

# DRAFT

## MINUTES HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 285

December 11, 2007

The Board of Directors (the "Board") of Harris County Municipal Utility District No. 285 (the "District") met in regular session, open to the public, on the 11th day of December, 2007, at Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas, and the roll was called of the members of the Board:

Walter A. Knowles, Jr.	President/Investment Officer
Roy Adame, Jr.	Vice President
James W. Chick	Secretary/Investment Officer
Jerry L. Allen	Asst. Vice President
Chand Khan	Assistant Secretary/Investment Officer

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

Also present at the meeting were Mary Jarmon of Myrtle Cruz, Inc.; Kenneth Martinec and Dane Plumley of Jones & Carter, Inc. ("J&C"); Rene Anandel of Wheeler & Associates, Inc.; Calvin Browne of Southwest Water Company ("SWWC"); Arthur Marshall, Board member of North Channel Water Authority ("North Channel"); Chad Ferguson of BPI Realty Services; Angie Domingues of KB Home; Rebecca Marcucci of Legacy Energy Management Solutions ("Legacy"); Susan Edwards of Allen Boone Humphries Robinson LLP ("ABHR"); and Susan Prospere, Recording Secretary.

### MINUTES

The Board considered approving the minutes of the November 13 and 20, 2007, meetings. After discussion, Director Chick moved to approve the minutes as presented. The motion was seconded by Director Allen and carried by unanimous vote.

### STATEMENTS AND QUESTIONS FROM THE PUBLIC

The Board noted that no members of the public were present to make statements or ask questions.

### LEGACY REPORT

Ms. Marcucci reviewed a report from Legacy, a copy of which is attached. The Board requested that Legacy provide information regarding the District's energy savings after contracting with Constellation NewEnergy for electrical services.

# DRAFT

## BOOKKEEPER'S REPORT

The Board reviewed the bookkeeper's report and considered payment of the bills. Ms. Jarmon also reviewed the District's investments, including the monthly investment report, and a year-to-date budget comparison. The Board requested that check no. 6467 to Waste Management for a new dumpster at wastewater treatment plant no. 1 and a previous check for the same charge be held pending the receipt of further information. After discussion, Director Adame moved to approve the bookkeeper's report, including the checks presented for payment, and the monthly investment report. The motion was seconded by Director Allen and carried by unanimous vote. A copy of the bookkeeper's report is attached.

## SECURITY REPORT

The Board reviewed a written report from the Harris County Sheriff's Department of security activities in the District for the month of November, a copy of which is attached. Director Allen reported that a representative from the Harris County Sheriff's Department will attend the January 28, 2008, Board meeting.

## TAX REPORT

Ms. Anadel reviewed the monthly tax report, which reflects that 0.69% of the District's 2007 taxes have been collected to date. The Board requested that Ms. Anadel email the tax report to the Board prior to its meetings in the future. After review, Director Chick moved to approve the tax report and payment of the checks drawn on the District's tax account. The motion was seconded by Director Allen and carried unanimously. A copy of the tax report is attached.

## DELINQUENT TAX REPORT

Ms. Anadel presented the delinquent tax report prepared by Perdue, Brandon, Fielder, Collins & Mott, L.L.P. A copy of the delinquent tax report is attached.

## DEVELOPERS' REPORTS

Mr. Ferguson reported on the status of the FVNA Properties, Ltd. ("FVNA"), marketing of its property in the District.

Ms. Domingues distributed copies of a report from KB Home regarding its development in the District, a copy of which is attached.

## NORTH CHANNEL REPORT

Mr. Marshall reported on the status of the North Channel surface water supply activities, including the construction projects underway. He stated that Billy C. Allen

# DRAFT

Jr., has reported water accountability for the month of 107.15% and that 81.66% of the water usage was surface water.

## ENGINEER'S REPORT

Mr. Martinec presented a written report regarding engineering activities performed in the District, including the projects specifically addressed as follows in these minutes. A copy of the engineer's report is attached.

## WASTEWATER TREATMENT PLANT NO. 2, PHASE 1

Mr. Martinec reported on the status of the construction of permanent wastewater treatment plant no. 2, Phase 1. He recommended approval of Change Order No. 3 to the contract with R.P. Constructors, Inc., for the second repair of the exterior wall of the tank, resulting in a net increase of \$18,918 in the contract amount. He also presented a letter from Stanley Engineering Co., Inc. ("Stanley"), a copy of which is attached, confirming its responsibility for payment of the cost associated with Change Order No. 3 after the work is complete and satisfactory. After discussion, Director Khan moved to approve Change Order No. 3 based on Stanley's agreement to pay the associated costs. Director Adame seconded the motion, which carried unanimously.

## WATER PLANT CLEARING AND GRUBBING

Mr. Martinec reported on the status of the water plant clearing and grubbing. He stated that no Pay Estimates or Change Orders were submitted by Excalibur Construction, Ltd., for the Board's approval.

## WATER PLANT, PHASE 1

Mr. Martinec updated the Board regarding the District's proposed water plant, Phase 1. The Board deferred approval of the plans and specifications for the project pending receipt.

## ELEVATED WATER STORAGE TANK WAIVER

Mr. Martinec informed the Board that J&C is finalizing the application to the Texas Commission on Environmental Quality for a waiver from the elevated water storage tank requirement.

## WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE LIBERTY LAKES, SECTION 2

Mr. Martinec reported on the status of the construction of the water, sewer, and drainage facilities to serve Liberty Lakes, Section 2. He stated that J&C is coordinating completion of the punch list items.

# DRAFT

## WATER, SEWER, AND DRAINAGE FACILITIES AND OFF-SITE WATER LINE TO SERVE LIBERTY LAKES, SECTION 9

Mr. Martinec reported on the status of the construction of the water, sewer and drainage facilities and off-site water line to serve Liberty Lakes, Section 9. He stated that no Pay Estimates or Change Orders were submitted by Cravens Partners, Ltd. ("Cravens"), for the Board's approval.

## WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE LIBERTY LAKES, SECTION 10

Mr. Martinec reported on the status of the water, sewer, and drainage facilities to serve Liberty Lakes, Section 10. He stated that no Pay Estimates or Change Orders were submitted by Crostex Construction, Inc., for the Board's approval.

## NEW FOREST WEST, SECTION 4, LIFT STATION

Mr. Martinec reported that the project will be delayed until the District proceeds with the water, sewer, and drainage facilities to serve New Forest West, Section 4.

## WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE NEW FOREST WEST, SECTION 3

Mr. Martinec reported on the status of the construction of the water, sewer, and drainage facilities to serve New Forest West, Section 3. He recommended approval of Pay Estimate No. 1 in the amount of \$211,551.87 submitted to C.E. Barker, Ltd., and Change Order No. 1 for adding rip rap around the storm sewer outfall, resulting in a net increase of \$1,530 in the contract amount. After discussion, Director Khan moved to approve Pay Estimate No. 1 and Change Order No. 1 as recommended. The motion was seconded by Director Adame and carried by unanimous vote.

## NEW FOREST LIFT STATION AND FORCE MAIN UPGRADE

The Board deferred the review of bids and award of a contract for the New Forest lift station and force main upgrade pending the receipt of bids.

## WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE CARPENTER'S LANDING, SECTION 2

Mr. Martinec reported on the status of the construction of the water, sewer, and drainage facilities to serve Carpenter's Landing, Section 2. He recommended approval of Pay Estimate No. 6 in the amount of \$25,122.01 submitted by Cravens. After discussion, Director Khan moved to approve Pay Estimate No. 6 as recommended. The motion was seconded by Director Adame and carried by unanimous vote.

# DRAFT

## WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE CARPENTER'S LANDING, SECTION 3

The Board deferred approval of the plans and specifications for the water, sewer, and drainage facilities to serve Carpenter's Landing, Section 3, pending receipt, and deferred authorizing advertisement for bids for the project pending approval of the plans and specifications.

## WATER AND SEWER TRUNK LINES TO SERVE FVNA AND LEY TRACTS

Mr. Martinec reported on the status of the construction of the water and sewer trunk lines to serve the FVNA and Ley tracts. He recommended approval of Pay Estimate No. 2 in the amount of \$336,435.75 submitted by Cravens. After discussion, Director Khan moved to approve Pay Estimate No. 2 as recommended. The motion was seconded by Director Adame and carried by unanimous vote.

## OFF-SITE FACILITIES TO SERVE BLACK ROCK COMMONS

Mr. Martinec reported on the status of the construction of the off-site facilities to serve Black Rock Commons. He stated that no Pay Estimates or Change Orders were submitted by Statewide Services for the Board's approval.

## N500 DETENTION POND EXPANSION TO SERVE FVNA

Mr. Martinec reported on the status of the N500 detention pond expansion to serve FVNA. He stated that no Pay Estimates or Change Orders were submitted by Spaw Glass Civil Construction, Inc., for the Board's approval.

## DEEDS AND EASEMENTS, INCLUDING SPECIAL WARRANTY DEED FOR STONE PARK APARTMENTS LIFT STATION SITE

The Board deferred acceptance and/or approval of any deeds or easements, including the Special Warranty Deed for the Stone Park Apartments lift station site, pending receipt.

## BOND APPLICATION NO. 8

Mr. Martinec presented a Summary of Costs for bond application no. 8, a copy of which is attached. Upon a motion made by Director Khan and seconded by Director Adame, the Board voted unanimously to approve the Summary of Costs.

## CONSENT TO ENCROACHMENT

Ms. Edwards reviewed revisions proposed by Harris County to the District's Consent to Encroachment allowing Harris County to construct facilities on the District's

# DRAFT

Liberty Lakes lift station easement. The Board declined to approve the revisions proposed by Harris County.

## GARBAGE COLLECTION PROPOSALS

The Board reviewed proposals from Allied Waste Services, Waste Management, Royal Disposal & Recycle, and WCA Waste Corporation ("WCA"). The Board agreed to hire WCA, contingent upon its ability to schedule service on Tuesday and Friday rather than Wednesday and Saturday as proposed and execution of a written agreement. The Board requested that ABHR obtain a form of contract from Waste Management if WCA cannot schedule service as requested.

## AMENDMENT NO. 1 TO WATER AND WASTEWATER CAPACITY COST-SHARING AGREEMENT

The Board deferred approval of Amendment No. 1 to Water and Wastewater Capacity Cost-Sharing Agreement pending receipt.

## WATER AND SANITARY SEWER TRUNK LINE EXTENSIONS FROM BELTWAY 8 TO WASTEWATER TREATMENT PLANT NO. 2 COST-SHARING AGREEMENT

The Board deferred approval of the Water and Sanitary Sewer Trunk Line Extensions from Beltway 8 to Wastewater Treatment Plant No. 2 Cost-Sharing Agreement pending receipt.

## EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY TO DISCUSS PENDING OR CONTEMPLATED LITIGATION

Director Khan moved that the Board convene at 8:05 p.m. in Executive Session pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with the District's attorney to discuss contemplated or pending litigation. Director Chick seconded the motion, which carried unanimously.

## RECONVENE IN OPEN SESSION AND AUTHORIZE ANY NECESSARY ACTION RESULTING FROM EXECUTIVE SESSION

The Board reconvened in Open Session at 8:22 p.m. Upon a motion made by Director Chick and seconded by Director Allen, the Board voted unanimously to terminate the District's contract with Kenneth Lamb Construction Co., Inc., for the construction of the water, sewer and drainage facilities to serve New Forest West, Section 4.

## OPERATOR'S REPORT

Mr. Browne reviewed the monthly operations report. He reported on routine maintenance and repairs in the District. He stated that there were no violations of the permitted parameters at wastewater treatment plants nos. 1 and 2 during the month of October. The Board requested that Mr. Browne investigate the dumpster charges by Waste Management. Mr. Browne indicated that the charges are probably for monthly service but stated that he will check into the matter further. A copy of the operations report is attached.

## HEARING REGARDING TERMINATION OF SERVICE

The Board conducted a hearing regarding water and sewer service terminations. Mr. Browne informed the Board that the residents on the termination list were delinquent in payment of their water and sewer bills and were given written notification in accordance with the District's Rate Order prior to the meeting of the opportunity to appear before the Board of Directors to explain, contest, or correct their bills and to show why utility service should not be terminated for reason of non-payment. The Board requested that Mr. Browne send email confirmation that the water meters were pulled at the residences of Bobby Hawkins of 14119 Falling Elm Lane and Lisa Blanson of 202 Shekel Lane because their delinquent charges were significantly in excess of their deposits. After discussion, Director Chick moved that, because the residents on the termination list were either not present at the meeting or had not requested to speak regarding their delinquency nor had they presented any written statement on the matter to the Board, utility service for such residents should be terminated on January 2, 2008, in accordance with procedures set forth in the District's Rate Order. The motion was seconded by Director Allen and carried by unanimous vote. A copy of the termination list is attached.

## WATER SMART PROGRAM

Ms. Prospere reported that the Harris-Galveston Subsidence District has indicated that no schools in the Galena Park Independent School District are currently available for the District's sponsorship of the Water Wise Program. Mr. Browne explained that participation in the Water Wise Program is necessary for the District's fulfillment of the Water Smart Program requirements. After discussion, the Board requested that ABHR investigate the possibility of the District's sponsorship of the Water Wise Program at a District school in the spring for an amount up to 100 students.

# DRAFT

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

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Secretary, Board of Directors

(SEAL)

## LIST OF ATTACHMENTS TO MINUTES

	Minutes
	<u>Page</u>
report from Legacy .....	1
bookkeeper's report .....	2
written report from the Harris County Sheriff's Department of security activities in the District for the month of November.....	2
tax report .....	2
delinquent tax report .....	2
report from KB Home.....	2
engineer's report .....	3
operation's report.....	8
termination list .....	8