

**MINUTES OF MEETING  
KLEINWOOD MUNICIPAL UTILITY DISTRICT  
HARRIS COUNTY, TEXAS**

**April 23, 2009**

STATE OF TEXAS  
COUNTY OF HARRIS

The Board of Directors (the "Board") of Kleinwood Municipal Utility District (the "District") of Harris County, Texas, met in **regular session**, open to the public, on **Thursday, April 23, 2009**, at 6:00 p.m. at the District Office, 16530 Kleinwood Drive, Spring, Texas, within the boundaries of the District, and the roll was called of the duly constituted officers and members of the Board, to-wit:

Stephen E. Williams	President
Vic Fowler	Vice President & Investment Officer
Robert Ehmann	Secretary/Treasurer
Sherry Allard	Assistant Vice President & Assistant Secretary
Joe Fratangelo	Assistant Secretary

and all of said persons were present, thus constituting a quorum.

Also present were: Jon Unterreiner, P.E., of Jones & Carter, Inc. ("Jones & Carter"), Engineer for the District; Mike Ammel and Eric Thiry of Environmental Development Partners, L.L.C. ("EDP"), Operator for the District; Sara Ahlschlager of Barbara Wheeler & Associates ("Wheeler"), Tax Assessor/Collector for the District; Roger Schuett, Office Manager; John Lightfoot with John Lightfoot Investments, L.P. ("Lightfoot"), developer of Land in the District; Maria Parker, Dick Yale, and David F. Green of Coats, Rose, Yale, Ryman & Lee, P.C. ("Coats|Rose"), Attorney for the District; and the following members of the public: Ray Cicconi, Doris Cicconi, Bernie Bryl, Richard Shanks, Vic Moravek, and Cindy Mazza.

**DEVELOPMENT OF CHAMPION FALLS ESTATES, CHAMPION WOODS ESTATES, THE FALLS AT CHAMPION FOREST (herein collectively, the "Falls")**

The President recognized Mr. Lightfoot, who reported on development in the Falls. A copy of the Development Report for the Falls as prepared by Lightfoot is attached hereto.

**CHAMPION WOODS ESTATES/DETENTION POND**

The President recognized Mr. Lightfoot, who addressed the Board regarding the detention pond (the "Detention Pond") located in Reserve D in Champion Woods Estates, Section 1. Mr. Lightfoot reported that storm water entering the Detention Pond through one of the inlet pipes is overshooting the concrete pilot channel (the "Pilot Channel"), resulting in standing water and erosion. Mr. Unterreiner remarked that the Pilot Channel under the inlet pipe was not designed correctly. He stated that installing additional concrete and making other repairs to the inlet pipe and Pilot Channel (the "Pond Repairs") would likely cost up to \$20,000. Discussion ensued regarding the Detention Pond. Mr. Lightfoot expressed his view that the Community Association of Champion Woods Estates, Inc. (the "Association") does not have the

financial resources and technical expertise to handle the Pond Repairs. He requested that the District assume responsibility for both the Pond Repairs and the continuing maintenance of the Detention Pond (the "Pond Maintenance"). Ms. Parker noted that following construction of the Detention Pond, the District transferred ownership of the Detention Pond to the Association.

After discussion, upon a motion duly made and seconded, the Board voted 4 to 1, with Directors Williams, Fowler, Allard, and Ehmann in favor, and Director Fratangelo opposed, to (1) authorize the District's Engineer to prepare plans and specifications for the Pond Repairs at no cost to the District; and (2) proceed with the Pond Repairs at a cost not to exceed \$20,000. The Directors deferred further discussion regarding the Pond Maintenance to a future meeting of the Board.

### **PEACE OFFICER'S REPORT**

Mr. Green distributed copies of the Peace Officer's Report for March 2009, a copy of which is attached hereto.

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

The President recognized Ms. Alschlager, who submitted to and reviewed with the Board the Tax Assessor/Collector's Report, a copy of which is attached hereto. It was noted that the District has collected 95.91% of its 2008 taxes. The Directors also reviewed and discussed the Delinquent Collections Listing, a copy of which is attached hereto.

Then, after discussion, upon a motion duly made and seconded, the Board voted unanimously to approve the Tax Assessor/Collector's Report and to authorize payment of the checks listed therein.

### **DELINQUENT TAX REPORT**

Ms. Ahlschlager submitted to and reviewed with the Board the Delinquent Tax Report as prepared by Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue"), the District's Delinquent Tax Attorney. A copy of the Delinquent Tax Report is attached hereto.

### **ATTORNEY'S REPORT**

The President recognized Ms. Parker, who presented the Attorney's Report.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to accept the Attorney's Report.

### **MINUTES OF THE MEETINGS OF MARCH 20, 2009, AND MARCH 26, 2009**

Proposed minutes of the meeting of the Board held on March 20, 2009, previously distributed to the Board, were presented for consideration and approval.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to approve the minutes of the meeting of March 20, 2009, as presented.

Proposed minutes of the meeting of the Board held on March 26, 2009, previously distributed to the Board, were presented for consideration and approval.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to approve the minutes of the meeting of March 26, 2009, as presented.

### **DEVELOPMENT AND ANNEXATION AGREEMENTS/STUEBNER-AIRLINE TRACTS**

Ms. Parker reported on the status of the proposed Development and Annexation Agreements for the tracts along Stuebner-Airline Road. The Archdiocese of Galveston-Houston (the "Archdiocese") has signed and returned the District's Letter of Commitment, she told the Board, as well as the Water Line and Sanitary Sewer Line Easements (the "Easements") for the Archdiocese Tract. The Easements are being recorded in the official records of real property for Harris County, Texas. A copy of the Letter of Commitment is attached hereto as an exhibit to these minutes.

### **OFFICE USE AGREEMENT AND APPLICATION**

Consideration was then given to amending the Office Use Agreement and Application (the "Office Use Agreement") with respect to certain guidelines regarding the use of the District Office. Ms. Parker submitted to and reviewed with the Board a draft of the Office Use Agreement with the proposed revisions. She stated that Section 2 has been revised to state that any homeowners associations located in the District (the "Associations") and desiring to use the District Office for its monthly meetings shall complete the Application and pay an annual fee of \$300 for use of the District Office. Ms. Parker noted that Section 20 of the Office Use Agreement has been revised to include the Associations among the organizations that are permitted to use the District Office for regular meetings.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to approve the Office Use Agreement as amended. A copy of the Office Use Agreement is attached hereto and shall be considered to be part of these minutes.

### **IDENTITY THEFT AND RED FLAG RULES**

Ms. Parker stated that she would present a Resolution Establishing an Identification Theft Prevention Program for consideration at the Board's meeting on May 28, 2009.

### **DEVELOPMENT REPORTS/REQUESTS FOR SERVICE**

The President recognized Mr. Unterreiner, who reported on the status of various developments in the District as follows:

1. **Hilliard Tract/Meyer Park Office Condominiums**. Mr. Unterreiner reported that Jones & Carter has reviewed the plans and provided comments for this project.

2. **Lightfoot Office Building**. Mr. Unterreiner reported that Jones & Carter has reviewed the revised plans for this project and has provided comments. The application fee has not been received.

3. **Midas International Corporation ("Midas")**. Mr. Unterreiner reported that Jones & Carter is considering two options for the Storm Water Quality features for the detention pond in Champion Falls Estates that serves the Midas tract.

4. **Zaxby's Chicken Dinner Restaurant ("Zaxby's")**. Mr. Unterreiner reported that Jones & Carter forwarded comments to the engineer for Zaxby's, requesting that the sanitary sewer line and manhole be reinstalled in compliance with the District's standards. The engineer for Zaxby's has submitted revised plans for review by Jones & Carter. The detention pond located at the rear of the Zaxby's tract is encroaching on the 25-foot sanitary sewer line easement (the "Sewer Easement"). Jones & Carter is requesting that the detention pond be regraded so that it does not encroach on the Sewer Easement.

5. **Klein Independent School District ("Klein ISD")**. Mr. Unterreiner reported that Klein ISD is adding a new building and is working with Jones & Carter to determine the most advantageous location for connecting with the District's utility lines. Jones & Carter is reviewing the contract to confirm whether revisions would be necessary due to a new location for the connection.

### **ENGINEER'S REPORT**

The President recognized Mr. Unterreiner, who presented the Engineer's Report as follows:

1. **Champion Woods Estates Utilities**. Mr. Unterreiner reported on the construction of the water supply, sanitary sewer, and drainage facilities by Clearwater Utilities, Inc. ("Clearwater"). He informed the Board that Clearwater has completed all punch list items for Section 1 and that there are no outstanding punch list items from the inspection of Section 2. Jones & Carter is continuing to work with Harris County with regard to approval of the paving portion of the project.

2. **HEB Lift Station Abandonment**. Mr. Unterreiner reported on the status of the abandonment of the old HEB Lift Station by G & N Enterprises. The project is essentially complete.

3. **Stuebner-Airline Utilities**. Mr. Unterreiner reported that the District's Attorney forwarded the Letters of Commitment and the Easement instruments to the Archdiocese for execution.

4. **Squyres Road Detention Pond/Storm Water Drainage Plans**. The Board noted that there was nothing new to report in connection with this matter.

5. **Water Line Across Bubbles Car Wash**. Mr. Unterreiner reported that Jones & Carter plans to submit the plans for review by the end of April 2009.

6. **North Harris County Regional Water Authority ("NHCRWA") Coordination**. Mr. Unterreiner reported that construction of Project 7C-4 by the NHCRWA is complete and that Water Plant No. 2 has been returned to service.

7. **Smoke Testing and Televised Inspection of Sanitary Sewer Lines**. The Board noted that there was nothing new to report in connection with this matter.

8. **Surplus Funds**. Mr. Unterreiner reported that the District's Engineer is working with Darrell Nichols of the Texas Water Development Board (the "TWDB") with regard to the use of Surplus Funds from the District's Series 2001 Bonds to fund (1) the Champion Woods Estates Lift Station; and (2) the Water Well No. 2 Rework project. Jones & Carter submitted a

spreadsheet to the TWDB showing that the criteria had been met and that the TWDB Series 2001 escrow account is eligible for close-out. Mr. Nichols is working with the TWDB staff to resolve the remaining issues.

9. **NHCRWA/Chloramine Conversion.** Mr. Unterreiner discussed with the Board the status of the conversion to a chloramine disinfection system at the District's water plants (the "Chloramine Conversion") by Long & Son, Inc. The preconstruction conference was conducted on April 13, 2009, and construction of the Chloramine Conversion is in progress.

10. **Water Well No. 3/Emergency Repairs.** Mr. Unterreiner reported on the status of the reworking of Water Well No. 3 (the "Well No. 3 Rework") by Alsay, Inc. ("Alsay"). Alsay has completed the Well No. 3 Rework. The final pay estimate has not been submitted by Alsay.

11. **Auxiliary Generators.** Mr. Unterreiner reported that Jones & Carter is looking into options for dual-fuel auxiliary generators at the District's facilities (the "Generators"). Jones & Carter is coordinating with the District's Operator with regard to investigating options for the Generators.

12. **Water Plant and Lift Station Inspections.** Mr. Unterreiner reported that Jones & Carter is working on completing the inspections and should present a report at the Board's meeting on May 28, 2009.

13. **Federal Emergency Management Agency ("FEMA")/Hazard Mitigation Grant Program ("HMGP").** Mr. Unterreiner reported that Jones & Carter has completed the second phase of the FEMA application process for financial assistance in funding a Generator at Water Plant No. 2.

14. **Notice of Violation/Disinfectant Level Report.** Mr. Unterreiner reported that the District received a Notice of Violation (the "Violation Notice") from the Texas Commission on Environmental Quality (the "TCEQ") for failing to submit a Disinfectant Level Quarterly Operations Report for the fourth quarter of 2008. The District's Operator is coordinating with the TCEQ to resolve this matter.

15. **Centerpoint Energy, Inc. ("Centerpoint") Critical Load List.** Mr. Unterreiner reported that Jones & Carter is preparing the required application to have the District's facilities added to the Centerpoint Critical Load List.

16. **Harris-Galveston Subsidence District ("HGSD") Permit.** Mr. Unterreiner reported that Jones & Carter contacted the HGSD to discuss the settlement offer from the HGSD in connection with the District's over-pumpage in 2008 (the "Over-pumpage"). The HGSD requested an additional letter explaining the factors contributing to the Over-pumpage.

17. **Water Plant No. 1 Storm Sewer Repairs.** Mr. Unterreiner reported that Jones & Carter is reviewing options for repairing the 18-inch storm sewer line at Water Plant No. 1. The video inspection indicated severe tree root infiltration and a nearly 100% joint defect on the storm sewer line.

18. **Champion Falls Estates Detention Pond.** Mr. Unterreiner reported that the plans for the Detention Pond included a wrap-around fence at the outfall (the "Containment Fence") to contain floatable debris. This Storm Water Quality feature was not constructed as designed. He estimated the cost to construct the Containment Fence at \$4,000 to \$5,000.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize the District's Engineer to draft a letter to Lightfoot, requesting that Lightfoot take corrective action regarding the Containment Fence.

Upon a motion duly made and seconded, the Board voted unanimously to accept the Engineer's Report, a copy of which is attached hereto.

### **WALKING GARDEN/DETENTION POND**

The Directors briefly discussed matters relating to the landscaping of the Walking Garden. The Board directed the District's Attorney to invite Michael Murr of Murr, Inc., to attend the Board's meeting on May 28, 2009.

### **OPERATOR'S REPORT**

The President recognized Mr. Ammel, who submitted to and reviewed with the Board the Operator's Report as follows:

1. **Water Plant Operations.** Mr. Ammel reported that the billed to pumped ratio for the prior month was 86.3% and that the District has a total connection count of 780.

2. **System Repairs.** Mr. Ammel reported that the District's Operator had (1) installed markers on storm sewer inlets; (2) repaired a damaged sanitary sewer manhole; and (3) repaired the perimeter fence at Water Plant No. 2.

3. **Fire Hydrant Maintenance.** Mr. Ammel reported that EDP completed the flow testing of the fire hydrants located in the District (the "Hydrants") during the week of March 16, 2009. EDP completed the immediate Hydrant repairs and is working on the other maintenance repair items, as follows: [a] 22 secondary valves in need of locating or repair; [b] 13 valve stacks in need of cleaning or valve box repair; [c] 15 Hydrants in need of minor repairs, lubrication, caps, leaks, or elevation adjustment; and [d] 89 missing reflective markers.

4. **Fire Hydrant Painting.** Mr. Ammel reported that the Hydrants are in need of painting (the "Hydrant Painting") at an estimated cost of \$2,268.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize the District's Operator to proceed with the Hydrant Painting.

5. **Water Well No. 3 Check Valve.** Mr. Ammel reported that Alsay replaced the 12-inch check valve on Water Well No. 3 at a total cost of \$3,039.

6. **2008 Drinking Water Quality Report.** Mr. Ammel submitted to and reviewed with the Board a draft of the District's 2008 Drinking Water Quality Report (the "DWQR"), as prepared by EDP. He noted that the Report would need to be approved by the Board and distributed to the District's customers by July 1, 2009. A copy of the DWQR is included with the Operator's Report.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to approve the 2008 Drinking Water Quality Report, subject to review by the District's Attorney.

7. **Water Plant No. 1 Storm Sewer Repairs.** Mr. Ammel reported that EDP is conferring with Jones & Carter to determine the best course of action and repair procedures regarding the storm sewer line at Water Plant No. 1.

8. **New Commercial Connections.** Mr. Ammel reported that a tap fee letter has been forwarded to the Midas outlet in the District. The tap fees have not been paid as of this date.

9. **Water Plant No. 2.** Mr. Ammel reported that Water Plant No. 2 was returned to service following disinfection of the ground storage tank and piping modifications by the NHCRWA. The NCHRWA is again receiving water from the District.

10. **HEB Lift Station.** Mr. Ammel reported that All-Pump & Equipment Company has set up a bypass line for the HEB Lift Station to be in service during this week.

11. **HEB Center.** Mr. Ammel reported that HEB Center has informed EDP that water usage on its irrigation connection has been billed at an incorrect rate. HEB Center is requesting a refund of its overpayments. EDP is reviewing this matter.

12. **Notice of Violation/Disinfectant Level Report.** Mr. Ammel reported that EDP is publishing the Notice of Drinking Water Monitoring and Reporting Violations in response to the Violation Notice issued by the TCEQ.

13. **Water Meter Read Update Report.** Mr. Ammel submitted to and reviewed with the Board the Water Meter Read Update Report, a copy of which is attached hereto. EDP will replace 25 residential water meters each month.

Then, after discussion, upon a motion duly made and seconded, the Board voted unanimously to approve the Operator's Report, a copy of which is attached hereto.

### **TERMINATION OF SERVICE**

Consideration was then given to the termination of water and sewer service to certain accounts. The President recognized Mr. Ammel, who advised the Board that the requisite notifications had been given to each customer and that each customer was advised of the date, time and place of the meeting which they may attend to discuss termination of service. The Board noted that there were no customers present to protest the utility billings.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize the Operator to terminate the water and sewer service to those accounts listed on the termination list attached hereto.

### **REPORT ON OPERATION OF DISTRICT OFFICE**

The President recognized Mr. Schuett, who submitted to and reviewed with the Board the report concerning the District Office (the "Office Report"), a copy of which is attached hereto.

After review, upon a motion duly made and seconded, the Board voted unanimously to accept the Office Report.

## **EMERGENCY PHONE/KLEINWOOD MAINTENANCE FUND ("KMF")**

The Board noted that there was nothing new to report in connection with this matter.

## **BOOKKEEPER'S REPORT**

Mr. Schuett then reviewed with the Board the Bookkeeper's Report, a copy of which is attached hereto, and certain invoices for payment by the Board. The Board also reviewed the Investment Report.

Then, upon a motion duly made and seconded, the Board voted unanimously to approve the Bookkeeper's Report as presented, and to authorize payment of the checks listed therein.

## **KMF**

Director Ehmann reported on the activities of the KMF.

## **KLEINWOOD JOINT POWERS BOARD ("KJPB")**

Director Williams reported on the activities of the KJPB. He informed the Board that the KJPB is considering (1) a proposal for the lease of a Generator for the six months of hurricane season at a monthly cost of \$8,000 (the "Generator Rental"); and (2) repairs to the digester at the Kleinwood Regional Wastewater Treatment Plant ( the "Digester Repairs").

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize the KJPB to proceed with the Generator Rental and the Digester Repairs.

## **NHCRWA**

Mr. Green distributed copies of a memorandum from Coats|Rose regarding the April 6, 2009, meeting of the NHCRWA board of directors. A copy of the memo is attached hereto. Mr. Yale remarked that water districts receiving surface water from the NHCRWA should consider notifying the NHCRWA of the quantity of water that their water wells would need to produce on a monthly basis in order to maintain their groundwater production capacity for emergency situations when water would not be available from the NHCRWA.

## **APPROVAL/ALLIANCE FOR WATER EFFICIENCY ("AFWE")**

The Directors then considered formal approval of their action at their meeting of March 26, 2009, at which they authorized the District's membership in the AFWE. After discussion, upon a motion duly made and seconded, the Board voted unanimously to formally approve said action.

## **ESTABLISHING A WEB SITE**

The Board discussed the establishment of the District's internet web site (the "Web Site") by Payne Communications and the Texas Network. Ms. Parker suggested that the Board consider scheduling a special meeting to review the Web Site with Barbara Payne.

**STRATEGIC PARTNERSHIP AGREEMENT/CITY OF HOUSTON**

The Board discussed the possibility of the District being included in the enrollment of water districts in the next round of Strategic Partnership Agreements ("SPAs") with the City of Houston (the "City") for limited purpose annexation of water districts in its extraterritorial jurisdiction. Ms. Parker reported that Margaret Wallace of the City's Planning and Development Department informed her that the City will consider the next round of SPAs beginning in July 2009.

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

Approved this 28 May 2009

Robert E. Mann  
Secretary, Board of Directors

