

MINUTES  
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 26

March 5, 2013

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 5<sup>th</sup> day of March, 2013, at the offices of Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas, outside the boundaries of the District, and the roll was called of the members of the Board:

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

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

Also present at the meeting were Pierre Prade, a member of the public; Rod Simpson of the Shadow Creek Ranch Maintenance Association ("SCRMA"); and the following District consultants: Officer Natisha Lucas of the City of Pearland (the "City") Police Department; Colette Garcia of McGrath & Co., PLLC; Erin Garcia of Myrtle Cruz, Inc. ("MCI"); David Patterson of Assessments of the Southwest, Inc. ("ASW"); James Ross of LJA Engineering, Inc. ("LJA"); and Lynne B. Humphries and Michelle Bryan of Allen Boone Humphries Robinson LLP ("ABHR").

MINUTES

The Board considered approving the minutes of the February 5, 2013, regular meeting, which were provided in advance of the meeting. After review and discussion, Director Weary moved to approve the minutes of the February 5, 2013, meeting, as presented. Director Slade seconded the motion, which passed unanimously.

ANNUAL REPORT

Ms. Humphries reviewed the District's Annual Report containing updated financial and operating data to be filed in accordance with the continuing disclosure provisions contained in the bond resolutions. She stated that the District is required to file certain financial and operating data with the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access System in compliance with SEC Rule 15c12-12 and with the Municipal Advisory Council of Texas, the State Information Depository, by March 31, 2013. Following review and discussion, Director Weary moved to approve the Annual Report to be filed in compliance with the continuing

disclosure provisions contained in the bond resolutions and direct that the Annual Report be filed appropriately and retained in the District's official records. Director Slade seconded the motion, which passed unanimously.

#### RESOLUTION NOMINATING MICHAEL PARKS TO THE BOARD OF TRUSTEES OF THE ASSOCIATION OF WATER BOARD DIRECTORS - TEXAS

The Board considered adopting a Resolution Nominating Michael Parks to the Board of Trustees of the Association of Water Board Directors - Texas. Ms. Humphries stated that the deadline for the Resolution to be submitted to the Association of Water Board Directors is May 7, 2013. Following review and discussion, Director Weary moved to adopt the Resolution Nominating Michael Parks to the Board of Trustees of the Association of Water Board Directors - Texas, and Direct that the Resolution be filed appropriately and retained in the District's official records. Director Fain seconded the motion, which carried unanimously.

#### DEVELOPMENT IN THE DISTRICT

Ms. Humphries said there was nothing new for consideration on this item.

#### FINANCIAL AND BOOKKEEPING MATTERS

Ms. Erin Garcia distributed and reviewed the bookkeeper's report, including the investment report, budget comparison, debt service payment schedule, and list of checks presented for approval, a copy of which is attached. The Board discussed the annual budget and directed Ms. Erin Garcia to reallocate funds from the Engineering Special Projects line item in connection with the detention pond side slope repairs to the Capital Reserve line item. After review and discussion, Director Fain moved to approve the bookkeeper's report, the budget reallocation, and payment of the bills. Director Weary seconded the motion, which passed unanimously.

#### TAX ASSESSMENT AND COLLECTION MATTERS

Mr. Patterson reviewed the tax assessor/collector's report, including the delinquent tax roll, a copy of which is attached. He noted that the 2012 taxes were 96.45% collected as of February 28, 2013.

Mr. Patterson presented and reviewed a delinquent tax report from Perdue, Brandon, Fielder, Collins & Mott, L.L.P., a copy of which is included in the tax assessor/collector's report.

Mr. Patterson reviewed a letter from Sayee Anakk, a District resident, requesting a waiver of penalty and interest on his delinquent tax bill due to United State Postal Service loss or misdelivery of the original payment. He noted that Mr. Anakk did not

provide any documentation showing the check was written and sent but did not reach the tax office. The Board concurred that pursuant to the Texas Tax Code, because there was no evidence of error on the part of the District or an agent of the District, penalty and interest could not be waived.

Mr. Patterson reviewed a letter from Manaharlal and Elizabeth Prekh, residents of the District, requesting a waiver of penalty and interest due to lack of receipt of their tax bill. Mr. Patterson reported that ASW has confirmed the tax bill was mailed to the correct addresses. The Board concurred that pursuant to the Texas Tax Code, because there was no evidence of error on the part of the District or an agent of the District, penalty and interest could not be waived.

Mr. Patterson reviewed a letter from Don Green, a resident of the District, requesting a payment installment plan for his 2012 taxes, including penalty and interest, due to the loss of his job. The Board concurred to authorize ASW to coordinate a payment installment plan with Mr. Green.

After review and discussion, Director Weary moved to approve the tax assessor/collector's report, the delinquent tax report, and payment of the tax bills. Director Fain seconded the motion, which passed unanimously.

SECURITY SERVICES REPORT, INCLUDING AMENDMENT TO PRIVATE SECURITY AGREEMENTS AND REPORT FROM SCRMA ON RESIDENT SURVEY ON INSTALLATION OF CAMERAS

Officer Lucas reported on security in the District and discussed crime trends and preventative security measures for residents. Mr. Simpson noted that SCRMA provided Officer Lucas cards to place on car windows reminding residents not to leave belongings inside vehicles.

Ms. Humphries presented a Second Amendment to the Security Patrol Services Agreements with each patrol officer for security patrol within the District and Brazoria-Fort Bend County Municipal Utility District No. 1 ("MUD 1") (collectively, the "Districts") and a Second Amendment to Security Patrol and Coordination Services Agreement with Officer Pratt (collectively, the "Security Agreements"). She stated the Security Agreements need to be amended to provide twice monthly payments to the officers and to delete the provisions that the officers are not employees of the Districts, since federal tax law requires the Districts to treat the officers as employees for taxation purposes. Following review and discussion, Director Weary moved to approve the Second Amendment to the Security Patrol Services Agreements with each patrol officer and the Second Amendment to Security Patrol and Coordination Services Agreement with Officer Pratt and direct that the Security Agreements be filed appropriately and retained in the District's official records. Director Slade seconded the motion, which carried unanimously.

Mr. Simpson stated that he had no update on the resident survey on installation of cameras in the Shadow Creek Ranch area.

#### RESOLUTION CONCERNING EXEMPTIONS FROM TAXATION

Ms. Humphries reviewed a Resolution Concerning Exemptions from Taxation with the Board. She stated that the District granted a general homestead exemption of 20%, but not less than \$5,000, and an additional \$40,000 homestead exemption for disabled persons or persons over 65 years of age for the previous tax year. After review and discussion, Director Weary moved to adopt the Resolution Concerning Exemptions from Taxation, reflecting that the Board rejects any exemption of travel trailers from ad valorem taxation, grants a general homestead exemption of 20%, but not less than \$5,000, and grants a \$40,000 homestead exemption for disabled persons or persons over 65 years of age, and direct that the Resolution be filed appropriately and retained in the District's official records. Director Slade seconded the motion, which passed by unanimous vote.

#### RECREATIONAL FACILITIES IN AND NEAR THE DISTRICT

Director Weary reported on his attendance at a recent Regional Parks meeting. He stated that the District may need to take action to help the City of Pearland make the Shadow Creek Ranch Sports Complex (the "Sports Complex") a reality. The Board discussed methods to gauge community support, including a possible poll of Shadow Creek Ranch residents, and noted that residents should speak during the public comments agenda item at City Council meetings to request parks and recreation facilities in or near Shadow Creek Ranch. After discussion, the Board requested that Ms. Humphries obtain an update on the status of the Sports Complex, and report to the Board at the April 2, 2013, meeting.

#### ENGINEERING MATTERS, INCLUDING CONTRACT WITH JONES-HEROY & ASSOCIATES, INC. ("JONES-HEROY") FOR PREPARATION OF BOND APPLICATION NO. 7 AND AUTHORIZE PREPARATION OF BOND APPLICATION NO. 7

Mr. Ross distributed and reviewed the engineer's report, a copy of which is attached. He updated the Board on the design of the detention pond side slope repairs.

Ms. Humphries reviewed a proposal from Jones-Heroy to prepare bond application no. 7 in the lump sum of \$35,000.

Mr. Ross reviewed a proposal for LJA to assist in the preparation of bond application no. 7 in the amount of \$35,000, plus administrative expenses.

Following review and discussion, Director Weary moved to: (1) accept the engineer's report; (2) authorize preparation of bond application no. 7; (3) accept the proposal from Jones-Heroy for the preparation of bond application no. 7 in the lump sum of \$35,000; and (4) accept the proposal from LJA to assist in the preparation of bond application no. 7 in the amount of \$35,000, plus administrative expenses. Director Slade seconded the motion, which carried unanimously.

#### ARTICLES FOR NEWSLETTERS AND WEBSITE

The Board considered information to be included in the District's monthly notice published in the Shadow Creek Area Community Newsletter; the newsletter, *The Connection*; and the District's website. After review and discussion, the Board directed ABHR to prepare a notice with the standard monthly message directing residents to the website for information about District meetings, including the Shadow Creek Ranch Parks and Recreation Facilities notice.

#### REPORTS FROM DIRECTORS AND DISTRICT CONSULTANTS

Ms. Humphries reviewed a letter from the District's financial advisor regarding the District's \$3,550,000 Unlimited Tax Refunding Bonds, Series 2013, a copy of which is attached. She stated that the District's total debt service savings was \$932,953, and the total present value savings was \$430,171. She noted this does not include additional savings related to the cash defeasance.

#### COMMENTS FROM THE PUBLIC

There were no comments from the public.

#### BOOKKEEPER BILLING MATTERS AND AMENDED AND RESTATED BOOKKEEPER SERVICES AGREEMENT

Ms. Erin Garcia presented and discussed a letter to the Board, a copy of which is attached. She stated that MCI has historically not maintained written documentation of time spent on services related to hourly rate work on non-recurring services such as work associated with bond issues, bond anticipation notes and surplus funds applications ("Non-Recurring Services") under the existing services agreement between MCI and the District. She also stated that in the past MCI has billed such services to the District based on time estimates provided by MCI bookkeepers, without corresponding written support. Ms. Colette Garcia stated from an auditing standpoint, estimated time and lack of written backup is not satisfactory. Discussion ensued.

Ms. Erin Garcia also presented and reviewed an Amended and Restated Bookkeeper Services Agreement (the "Amended Agreement"). She stated that the

Amended Agreement includes flat fees for the various Non-Recurring Services, which services had been previously billed at an hourly rate, and she reviewed the schedule of flat fees. Following review and discussion with the auditor and Ms. Erin Garcia, Director Weary moved to approve the Amended and Restated Bookkeeper Services Agreement with MCI and direct that the Amended Agreement be filed appropriately and retained in the District's official records. Director Fain seconded the motion, which carried unanimously.

There being no further business to come before the Board, the meeting adjourned.

  
Secretary, Board of Directors

(SEAL)



ACTION LIST

1. The attorney will prepare the requested notice for the newsletters and website.
2. The attorney will obtain an update on the status of the Sports Complex.

LIST OF ATTACHMENTS TO MINUTES

	<u>Minutes</u>
	<u>Page</u>
bookkeeper's report.....	2
tax assessor/collector's report .....	2
engineer's report .....	4
letter from financial advisor regarding Series 2013 Refunding Bonds .....	5