

# GREENWOOD UTILITY DISTRICT

## MINUTES OF MEETING OF BOARD OF DIRECTORS

September 18, 2019

The Board of Directors (the "Board" or "Directors") of Greenwood Utility District (the "District") met in regular session, at 6:30 p.m. on Wednesday, September 18, 2019, at 11702A Tidwell Road, Houston, Texas 77044, pursuant to notice of said meeting posted in accordance with Chapter 551 of the Texas Government Code; whereupon the roll was called of the members of the Board, to-wit:

Gary Flight	President
Mary O'Neill	Vice President
Christina Guerra	Secretary
Robert L. Primeaux	Assistant Secretary
David Alamia	Director

All members of the Board were present, except Director Primeaux and Director Alamia. Also attending were Anthony Lasky of Municipal Accounts & Consulting L.P. ("Bookkeeper" or "MAC"); Brittini Silva of Assessments of the Southwest ("Tax Assessor/Collector" or "ASW"); Johnny Bellamy of Municipal District Services ("Operator" or "MDS"); Jim Ainsworth and Ronald D. Anderson II of A&S Engineers, Inc. ("Engineer" or "A&S"); Bill Blich of Blich Associates, Inc. ("Financial Advisor" or "Blich"); Greg East of Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Delinquent Tax Attorney"); Steve Adkinson ("Developer"); Elliot M. Barner and John Thomas Foster, attorneys, and Kathryn Cain, paralegal, of Radcliffe Bobbitt Adams Polley PLLC ("Attorney" or "RBAP"); and all persons on the attached Attendance Roster.

The President, after finding that the notice of the meeting was posted as required by law and determining that a quorum of the Board was present, called the meeting to order and declared it open for such business as may regularly come before it.

### PUBLIC COMMENT

The President opened the meeting to public comment. As no comments were offered, the President directed the Board to proceed with the agenda.

### MINUTES

At the request of Mr. Barner, approval of the minutes from the August 28, 2019 meeting was tabled until the October 16, 2019 Board meeting.

Next, Mr. Barner explained to the Board a recent request made by a resident of the District to have his name removed from the minutes of the December 19, 2018 and January 16, 2019 regular meetings due to privacy concerns. Mr. Barner explained that while there was no requirement that such name be removed from such minutes, that there was no requirement that such name be included either. A brief discussion ensued. Upon a **motion** by Director Guerra, seconded by Director O'Neill, after full discussion and with all Directors present voting aye, the

Board approved the amended minutes from the regular meetings held December 19, 2018 and January 16, 2019, as presented.

### **TAX ASSESSOR-COLLECTOR'S REPORT**

The Tax Assessor-Collector's Report for August 2019 was presented by Ms. Silva, a copy of which is attached hereto as Exhibit "A." Ms. Silva reported that 92.26 percent of the 2018 taxes have been collected as of August 31, 2019.

In response to a question from Director O'Neill regarding the decrease in the total collection of taxes from the current year to the 2017 tax year, Ms. Silva and Mr. Barner reminded the Board that such decrease related to the number of delinquent accounts in the annexed portions of Tidwell Lakes Subdivision ("Tidwell Lakes"). Mr. Barner then stated that, in his opinion, certain mortgage companies for property owners within Tidwell Lakes must have failed to escrow the taxes for the 2018 tax year due to the fact that when such mortgage companies funded the purchase of homes for such owners, such portion of Tidwell Lakes were not within the District.

Next, Mr. East presented the Delinquent Tax Report, a copy of which is attached hereto as Exhibit "B." Mr. East reported that letters regarding service termination for non-payment of 2018 delinquent taxes had been sent out, except to those property owners with delinquent tax accounts residing in Tidwell Lakes.

The President then opened the public hearing on the termination of water service to the delinquent 2018 tax accounts. It was noted that no members of the public were present to speak regarding such terminations. The President then closed the public hearing.

Mr. East then explained that before the meeting, a customer had discussed the unpaid tax account for the property where she resided and that he would follow up with such customer further to provide her with more information so that she could contact the property owner. Mr. Barner then reminded the Board that when it approves termination of water service to delinquent tax accounts, it is only for such accounts that are eligible and that when such accounts are not in the same name as the customer's water service account, the District cannot terminate water service to such customers.

Upon a **motion** by Director O'Neill, seconded by Director Guerra, after full discussion and with all Directors present voting aye, the Board: 1) approved the Tax Assessor-Collector's Report, as presented; and 2) authorize termination of water service to eligible accounts due to non-payment of delinquent 2018 taxes.

### **CONSTABLE'S REPORT**

Mr. Barner stated that the Constable was not present at the meeting to present the Constable's Report, a copy of which is attached hereto as Exhibit "C." A brief discussion ensued about such report.

## **DETENTION POND MAINTENDANCE REPORT**

Mr. Barner reported that Director Alamia had recently corresponded with Stuckey's Contract Services ("Stuckey's") regarding damage to certain inlet grates at the Water Plant No. 2 Detention Pond. Mr. Ainsworth went on to explain that, during Director Alamia's recent inspection of the District, he had observed that a portion of such grate had fallen into the concrete drain for such pond. Mr. Ainsworth responded that temporary fencing had been installed around such drain to prevent any trespassers or invitees from falling into such drain. Mr. Ainsworth reported that Mr. Stuckey would be providing him with the cost of repairs to the grates within the next week, and that Mr. Stuckey would bring such cost information to the October 16, 2019 Board meeting. In response to a question by Director O'Neill, Mr. Barner reported that Director Alamia emailed Mr. Stuckey about the damage at the detention pond on September 16, 2019. Mr. Barner stated that an action item will be added to next month's agenda regarding repairs to the detention pond located at Water Plant No. 2.

## **2019 TAX RATE**

Mr. Barner reported that due to an error at the *Atascocita Observer* newspaper, the District's notice of public hearing on the 2019 tax rate was not published in time to conduct the public hearing on such tax rate at tonight's Board meeting. Ms. Silva then presented a copy of the correspondence from the *Atascocita Observer* newspaper regarding the printing error, which is attached hereto as Exhibit "E". Mr. Barner stated that the error would not affect the tax rate or the effective date, and further stated that the public hearing would take place at the Board's next regular meeting on October 16, 2019. Ms. Silva reported that she would send a notice of public hearing to the *Atascocita Observer* with the new public hearing date of October 16, 2019. Mr. Blich reminded the Board that it is of the utmost importance to have a quorum at the October meeting so that the notice of public hearing does not have to be re-published, as that would cause the 2019 tax rate to be adopted late.

## **BOOKKEEPER'S REPORT**

The Bookkeeper's Report, a copy of which is attached hereto as Exhibit "F," was presented by Mr. Lasky. After a review of current fund balances, expenditures and investments, Mr. Lasky reviewed current year-to-date revenues and expenditures against the budget.

Mr. Lasky reported that the final balances of the Regional Water Treatment Plant Fund checking account and the Surface Water Facility Fund checking account were different than the balances that appear in the report because the AT&T invoices for the services provided to such facilities were paid after the Bookkeeper's Report was printed.

In response to a question, Messrs. Barner and Lasky reminded the Board that that anyone that has questions about invoices submitted for payment can call Mr. Lasky prior to the meeting.

Messrs. Barner and Lasky then explained that Director Guerra had submitted a request for a fee of office for recently cleaning the Administration Building. Mr. Barner went on to remind the Board that they had postponed whether or not to determine that such cleaning was eligible for payment of a fee of office and stated that he wanted to make sure the Board understood that before they approved payment of such fee. A brief discussion ensued regarding such payment and the process for requests of fees of office and payment for same. In response to a question, Mr. Lasky explained that the Directors' fees of office and expense reports that MAC

would be processing the day after the meeting for payment by direct deposit are not included in the Bookkeeper's Report being presented at the meeting because they are not provided to him until at such meeting. Mr. Barner explained to the Board that they should be reviewing such directors' reports prior to approving payment of such fees. The Board then reviewed such reports. Upon a **motion** by Director Guerra, seconded by Director O'Neill, after full discussion and with all Directors present voting aye, the Board approved payment of the fees of office and expenses included in the Director's Fees of Office and Expense Reports.

Director Guerra next asked how much time a developer is given to pay the District for a requested feasibility study. Mr. Barner explained to the Board that a developer pays a deposit prior to A&S performing a feasibility study and that the amount of such deposit is designed to provide for the engineering costs for performing such study. Mr. Barner then recommended that Mr. Lasky review with the Board the pages in his report that identify developers' deposits and expenses charged against such deposits. Mr. Barner also recommended that Mr. Lasky send letters to any developers that have outstanding balances.

In response to a question from Director O'Neill regarding why payments to AT&T are made out of different accounts, Mr. Bellamy stated that each of the District's facilities have dedicated telephone lines and that depending on the facility, whether it be a joint facility with Parkway or a facility solely owned by the District, the account that such bill is paid from differs.

In response to a question from Director O'Neill regarding the expenses identified in the Bookkeeper's Report under the line item listed as Service Account Collections, Mr. Lasky stated that he believed such expenses are billed by MDS for its services, but that he would need to verify further. A brief discussion ensued and upon reviewing the checks that he had submitted to the Board for approval for payment under such line item, Mr. Lasky confirmed that the expense is for basic services provided by MDS. Mr. Bellamy suggested that the line item be renamed from Service Account Collection to Operator's Fee in future Bookkeeper's Reports for clarification.

In response to a question regarding legal fees from Director O'Neill, Mr. Barner explained to the Board that he believed such fees were primarily over budget because of costs related to matters involving Tidwell Lakes.

### **ANNUAL REVIEW OF INVESTMENT POLICY, AMEND AS NECESSARY**

Mr. Barner then explained that the Texas Public Funds Investment Act, as amended, requires the Board to review the District's Investment Policy on an annual basis and presented an Order acknowledging such review for the Board's consideration and adoption. Mr. Barner stated that he had no recommended changes to the Investment Policy.

In response to a question, Mr. Barner clarified that such review did not mean that such policy was required to be amended and that any motion by the Board only needed to acknowledge that such policy had been reviewed. A discussion then ensued regarding the District's Investment Policy. Upon a **motion** by Director O'Neill, seconded by Director Guerra, after full discussion and with all Directors present voting aye, the Board approved the Order Reviewing Investment Policy and Investment Strategies.

## **REVIEW AND APPROVE AMENDED LIST OF AUTHORIZED BROKERS**

Messrs. Lasky and Barner next reported that the list of approved financial institutions/brokers for the investment of District funds did not need to be updated at this time.

Upon a **motion** by Director Guerra, seconded by Director O'Neill, after full discussion and with all Directors present voting aye, the Board approved the Bookkeeper's Report, as presented, and acted on the following: a) adopted the Order Amending List of Authorized Brokers; and b) authorized payment of checks numbered 1954 through 8007, inclusive, from the General Fund; checks numbered 1057 through 1059, inclusive, from the Capital Projects Fund; and checks numbered 2251 through 2267, inclusive, from the Regional Water Treatment Plant Fund; and checks numbered 4132 through 4140, inclusive, from the Surface Water Facility Fund.

In response to a question from Director Guerra regarding the investments of the District's funds, Mr. Lasky stated that interest rates have dropped recently, and that MAC, as the District's Investment Officer, has an investment team that reviews interest rates and investment opportunities in order to invest the District's funds in accordance with the law and the District's policy. Mr. Barner recommended that at least one (1) Board member participate in a certified investment training class in order to become more aware of State law on investments and in order to review MAC's investment of District funds. Mr. Barner stated that the District's Auditor provides such training annually and that if anyone should want more information, to please let him know.

## **ENGINEER'S REPORT**

The Engineer's Report was next presented by Mr. Anderson, a copy of which is attached hereto as Exhibit "G."

Mr. Anderson reminded the Board that it had approved Van De Wiele & Vogler, Inc. ("Van De Wiele") to appraise the water, sewer and drainage facilities ("WS&D") located within the annexed portion of Tidwell Lakes, Sections 1, 2 and 9. Mr. Anderson reported that A&S has been in the process of responding to questions from Van De Wiele regarding certain information needed to perform such appraisal and that he will have a further update at the October, 16, 2019 Board meeting.

Mr. Anderson reported that the Tidwell Lakes Force Main construction performed by Bay Utilities, LLC ("Bay") is now complete. Mr. Anderson next presented Pay Application No. 5 in the amount of \$106,583.00 and a Certificate of Final Completion and recommended approval of same. Further regarding the Tidwell Lakes Force Main construction, Mr. Anderson reported that the valve modification work has commenced and A&S is waiting on a schedule for installation of the valve.

Regarding the Hidden Meadow Subdivision ("Hidden Meadow"), Mr. Anderson reported that WS&D construction has commenced in Hidden Meadow Section 14. Mr. Anderson next presented Fellers & Clark, LP's ("Fellers") Pay Application No. 2 in the amount of \$32,872.47 and a Certificate of Substantial Completion and recommended approval of same.

Mr. Anderson next reported that A&S has received approval from the Texas Commission on Environmental Quality (the "TCEQ") and the City of Houston (the "City") regarding the design of the upgrades to Water Plant No. 2. Mr. Anderson further reported that A&S is waiting

for final approval from Harris County (the "County"), and requested authority from the Board to advertise the Water Plant No. 2 project once final approval is received.

Mr. Anderson then reported that the draft Bond Application Report (the "BAR") No. 10 has been updated to reflect the increased construction costs for infrastructure. Mr. Anderson stated that the BAR is being reviewed by the District's consultants and that such BAR will be submitted to the TCEQ once all consultants' comments have been received and addressed.

Next, Mr. Anderson presented information related to the proposed development of an approximately 390,000 square foot warehouse along Beltway 8 and Garrett Road (the "Beltway 8 Warehouse") to be used for light-industrial purposes. Mr. Anderson presented the Board with a map showing the District's boundaries and the proposed area to be annexed. Mr. Steve Adkins introduced himself to the Board as the developer of such land. Mr. Anderson explained that Mr. Adkins' development will need an estimated 40 equivalent single-family connections ("ESFC") and will have an estimated appraised value of \$20,000,000. Mr. Anderson reported that it would cost Mr. Adkins approximately \$450,000 to extend the District's existing water lines in order to serve the Beltway 8 Warehouse. Mr. Anderson confirmed that the District has the capacity to serve the Beltway 8 Warehouse.

Regarding the possible annexation of a tract of land owned by Skymark Development ("Skymark"), which was previously discussed at the July 17, 2019 Board meeting, Mr. Anderson then confirmed with the Board that it desired to decline annexation of such tract. Director Flight stated his concern regarding increased flooding that could occur within the District as a result of an additional residential development such as the one proposed by Skymark. Mr. Anderson informed the Board that he would notify Skymark of the District's decision.

## **JOINT FACILITIES REPORT**

Mr. Anderson first presented a proposal with Hach ("HB Systems" or "HB") for a lease of influent sanitary sewer flow meters that would be located where the RWWTF collects such influent from the District. Mr. Anderson informed the Board that HB has installed over 5,000 flow meters across the country and that they currently operate 1,500 meters, 400 of which are located in Texas. Mr. Anderson explained that the yearly cost of the contract with HB totals \$13,000, which would include a one-time installation fee of \$1,800, \$125 per month for meter reports, and \$875 per month to rent the meters. Mr. Anderson added that Parkway Utility District ("Parkway") has already approved such lease from HB so that influent into the RWWTF from Parkway's sanitary sewer collection system will be measured, but that accurately measuring total inflow to the RWWTF will not be possible unless both the District and Parkway lease such meters.

Regarding the Surface Water Transmission Facility ("SWTF"), Mr. Anderson reported that the County's new requirements regarding drainage for the SWTF leave Parkway and the District with two (2) options: 1) install a small pump station to pump out water from the detention pond as needed; or 2) condemn more land through the use of the District's eminent domain authority to enlarge the proposed detention pond for the SWTF. Mr. Anderson stated that option two (2) would be more costly to the District and require significantly more time to complete.

Mr. Anderson next reported that the design of the 16-inch waterline for the purpose of increased surface water from the City remains ongoing.

Upon a **motion** by Director Guerra, seconded by Director O'Neill, after full discussion and with all Directors present voting aye, the Board approved the Engineer's Report and Joint Facilities Report, as presented, and acted on the following: 1) approved Bay's Pay Application No. 5 in the amount of \$106,583.00 for the Tidwell Lakes Force Main; 2) Approved the Certificate of Final Completion for the Tidwell Lakes Force Main; 3) approved Fellers' Pay Application No. 2 in the amount of \$32,872.47 for Hidden Meadow Section 14; 4) approved the Certificate of Final Completion for Hidden Meadow Section 14; 5) authorized A&S to advertise the Water Plant No. 2 project once final approval is received from the County; 6) authorized A&S to inform Skymark that the District does not desire to annex the Friendswood property; 7) authorize A&S to execute the contract with HB regarding the lease of influent sanitary sewer flow meters; and 8) authorize RBAP to move forward with the reimbursement agreement with the warehouse developer.

### **OPERATOR'S REPORT**

The Operator's Report was next presented by Mr. Bellamy, a copy of which is attached hereto as Exhibit "H."

In response to a question from Director O'Neill, Mr. Bellamy explained the obstructed meter fee mentioned in his report is assessed to a customer when the Operator is not able to access a customer's meter. Mr. Bellamy went on to explain that a spreadsheet of such obstructed meters is provided to the Attorney's Office and that the Attorney then mails a notice of such obstruction to the customer and the property owner (if such owner is different). The letters informs the customer that such fee will be assessed against the resident going forward unless the obstruction is cleared.

Upon a **motion** by Director Guerra, seconded by Director O'Neill, after full discussion and with all Directors present voting aye, the Board approved the Operator's Report, as presented.

### **PROCEDURES FOR DISTRICT ADMINISTRATION CLEANING**

Mr. Barner reminded the Board that it had previously postponed discussion on procedures for cleaning the Administration Building. It was the consensus of the Board that it would further postpone such discussion until all Board members were present.

### **DISTRICT INSPECTIONS BY DIRECTORS**

Directors O'Neill and Guerra reported that they jointly inspected Tidwell Lakes and noted several items, including a missing meter box lid at one (1) address. Mr. Barner explained to Directors O'Neill and Guerra that since Tidwell Lakes Wastewater Utility ("TLWWU") is still providing service to Tidwell Lakes, that the District cannot install such lid.

In response to a question about fire hydrants, Mr. Ainsworth reminded the Board that A&S had inspected fire hydrants in Tidwell Lakes roughly five (5) months ago and gave the Board a price estimate for TLWWU to address the issues identified during such inspection. Mr. Ainsworth stated that Eli Sasson stated that he would make the repairs to the fire hydrants.

Director O'Neill then reported that during a District inspection, she found a light pole that had fallen down in Hidden Meadow. Mr. Barner explained to the Board that the homeowners'

association of Hidden Meadow should repair the fallen light pole as the District is not responsible for light poles.

Mr. Bellamy next stated that the new Rate Order will become effective in October. Mr. Barner reminded the Board that the District had to raise rates because it does not have an operations and maintenance tax since tax elections have not been successful with the District's voters.

### **ATTORNEY'S REPORT**

Mr. Barner reported that Mr. Trachtenberg and he had a meeting scheduled that morning with the attorney for RES Development, but that such meeting had to be rescheduled due to the heavy rain event produced by Tropical Storm Imelda.

Mr. Barner next informed the Board that House Bill 3834, which recently passed the 86<sup>th</sup> Texas State Legislature, that the District's Board, as well as many other local elected officials, may be required to take annual cyber security training, but that RBAP is coordinating with the Texas Department of Information Resources, the department responsible for certifying such training, on whether such training applies to governmental entities such as the District.

Mr. Barner then reported on Senate Bill 944 and reminded the Board that text messages sent to each other or to District consultants on privately-owned smart phone devices regarding District matters is public information under the Texas Public Information Act. Mr. Barner advised the Board to not send such messages to each other or District consultants. Mr. Barner then recommended that the Board establish District email addresses for District matters and stated that RBAP would prepare a resolution regarding same.

Director Guerra then inquired about whether or not she could be reimbursed for the purchase of any cleaning supplies and toiletries used to clean the Administration Building. Mr. Barner explained that if such a purchase of supplies is authorized by the Board, then the expense is reimbursable; however, the Board's authorization must be clearly documented. Mr. Bellamy offered to purchase such supplies at the same time MDS purchases supplies for the RWWTF bathroom if the Board would provide him with a list of the supplies needed, and the expense for the purchase of such supplies would be included in MDS monthly bill to the District.

**THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD**, the meeting was adjourned.



**SIGNED, PASSED and APPROVED** this the 16<sup>th</sup> day of October, 2019.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

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Secretary, Board of Directors

**EXHIBITS:**

- A - Tax Assessor-Collector Report
- B - Delinquent Tax Report
- C - Constable's Report
- D - Correspondence from Shane Stuckey
- E - Correspondence from the *Atascocita Observer*
- F - Bookkeeper's Report
- G - Engineer's Report/Correspondence Items
- H - Operator's Report