

**MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 83**

**Minutes of Meeting of Board of Directors  
May 21, 2009**

The Board of Directors of Montgomery County Municipal Utility District No. 83 met in regular session, open to the public on May 21, 2009, and held at 1300 Post Oak Boulevard, Suite 1400, Houston, Harris County, Texas, in accordance with the duly posted notice of meeting, and the roll was called of the duly constituted members of said Board of Directors, as follows:

John R. Bergeron, President  
Milton H. Fried, Jr., Vice-President  
Bert M. Cottrell, Secretary  
Leslea S. Ortego, Assistant Secretary  
Stanley W. Young, Director

and all persons were present, except Director Cottrell, who entered later in the meeting, thus constituting a quorum.

Also present were Stacey Wagner of Wheeler & Associates, Inc. ("Wheeler"); Keith Billé of Costello, Inc. ("Costello"); Teresa Rosenbaum of Municipal Accounts & Consulting, L.P. ("MAC"); Rick Marriott of SWWC Services, Inc.; Tommy Weaver of Friendswood Development Company ("Friendswood"); Mike Zenner, a resident of the District; and Joseph M. Schwartz and Linda Knox 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.

**APPROVAL OF MINUTES**

As the first order of business, the Board considered approval of the minutes of the Board of Directors meeting held on April 16, 2009. After review of the minutes presented, it was moved by Director Fried, seconded by Director Young, and unanimously carried, that said minutes be approved, as written.

**BOOKKEEPING REPORT**

The Board next reviewed the bookkeeping report dated May 21, 2009, a copy of which is attached as **Exhibit A**, including the checks presented for payment from the District's various accounts, and the Quarterly Investment Inventory Report for the period ending March 31, 2009, a copy of which is attached hereto as **Exhibit B**. After discussion on the matter, it was moved by Director Fried that said reports be approved, that the checks identified in the

bookkeeping report be approved for payment, and that the District's Investment Officer be authorized to execute the Quarterly Investment Inventory Report on behalf of the Board and the District. Director Young seconded said motion, which carried unanimously.

Director Cottrell entered the meeting at this time.

Ms. Rosenbaum advised the Board that that she had resigned from MAC and that Lisa Hernandez will be attending future Board meetings on behalf of MAC.

#### **TAX ASSESSOR-COLLECTOR REPORT**

Ms. Wagner presented the tax assessor-collector report for the month of April 2009, a copy of which is attached hereto as **Exhibit C**, including the checks and wire transfers presented for payment. After discussion concerning the tax assessor-collector report, Director Fried moved that said report be approved and that the wire transfer and checks identified in the report be approved for payment, with the exception of check nos. 1391 and 1392 which were voided. Director Young seconded said motion, which carried unanimously. Ms. Wagner additionally presented for the Board's review a Delinquent Collections Listing as of April 30, 2009, a copy of which is attached hereto as **Exhibit D**.

Ms. Wagner further advised the Board that the District's 2009 preliminary assessed valuation is approximately \$138,975,323, which is an approximate \$14,000,000 increase from the District's 2008 assessed valuation.

#### **DELINQUENT TAX COLLECTIONS ATTORNEY REPORT**

The Board deferred action relative to the review of a Delinquent Tax Report from the District's delinquent tax collections attorneys, Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue"), since a report was not received this month. Mr. Schwartz advised the Board that, as previously discussed, Perdue will defer its quarterly reporting until July 2009.

#### **OPERATION AND MAINTENANCE REPORT**

Mr. Marriott presented and reviewed with the Board the operations and maintenance report for the month of April 2009, a copy of which is attached hereto as **Exhibit E**. Mr. Marriott provided additional information concerning the following matters:

Mr. Marriott advised the Board of five (5) valve boxes that need to be raised at a cost of approximately \$1,125.00 and six (6)

main line valves that need to be located at a cost of approximately \$1,350.00. Mr. Billé recommended that such work be performed. After discussion on the matter, it was moved by Director Young, seconded by Director Fried and unanimously carried, that SWWC be authorized to raise the valve boxes and locate the main line valves. Mr. Zenner recommended that the District provide notification to those residents whose landscaping may be affected by the work. Mr. Marriott advised the Board that SWWC will do so with door tags.

Mr. Marriott further advised the Board that the flushing valve survey previously authorized by the Board had been completed. In that regard, he reported that out of the 97 flushing valves inspected, 32 were found to be in need of repairs. Mr. Marriott then discussed the different options available for repairing and painting the valves and the costs associated with each option. After discussion, it was moved by Director Young, seconded by Director Cottrell and unanimously carried, that the 32 valves be repaired as necessary and that all 97 valves be hydro blasted and repainted at a total cost not to exceed \$4,900.00. Director Young noted that the color of the flushing valves will need to conform to Porter Volunteer Fire Department requirements. Mr. Marriott advised the Board that the color of the flushing valves will not be changed.

A discussion followed regarding the lease of emergency generators to operate the wastewater treatment plant and the lift stations during this year's hurricane season. In that regard, Mr. Schwartz presented to and reviewed with the Board an analysis prepared by Costello of the proposals received from (i) Kohler Rental, (ii) Stewart & Stevenson, (iii) Neil Technical Services Corp. ("Neil Technical") and (iv) Lighthouse Energy Service Company, a copy of which is attached hereto as **Exhibit F**. After discussion on the matter, it was moved by Director Young, seconded by Director Cottrell and unanimously carried, that the proposal from Neil Technical be accepted for the lease of one (1) onsite 320 KW generator for operation of the wastewater treatment plant and one (1) onsite 70KW generator for operation of the lift stations for the 2009 hurricane season commencing on June 1, 2009, and ending on November 30, 2009, and that Director Bergeron be authorized to execute Lease Agreements by and between the District and Neil Technical in connection therewith.

Directors Young and Ortego exited the meeting at this time.

The Board also discussed the District's options for the purchase and installation of permanent auxiliary generators to operate the wastewater treatment plant and the lift stations. In that regard, Mr. Schwartz presented to and reviewed with the Board

an analysis of the District's options for financing the purchase and installation of permanent auxiliary generators to operate the wastewater treatment plant and the lift stations, a copy of which is attached hereto as **Exhibit G**. Mr. Zenner then discussed the viewpoints of some of the residents within the District regarding their opposition to the expenditure of District funds for permanent auxiliary generators. After discussion, the Board deferred action on the matter at this time.

The Board deferred consideration of appeals of District charges after noting that no appeals had been received.

#### **APPROVAL OF CONSUMER CONFIDENCE REPORT**

The Board considered the approval of a Consumer Confidence Report and authorizing the distribution of same to customers of the District. In that regard, Mr. Schwartz advised the Board that SPH has reviewed and approved the draft Consumer Confidence Report prepared by SWWC, a copy of which is attached hereto as **Exhibit H**. After discussion on the matter, it was moved by Director Cottrell, seconded by Director Fried and unanimously carried, that the Consumer Confidence Report be approved and that SWWC be authorized to distribute same to all customers of the District prior to the July 1, 2009 deadline.

#### **DISCUSSION REGARDING ADJUSTMENT IN WATER AND SEWER RATES AND THE ADOPTION OF AN AMENDED DISTRICT RATE ORDER IN CONNECTION THEREWITH**

The Board considered an adjustment in the District's water and sewer rates. Mr. Schwartz reported that, in connection with the Board's desire that those customers using less than 15,000 gallons of water not be impacted by an increase in water and sewer rates, he and Mr. Marriott had revised the analysis providing options for increases in the District's water and sanitary sewer rates that was presented last month. Mr. Schwartz then presented to and reviewed with the Board the revised analysis, a copy of which is attached hereto as **Exhibit I**. After discussion on the matter, it was moved by Director Fried and seconded by Director Cottrell that the District's water and sewer rates be increased in accordance with the option reflected in the revised analysis. The motion failed with Directors Fried and Cottrell voting in favor of such action and Director Bergeron voting against said action. The Board deferred further action on the matter until next month.

#### **DEVELOPER'S REPORT**

The Board considered the developer's report. Mr. Weaver reported to the Board regarding the status of development and home

sales within the District and within Montgomery County Municipal Utility District No. 84.

### **ENGINEERING REPORT**

The Board considered the engineering report. Mr. Billé presented to and reviewed with the Board a written report dated May 21, 2009, a copy of which is attached hereto as **Exhibit J**. Mr. Billé provided additional information concerning the following matters:

Mr. Billé advised the Board that public bids had been received for the electrical service for the Wastewater Treatment Plant Phase III expansion project. Mr. Billé reported that, although four (4) contractors picked up bidding specifications, only one (1) bid was received for the project from Neil Technical in the amount of \$109,685.00. Mr. Billé further advised the Board that, because the bid was significantly higher than the estimated cost of the project, he was not comfortable with recommending the award of a contract for the project to Neil Technical. Mr. Billé recommended that Neil Technical's bid be rejected and the project be rebid. After discussion on the matter, it was moved by Director Cottrell, seconded by Director Fried and unanimously carried, that Neil Technical's bid be rejected and the project be rebid, as recommended by Mr. Billé.

Mr. Billé advised the Board of the pay estimates which had been submitted in connection with the ongoing projects within the District. Mr. Billé recommended that the pay estimate reflected on the attached engineering report be approved for payment. After discussion on the matter, it was moved by Director Cottrell, seconded by Director Fried and unanimously carried, that the pay estimate reflected on the attached engineering report be approved for payment, as recommended by Mr. Billé.

Mr. Billé addressed the Board concerning Costello's investigations regarding flooding within Bentwood Section One, as discussed at the last meeting. In that regard, he advised the Board that Costello found no damaged pipes or silt in the storm sewer lines. Mr. Billé further advised the Board that it does not appear that the homes located within Bentwood Section One are at risk of being flooded and that he, therefore, recommends that the District take no action at this time.

### **STATUS OF ACCEPTANCE BY MONTGOMERY COUNTY OF STREETS FOR MAINTENANCE**

Mr. Billé presented to and reviewed with the Board a chart reflecting the status of the acceptance by Montgomery County of the

streets located within the District for maintenance. A copy of the chart is attached to the engineering report.

**ACCEPTANCE OF SITE AND/OR EASEMENT CONVEYANCES**

The Board deferred action relative to the acceptance of site and/or easement conveyances.

**ACCEPTANCE OF CONVEYANCES OF UTILITY FACILITIES**

The Board deferred action relative to the acceptance of conveyances of utility facilities.

**DISCUSSION REGARDING COMPLIANCE WITH LONE STAR GROUNDWATER CONSERVATION DISTRICT'S PHASE II(A) DISTRICT REGULATORY PLAN**

Mr. Billé advised the Board that he had no new activity upon which to report in connection with the San Jacinto River Authority's ("SJRA") preparation of the Joint Water Resources Assessment Plan in order to comply with the Lone Star Groundwater Conservation District's proposed Phase II(A) District Regulatory Plan.

**STATUS OF APPLICATION TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR APPROVAL OF PROJECT AND BONDS IN CONNECTION WITH DISTRICT'S FOURTH BOND ISSUE**

Mr. Schwartz addressed the Board concerning the status of the Application to the Texas Commission on Environmental Quality (the "TCEQ") for Approval of Project and Bonds in connection with the District's fourth bond issue. In that regard, Mr. Schwartz advised the Board that SPH and representatives of Friendswood met with representatives of the TCEQ to discuss the TCEQ's position regarding the Bentwood Drainage Channel and the Bentwood Section One utilities. Mr. Schwartz advised the Board that the TCEQ has agreed to amend its staff memorandum issued in connection with the proposed bond issue to include those funds previously disallowed. Mr. Schwartz then reviewed a tentative schedule for the sale and closing on the proposed bond issue.

**ADOPTION OF RESOLUTION AUTHORIZING REQUEST TO MONTGOMERY COUNTY CENTRAL APPRAISAL DISTRICT FOR APPRAISAL OF PROPERTY**

The Board considered the adoption of a Resolution Authorizing Request to Montgomery County Central Appraisal District for Appraisal of Property as of May 1, 2009, in connection with the District's proposed bond issue. After discussion on the matter, it was moved by Director Cottrell, seconded by Director Fried and unanimously carried that the Resolution Authorizing Request to

Montgomery County Central Appraisal District for Appraisal of Property attached hereto as **Exhibit K** be adopted by the Board.

**ATTORNEY'S REPORT**

The Board considered the attorney's report. Mr. Schwartz advised the Board regarding the following specific agenda items.

**APPLICATION TO FEDERAL EMERGENCY MANAGEMENT AGENCY FOR REIMBURSEMENT OF ELIGIBLE HURRICANE IKE EXPENSES**

Mr. Schwartz advised the Board that the District's application submitted to Federal Emergency Management Agency for reimbursement to the District of Hurricane Ike-related expenses is still in process.

**STATUS OF PREPARATION OF AGREEMENT FOR JOINT FINANCING AND CONSTRUCTION OF WATER DISTRIBUTION LINE, SANITARY SEWER COLLECTION AND DRAINAGE FACILITIES BY AND AMONG THE DISTRICT, NO. 84 AND PORTER MUNICIPAL UTILITY DISTRICT AND RELATED AGREEMENT REGARDING WATER SUPPLY SERVICES**

Mr. Schwartz addressed the Board regarding the status of the preparation of an Agreement for Joint Financing and Construction of Water Distribution Line, Sanitary Sewer Collection and Drainage Facilities by and among the District, No. 84 and Porter Municipal Utility District ("Porter") and a related Agreement Regarding Water Supply Services in connection with certain lots located within Porter that are being served by water, sanitary sewer and drainage facilities constructed by the District and No. 84. In that regard, Mr. Schwartz advised the Board that the Agreements have been drafted and that SPH and Friendswood are working to finalize the Agreements for submittal to Porter for review and comment.

**APPROVAL AND EXECUTION OF SECOND AMENDMENT TO WASTE DISPOSAL AGREEMENT BY AND BETWEEN THE DISTRICT AND NO. 84**

The Board deferred action relative to the approval and execution of a Second Amendment to Waste Disposal Agreement by and between the District and No. 84 pending the TCEQ's approval of the District's wastewater treatment plant flow factor reduction request.

**RATIFICATION OF APPROVAL OF AUDIT REPORT FOR FISCAL YEAR ENDED DECEMBER 31, 2008**

The Board considered ratifying its prior action relative to the approval of the District's Audit Report prepared by BKD, LLP for the District's fiscal year ended December 31, 2008. After

discussion on the matter, it was moved by Director Fried, seconded by Director Fried and unanimously carried, that such prior action be ratified and authorized in all respects.

**DISCUSSION REGARDING STATUS OF PREPARATION OF CONTINUING DISCLOSURE REPORT DUE JUNE 30, 2009**

Mr. Schwartz addressed the Board concerning the status of the preparation of the District's Continuing Disclosure Report due June 30, 2009. Mr. Schwartz advised the Board that once the District's Audit Report has been finalized, the District's continuing disclosure counsel, McCall, Parkhurst & Horton L.L.P., would prepare and file the Continuing Disclosure Report with the appropriate repositories prior to the due date of June 30, 2009.

**ADJOURNMENT**

There being no further business to come before the Board, on motion made by Director Fried, seconded by Director Cottrell, and unanimously carried, the meeting was adjourned.

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Bert M. Cottrell, Secretary  
Board of Directors

LIST OF ATTACHMENTS

<u>Exhibit A</u>	Bookkeeping Report
<u>Exhibit B</u>	Quarterly Investment Inventory Report for the period ending March 31, 2009
<u>Exhibit C</u>	Tax Assessor-Collector Report
<u>Exhibit D</u>	Delinquent Collections Listing as of April 30, 2009
<u>Exhibit E</u>	Operation and Maintenance Report
<u>Exhibit F</u>	Analysis of proposals for lease of emergency generators to operate the wastewater treatment plant and the lift stations during this year's hurricane season
<u>Exhibit G</u>	Analysis of the District's options for financing the purchase and installation of permanent auxiliary generators to operate the wastewater treatment plant and the lift stations
<u>Exhibit H</u>	Consumer Confidence Report
<u>Exhibit I</u>	Analysis prepared by SWWC Services, Inc. regarding adjustment of District's water and sanitary sewer rates
<u>Exhibit J</u>	Engineering Report
<u>Exhibit K</u>	Resolution Authorizing Request to Montgomery County Central Appraisal District for Appraisal of Property