session at the Board's regular meeting place on October 20, 2011, in accordance with the duly posted Notice of 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 Cory Burton of Municipal Accounts & Consulting, L.P. ("MA&C"); Ryan Fortner of Wheeler & Associates, Inc. ("Wheeler"); Eric Thiry and Damon Brown of Environmental Development Partners L.L.C. ("EDP"); John Davis of Langford Engineering ("Langford"); Christina Crotwell of First Southwest Company ("FSW"); Aimee Ordeneaux Raley of Best Trash, L.L.C. ("Best Trash"); Mark Roth and Mark Eyring of Mark L. Roth, CPA ("Roth"); Cindy Adamek and Edward Wade, who later entered the meeting, 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 the Board.

#### **MINUTES**

The Board reviewed the draft minutes of its meeting held on September 15, 2011. After discussion of the minutes presented, Director Stage moved that the September 15, 2011, minutes be approved, as written. Director Albright seconded said motion, which carried unanimously.

#### **COMMENTS FROM THE PUBLIC**

Ms. Raley next queried the Board regarding Best Trash's solid waste collection performance within the District. The Board expressed its satisfaction with Best Trash's services. Ms. Raley then presented and reviewed with the Board a proposed Best Trash magnet to be distributed to District customers regarding Best Trash's recycling services. After discussion, the Board concurred that Best Trash not distribute said magnet to District customers at this time.

Mr. Wade entered the meeting during the public comment period. Following inquiry from Mr. Skinner, Mr. Wade stated he had nothing to share with the Board at this time.

## **POSSIBLE CASH DEFEASANCE OF A PORTION OF DISTRICT'S OUTSTANDING BONDS**

Mr. Skinner discussed the possible cash defeasance of a portion of the District's \$2,375,000 Unlimited Tax Bonds, Series 2001. He noted that said Bonds were callable for early redemption on September 1, 2011. In connection therewith, Ms. Crotwell presented to and reviewed with the Board an analysis prepared by FSW examining the financial impacts to the District from a defeasance of the Bonds; a copy of the analysis is attached hereto as **Exhibit A**. After discussion on the matter, Director Adamek moved that SPH be authorized to prepare the required notices and other documents for the early defeasance of the remaining \$1,200,000 Series 2001 Unlimited Tax Bonds. Director Stage seconded the motion, which carried unanimously.

## **PUBLIC HEARING REGARDING ADOPTION OF THE DISTRICT'S PROPOSED 2011 TAX RATE AND TAXATION BY THE DISTRICT OF GOODS-IN-TRANSIT PERSONAL PROPERTY**

As the next order of business, the Board conducted a public hearing regarding (i) the imposition of proposed debt service and maintenance tax rates for 2011 and (ii) taxation by the District of Goods-In-Transit Personal Property. In connection therewith, Mr. Skinner outlined for the Board the option available to the District to tax certain goods-in-transit personal property, as provided for and defined in Article VIII Section 1-n of the Texas Constitution and Section 11.253 of the Texas Property Tax Code, as amended by Senate Bill 1 passed in the Special Session of the 82<sup>nd</sup> Texas Legislature. He advised that under said provisions, the "Goods-in-Transit Exemption" applies to tangible personal property other than oil, natural gas, petroleum products, aircraft or certain designated special valuation inventory, provided that such property is acquired in or imported into Texas to be forwarded to another location inside or outside the state, is stored under a contract of bailment by a public warehouse operator at one or more public warehouse facilities in the state that are not owned or controlled by the property owner, for the account of the person who acquired or imported the property, and is subsequently forwarded to another location inside or outside of Texas not later than 175 days after its acquisition or importation (the "Goods-in-Transit Property"). He further advised that the District may, by official action and following a public hearing, exercise its option to tax all such Goods-in-Transit Property. He noted that the District's option must be exercised before January 1 of the first tax year in which it proposes to tax the Goods-in-Transit Property. After noting that the members of the public present at the meeting had no objection to the proposed tax rates and the taxation of Goods-In-Transit Personal Property, the hearing was closed.

## **LEVY OF THE DISTRICT'S 2011 TAX RATE**

The Board next discussed the levy of the District's 2011 tax rate. Mr. Fortner confirmed that the notice regarding the Board's intention to adopt the District's 2011 tax rate had been published in *The Houston Chronicle – Neighborhood News* section in accordance with all legal requirements and as directed by the Board at its previous meeting. After discussion on the matter, Director Adamek moved that: (i) the Board adopt a tax rate lower than the tax rate proposed at the District's September 15, 2011, meeting and as reflected in the notice; (ii) the

Board levy a 2011 debt service tax rate of \$0.76 per \$100 of valuation and a maintenance tax rate of \$0.27, resulting in a 2011 total tax rate of \$1.03 per \$100 of valuation; and (iii) an Order Levying Taxes be adopted in connection therewith and the President be authorized to execute and the Secretary to attest same on behalf of the Board and the District the Order attached hereto as **Exhibit B**. Director Albright seconded said motion, which carried unanimously.

### **GOODS-IN-TRANSIT**

The Board considered the taxation of Goods-in-Transit Property for 2012 and future years. Following discussion, Director Palermo moved that the District exercise its option to tax Goods-in-Transit Property for 2012 and future years, and that the Resolution attached hereto as **Exhibit C** relative to same be adopted by the Board and the District. Director Stage seconded said motion, which carried unanimously.

### **AMENDED DISTRICT INFORMATION FORM**

Mr. Skinner next presented to and discussed with the Board an Amendment to the Second Amended and Restated District Information Form relative to the establishment of the District's 2011 tax rate. After discussion on the matter, Director Hodge moved that the Amendment be approved and that all Board members present be authorized to execute same on behalf of the Board and the District. Director Albright seconded said 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 September 30, 2011, 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 September 30, 2011, copies of which are attached hereto as **Exhibit D**. After discussion, Director Hodge moved that the tax assessor-collector report be approved, and that the checks identified therein be approved for payment from the District's tax account. Director Albright 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 October 20, 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 here to as **Exhibit E**. Mr. Skinner noted that no Board action was required at this time with respect to the accounts listed in the Report.

### **BOOKKEEPER'S REPORT**

Mr. Burton presented to and reviewed with the Board the bookkeeper's report dated October 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

August 2011 for the Operating Fund and the STP Account, and (v) a Debt Service Payments Schedule, copies of which are attached hereto as **Exhibit F**. After discussion, it was moved by Director Hodge that the bookkeeper's report be approved and that the various checks identified therein be approved for payment, which was voided. Director Stage seconded the motion, which carried unanimously.

Mr. Burton 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 September 30, 2011, a copy of which Report is attached hereto as **Exhibit G**. After review of the Quarterly Investment Inventory Report and upon motion duly made by Director Hodge, 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.

### **ENERGY REPORTING**

The Board next considered the status of compliance by the District with Texas Government Code, Chapter 2265, relative to energy reporting requirements. In connection therewith, Mr. Burton presented and reviewed with the Board a Utility Usage & Expense report, a copy of which is included with **Exhibit F**, and noted that the District's expense is under the \$200,000, and, therefore, no further action is required by the District.

### **ENGINEERING REPORT**

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

Relative to the chloramine disinfection conversion project at the Water Plant, Mr. Davis presented to and reviewed with the Board a contract from NTS for the installation of fan and light control and the replacement of the door for the control building at the Water Plant. After discussion, Director Adamek moved that said contract be approved and that the President be authorized to execute same on behalf of the Board and the District. Director Albright seconded the motion, which carried unanimously.

Mr. Davis next presented to and reviewed with the Board a proposal from Derrick Systems in the amount of \$1,860.00 for the replacement of the chlorine gas detector at the Water Plant, a copy of which proposal is included with **Exhibit H**. After discussion on the matter, Director Adamek moved that the Board accept Derrick Systems proposal in the amount of \$1,860.00. Director Albright seconded the motion, which carried unanimously.

### **REQUEST FROM CENTERPOINT ENERGY FOR EASEMENT**

Mr. Davis next advised the Board that CenterPoint Energy ("CenterPoint") is requesting an easement for upgrading of an overhead power line adjacent to the District's detention pond and requested that the Board consider granting said easement. Mr. Davis noted that CenterPoint

has provided the form of easement and presented and reviewed same with the Board; a copy of the requested easement document is included with **Exhibit H**. After discussion on the matter, Director Albright moved that the Board approve said easement and the President be authorized to execute same on behalf of the Board and District, subject to SPH's final review and approval. Director Stage 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 discussed with the Board the survey of drainage pipe for the amenity pond and noted that they have not been able locate the drainage pipe. Mr. Davis then advised the Board that he is recommending that the Board consider authorizing EDP to pump down the lake and repair the hard edge. There then ensued a discussion regarding the various repair options. After further discussion, the Board requested that EDP obtain proposals from landscaping contractors for repair of several of the localized erosion problems at the amenity ponds. No official action was taken by the Board at this time.

### **DETENTION AND DRAINAGE FACILITIES REPORT**

The Board deferred consideration of a Drainage Facilities Report after noting that no representative of Champions Hydro-Lawn, Inc. was present at the meeting.

### **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"). Mr. Skinner reminded the Board that it previously approved a Development, Financing and Annexation Agreement ("Agreement") and HOH has now executed said Agreement.

### **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 advised the Board that Langford has prepared an annexation feasibility study. Mr. Davis then presented to and reviewed with the Board a draft feasibility study, a copy of which is attached hereto as **Exhibit I**. The Board requested that SPH review said feasibility study and contact SplashTown regarding same.

### **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 October 19, 2011, a copy of which is attached hereto as **Exhibit J**.

Relative to the chloramination disinfection conversion project, Mr. Thiry presented to and reviewed with the Board draft correspondence and a brochure prepared by EDP that includes the TCEQ's required notification language to be provided to District customers advising of the

change in disinfection systems, copies of which are included with **Exhibit J**. After discussion, the Board requested that Mr. Thiry e-mail a Word version of same to the Board for review and comment.

Mr. Thiry next advised the Board that the manhole located near Cypresswood and Lexington recently overflowed and noted that EDP jet cleaned the sanitary sewer line and filed the required report with the Texas Commission on Environmental Quality regarding same. Mr. Thiry further noted that EDP will be televising the sanitary sewer line in the near future to determine the possible cause for the line blockage.

Mr. Thiry next advised the Board that a rubber gasket on one of the clarifiers located at the Wastewater Treatment Plant has failed and noted that EDP will be replacing said gasket at a cost of approximately \$2,000. Mr. Thiry additionally advised the Board that the electrical wires that the serve the clarifiers are in need of repair.

Mr. Thiry next informed the Board that there are few dead pine trees at the Wastewater Treatment Plant site that are in need of removal and noted that EDP will obtain a proposal for said removal to present to the Board at next month's meeting.

Mr. Thiry next advised the Board that the chlorine detector is not working properly and is in need of replacement. After discussion, the Board concurred that EDP be authorized to replace said detector.

### **ISSUANCE OF UTILITY COMMITMENTS**

The Board deferred the issuance of utility commitments, as no requests for same had been received.

### **WEBSITE PROVIDER**

There next ensued a discussion regarding the District's website provider and working with said provider to improve the District's website. No changes or updates were requested by the Board 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 September 2011, a copy of which summary is attached hereto as **Exhibit K**. Director Adamek noted that it appears that burglaries are occurring more during the daytime hours than the evening hours. There then ensued a discussion regarding the possibility of moving up the patrolling hours or adding additional patrols during the day. After discussion, Mr. Skinner informed the Board that SPH would contact the Harris County Sheriff's Office regarding same.

Mr. Skinner next advised the Board that e-mail correspondence was received from the Harris County Sheriff's Office advising that the fees for contract deputy services will not be increasing for the 2012 contract term.

**ATTORNEY'S REPORT**

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

**CLOSED SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071**

The Board convened in Closed Session at 8:05 p.m., as authorized pursuant to Texas Government Code Section 551.071. Those in attendance, with the exception of the Board, Messers. Roth and Eyring and Mr. Skinner, exited at this time.

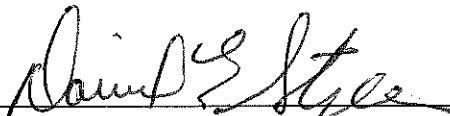
At 8:45 p.m., the Board reconvened in public session.

**ENGAGEMENT OF AUDITOR TO PREPARE DISTRICT'S AUDIT REPORT FOR FISCAL YEAR ENDING DECEMBER 31, 2011**

The Board next considered the engagement of an auditor to prepare the District's audit report for the fiscal year ending December 31, 2011. Mr. Roth advised that his annual fee for the preparation of said audit was \$9,500, and the fee for preparation of the 2011 audit report for the joint sewage treatment plant to be \$1,975, and that the proposed engagement would be for a two year term. After discussion, Director Palermo moved that Roth be engaged to prepare the District's audit report for the fiscal years ending December 31, 2011, and December 31, 2012, and that the President be authorized to execute the engagement letter on behalf of the District. Director Stage seconded said motion, which unanimously carried.

**ADJOURN**

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

  
Secretary

LIST OF ATTACHMENTS TO MINUTES

- Exhibit A – Cash defeasance analysis
- Exhibit B – Order Levying Taxes
- Exhibit C – Resolution Approving Taxation of Goods-in-Transit Pursuant to Texas  
Property Tax Code § 11.253
- Exhibit D – Tax Assessor-Collector's Report
- Exhibit E – Delinquent Tax Report
- Exhibit F– Bookkeeper's Report
- Exhibit G – Quarterly Investment Report
- Exhibit H – Engineer's Report
- Exhibit I – Draft Feasibility Study
- Exhibit J– Operator's Report
- Exhibit K – District Security Report