

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

**28 January 2010**

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 28 January 2010 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: Deputy Constable Buddy Gheen, Jr., with the Harris County Precinct 4 Constable's Office; Roger Schuett, Office Manager, Jon Unterreiner, P.E., and Mike Christopher, E.I.T., of Jones & Carter, Inc. ("J&C"), Engineer for the District; Eric Thiry of Environmental Development Partners, L.L.C. ("EDP"), Operator for the District; David Merritt of David L. Merritt, P.C., the District's Auditor; Philip Halbert of Champions Hydro-Lawn Inc.; Dick Yale, Marcia Oliver, and David F. Green of Coats, Rose, Yale, Ryman & Lee, P.C., Attorney for the District; and the following members of the public: Bernie Bryl and David Guerrero.

The President called the meeting to order in accordance with notice posted pursuant to law, and the following business was transacted:

**DEVELOPMENT REPORT**

Mr. Green distributed copies of the Development Report as prepared by John Lightfoot Investments, L.P., regarding the status of development in The Falls at Champion Forest, Champion Falls Estates (herein collectively the "Falls") and Champion Woods Estates (herein "Champion Woods"). A copy of the Development Report is attached hereto.

**PEACE OFFICER'S REPORT**

Copies of the Peace Officer's Report as prepared by the Harris County Precinct 4 Constable's Office were distributed to the Board. The Board recognized Constable Gheen, who reported on activities in the District. A copy of the Peace Officer's Report is attached hereto.

## **PUBLIC COMMENTS**

It was noted by the Board that there were no members of the public in attendance who wished to address the Board.

## **ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED AUGUST 31, 2009**

The President recognized Mr. Merritt, who submitted to and reviewed with the Board the draft Annual Financial Report for the District (the "Report") for the fiscal year ended 31 August 2009 (the "Fiscal Year"). He reviewed with the Board (1) the District's combined fund balances as of the end of the Fiscal Year; (2) the District's total net assets; (3) the District's capital assets; (4) the amount of the District's bonded debt payable; and (5) the Statement of Net Assets and Governmental Funds Balance Sheet.

Mr. Merritt reviewed with the Board the draft Management Letter prepared in connection with the Report.

Next, Mr. Merritt reviewed with the Board the Notes to the Financial Statements. A discussion ensued regarding Note 16 – Litigation, pertaining to the ongoing litigation between the District and JP/Raveneaux Partners, LP, Kera Development, LP, and Cypress Forest Public Utility District (the "Litigation"). Mr. Yale recommended that Note 16 - Litigation be forwarded to Stumpf Farrimond, Attorneys at Law, the legal counsel for the District for matters relating to the Litigation, for review and comment.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to: (1) approve the draft of the Annual Financial Report for the District for the fiscal year ended 31 August 2009 with changes as noted by the Board, subject to a seven-day review period for the District's consultants; (2) authorize Mr. Merritt to finalize the Annual Financial Report; (3) authorize Director Williams to execute the Affidavit of Filing of Annual Financial Report and the letter of representations to Mr. Merritt; and (4) authorize Coats, Rose, Yale, Ryman & Lee, P.C., to file the finalized Annual Financial Report with the Texas Commission on Environmental Quality (the "Commission") and other governmental and regulatory agencies as required. Copies of the draft Annual Financial Report are filed in the permanent records of the District. Attached hereto as an exhibit to these minutes is a letter dated 10 February 2010 from the District's Attorney in connection with the Annual Financial Report.

The Board briefly discussed the possibility of changing the District's fiscal year end from the current date of 31 August of each year. The Directors then deferred further discussion of this matter to a future meeting of the Board.

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

The President recognized Mr. Green, who submitted to and reviewed with the Board the Tax Assessor/Collector's Report on behalf of Sara Ahlschlager of Wheeler & Associates, Inc., the District's Tax Assessor/Collector. A copy of the Tax Assessor/Collector's report is attached hereto. It was noted that as of 31 December 2009 the District had collected 34.72% of its 2009 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**

Mr. Green then submitted for the Board's review 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 Mr. Yale, who presented the Attorney's Report. He informed the Board that Maria Parker was no longer affiliated with Coats, Rose, Yale, Ryman & Lee, P.C. He then submitted to and reviewed with the Board a memorandum from the District's Attorney regarding the status of certain ongoing matters for the District. A copy of the memorandum is attached hereto as an exhibit to these minutes.

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

### **MINUTES OF THE MEETING OF 17 DECEMBER 2009**

Proposed minutes of the meeting of the Board held on 17 December 2009, previously distributed to the Board, were presented for consideration and approval. Mr. Green directed the Board's attention to revisions made to pages 1 and 3 of the minutes.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to approve the minutes of the meeting of 17 December 2009, as amended.

### **STUEBNER-AIRLINE UTILITIES**

Mr. Yale reported that the District's Attorney is working to acquire the final utility easements along Cypresswood Drive in order for the District to provide service to the tracts on Stuebner-Airline Road and Cypresswood Drive.

### **REQUEST FOR REIMBURSEMENT/DISTRICT & URBAN**

Mr. Yale reported on the status of the reimbursement to District & Urban of its eligible development costs related to the 0.90-acre and 1.12-acre tracts on Louetta Road (the "Flagship Tracts"). He stated that the District's Engineer and the District's Attorney would forward to the District's Auditor the financial documentation from District & Urban pertaining to the development of the Flagship Tracts.

### **MAINTENANCE OF DETENTION PONDS**

The Board discussed matters relating to the maintenance of the detention ponds serving The Falls at Champion Forest and Champion Woods Estates (the "Detention Ponds"). Mr. Yale reported that as of this date the District's Attorney had not received a response from The Falls at Champion Forest Property Owners Association, Inc. (the "Falls Association") regarding the Detention Pond Agreement (the "Agreement") that was forwarded to that organization. He

added that the District's Attorney had not received a response from the Kleinwood Maintenance Fund (the "KMF") regarding the Detention Pond Agreement pertaining to the Walking Garden/Detention Pond. Mr. Yale went on to say that the District's Attorney would strive to contact the presidents of the Falls Association and the KMF.

Mr. Yale noted that the Community Association of Champion Woods Estates, Inc. (the "Champion Woods Association"), had executed and returned to the District's Attorney the Agreement for the Champion Woods Detention Pond. A copy of the executed Agreement is attached hereto as an exhibit to these minutes. The Board discussed matters relating to the maintenance of the Champion Woods Detention Pond during the presentation of the Engineer's Report.

### **RESOLUTION AMENDING LIST OF QUALIFIED BROKERS**

The Board then considered adopting a RESOLUTION AMENDING LIST OF QUALIFIED BROKERS. Director Fowler informed the Board that he would present a report later in the meeting regarding investment opportunities at certain financial institutions. The Directors deferred consideration of the Resolution to a future meeting of the Board.

### **DIRECTORS ELECTION**

Mr. Yale briefly discussed with the Board matters relating to the 8 May 2010 Directors Election required for the District (the "Election"). He distributed a memorandum regarding key dates for Election, a copy of which is attached hereto. Mr. Green distributed candidate application materials to Directors Fratangelo, Fowler, and Williams, whose terms will expire in 2010.

### **RESOLUTION REGARDING USE OF SURPLUS FUNDS**

Next, Mr. Yale submitted for the Board's review and approval a RESOLUTION REGARDING USE OF SURPLUS FUNDS WITHOUT FURTHER APPROVAL BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. Mr. Yale explained that, pursuant to Commission rules, the District may use \$36,460.32 in surplus funds from the District's prior bond issues without further approval of the Commission to help fund the storm sewer repairs at Water Plant No. 1.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to adopt the Resolution, a copy of which is attached hereto and shall be considered part of these minutes.

### **RESOLUTION REQUESTING APPROVAL FOR USE OF SURPLUS FUNDS**

Mr. Yale then submitted for the Board's review and approval a RESOLUTION REQUESTING APPROVAL OF USE OF SURPLUS FUNDS in the amount of \$691,632 in connection with the following projects: (1) Bubbles Car Wash water line extension (the "Water Line Extension"); (2) Champion Woods sanitary sewer lift station; (3) Champion Woods sanitary sewer gravity line and force main; and (4) Flagship Tracts sanitary sewer line extension (the "Sewer Line Extension"). Mr. Yale explained that the Resolution would supersede the Resolution adopted by the Board on 27 August 2009 in the amount of \$719,176. He noted that the amount of surplus funds to be used for said projects had been decreased because J&C was

able to use the actual contract amount plus 5% contingencies for the Water Line Extension, as well as 70% of the eligible development costs relating to the Sewer Line Extension.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to adopt the Resolution, a copy of which is attached hereto as an exhibit to these minutes.

### **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 Ms. Hilliard had cleared her property but has not requested service from the District.
2. **Lightfoot Office Building**. Mr. Unterreiner reported that J&C had approved the revised plans for this project.
3. **Midas International Corporation ("Midas")**. Nothing new to report.
4. **Zaxby's Chicken Dinner Restaurant ("Zaxby's")**. Mr. Unterreiner reported that the owner of the property is soliciting a price quote from another contractor for construction of the sanitary sewer line (the "Sewer Line"). He recommended that the District's attorney transmit a letter to Zaxby's or its engineer, requesting that they proceed with construction of the Sewer Line.
5. **Klein Independent School District ("KISD")**. Mr. Unterreiner reported that J&C has provided their comments on the revised Waste Transportation Facilities Agreement with KISD to the District's Attorney.

### **ENGINEER'S REPORT**

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

1. **Stuebner-Airline Utilities**. Mr. Unterreiner reported that J&C is reviewing the final plans for the Stuebner-Airline utilities prior to submitting them to Harris County for final approval, and is working with Coats|Rose to acquire the final easements along Cypresswood Drive. He added that J&C will submit the plans for execution by the City of Houston once the easements have been recorded.
2. **Water Line Across Bubbles Car Wash**. Mr. Unterreiner reported that J&C conducted the pre-construction meeting earlier this date with Scohil Construction Services, L.L.C. "Scohil", regarding the construction of the water line extension across the Bubbles Car Wash site (the "Extension"). Scohil was given the notice to proceed with 30 calendars days to complete the Extension, he continued, resulting in a scheduled completion date of 10 March 2010.

Mr. Unterreiner then requested that the Board authorize the installation of an isolation water valve (the "Isolation Valve") on the District's water distribution system so that water service to the Denny's restaurant on Louetta Road would not be disrupted during the course of the Extension project.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize the installation of the Isolation Valve at a cost not to exceed \$10,000, subject to review and approval by Director Williams.

3. **North Harris County Regional Water Authority ("NHCRWA") Coordination.** Mr. Unterreiner reported that the District is not expected to receive surface water until March 2010 at the earliest and that the District cannot convert to chloramine disinfection until that time.

4. **Smoke Testing and Televised Inspection of Sanitary Sewer Lines.** Mr. Unterreiner reported that following review of the smoke testing report, EDP had contacted the owners of residences that were identified as having plumbing deficiencies, such as yard drains tied into back lot sanitary sewer lines. Some of the property owners had already addressed the deficiencies, he told the Board, while others were unaware that these deficiencies existed. He stated that J&C would work with the District's Operator to follow up with these property owners, as well as follow up on the public sector items that were identified in the smoke testing report.

5. **Surplus Funds.** Mr. Unterreiner said that J&C is moving forward with finalizing the expedited Surplus Funds Application now that J&C has received approvals for the Water Line Extension. Mr. Unterreiner stated that J&C would submit the Surplus Funds Application to the Commission upon finalization of the report and receipt from the District's Attorney of the RESOLUTION REQUESTING APPROVAL FOR USE OF SURPLUS FUNDS.

6. **NHCRWA/Chloramine Conversion.** Mr. Unterreiner noted that Long & Son, Inc. ("Long") submitted Pay Estimate No. 3 in the amount of \$121,927.50 in connection with the chloramine conversion at Water Plants Nos. 1 and 2. All work is complete with the exception of the installation of the Chem-Scan unit and the start-up testing, he told the Board. Mr. Unterreiner noted that conversion to chloramines cannot occur until the District receives permission from the NHCRWA as discussed item no. 3. He informed the Board that Harris County Water Control and Improvement District No. 114 is scheduled to convert to chloramine disinfection on 10 February 2010, and that Cypress-Klein Utility District is ready to convert to chloramine disinfection. A discussion ensued as to the manner in which District residents living in apartments would be notified of the conversion to chloramine disinfection. Mr. Thiry stated that notices regarding the conversion would be given to the managers of the apartments for distribution to the residents.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize payment of Pay Estimate No. 3. A copy of Pay Estimate No. 3 is attached hereto as an exhibit to these minutes.

7. **Water Plant No. 1 Storm Sewer Repairs.** Mr. Unterreiner reported that the project is complete and is eligible to be reimbursed with self-authorized surplus funds. Mr. Unterreiner stated that J&C provided the District's Attorney with the requisite documentation for the RESOLUTION REGARDING USE OF SURPLUS FUNDS WITHOUT FURTHER APPROVAL BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that was adopted earlier in the meeting.

8. **Emergency Preparedness Plan (the "Preparedness Plan").** Mr. Unterreiner reported that the District's Engineer is working to complete the Preparedness Plan, for review at

the Board's meeting on 25 February 2010. He noted that the Preparedness Plan must be adopted and submitted to the Commission by 1 March 2010, pursuant to Senate Bill 361 as approved by the 81st Texas Legislature (2009).

9. **Auxiliary Generators.** Mr. Unterreiner submitted to and reviewed with the Board a Generator Options Report prepared by J&C regarding the need and options for (a) an auxiliary generator at Water Plant No. 2; and (b) auxiliary generators for the District's sanitary sewer lift stations (collectively, the "Generators"). A copy of the Generator Options Report is attached hereto as an exhibit to these minutes. Mr. Unterreiner noted that the Generator at Water Plant No. 1 has sufficient capacity to power Water Well No. 1 and three booster pumps.

Mr. Unterreiner then reviewed with the Board the following recommendations for the Generators as presented in the Generator Options Report: (1) installing a Generator at Water Plant No. 2 that would be sized to run the entire facility, including Water Well No. 3, at an estimated cost of \$336,000 for a diesel Generator or \$590,000 for a natural gas Generator; (2) installing a natural gas generator at the Champion Woods Lift Station at an estimated cost of \$160,000; and (3) installing an electrical quick connect at the CVS Lift Station (the "Quick Connect") at an estimated cost of \$10,000 and have the District's Operator secure (by lease or purchase) a Generator in the event of a power outage.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize the Engineer to proceed with the necessary actions for: (1) installation of a diesel Generator at Water Plant No. 2; (2) installation of a natural gas Generator at the Champions Woods Lift station; and (3) installation of the Quick Connect at the CVS Lift Station.

10. **Flagship and District & Urban Reimbursement.** Mr. Unterreiner reported that J&C reviewed the reimbursement request submitted by District & Urban and forwarded the request with a cost summary to the District's Attorney.

11. **Detention Ponds/Champion Woods Estates and The Falls.** Mr. Unterreiner submitted to and reviewed with the Board the proposals (the "Proposals") from Champions Hydro-Lawn ("Champions") to (1) perform annual maintenance on the Champion Woods Estates Detention Pond at a cost of \$10,843; and (2) perform repairs to the Champion Woods Estates Detention Pond at a cost of \$4,250 (collectively, the "Maintenance and Repairs"). Copies of the Proposals are attached hereto as exhibits to these minutes. Mr. Unterreiner noted that the Proposals include only District maintenance items and exclude mowing.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to (1) accept the Proposals; and (2) authorize the District's Engineer to notify Champions to proceed with the Maintenance and Repairs.

12. **Water Conservation Plan.** Mr. Unterreiner remarked that the NHCRWA's rate order requires all Districts converting to surface water to adopt a Water Conservation Plan by 1 April 2010 or by the date they receive surface water, whichever is later. Mr. Unterreiner stated that J&C is updating the District's existing Water Conservation Plan to meet the NHCRWA's requirements.

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

**OPERATOR'S REPORT**

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

1. **Water Plant Operations.** Mr. Thiry reported that the billed to pumped ratio for the prior month was 93.8% and that the District has a 803 service connections, including 10 vacant single-family residences.

2. **Utility Operator's Report.** Mr. Thiry reviewed with the Board the utility billing summary, accountability report, subsidence district report, NHCRWA fee report and the 30-day delinquent list, as shown in the Operator's Report attached hereto.

A. **Substantial System Repairs.**

16227 Fox Crossing	Service line leak (1/8/10)	\$ 1,226.16
7378 Louetta	Installed 12-inch valve (12/23/09)	\$ 11,795.00
7611 Frairs Ct.	Service line leak (12/21/09)	\$ 873.91
7703 Kleingreen	Service line leak (1/13/10)	\$ 1,099.12
8006 Litchfield	Service line leak (1/15/10)	\$ 1,029.52
Distribution System	Installed 9 residential water taps	\$ 5,650.00

B. **Water leak on Stuebner-Airline.** Mr. Thiry reported on the measures taken by the District's Operator to determine the source of the water leaking from the AT&T manhole on Stuebner-Airline just north of Louetta. EDP has determined that the water is not originating from the District's water distribution system, he told the Board, and has been in contact with the engineers and operators of nearby water districts, as well as the NHCRWA.

C. **NHCRWA Flyer – The High Cost of Water.** Mr. Thiry stated that the NHCRWA has provided copies of a flyer that explains the current activities of the NHCRWA, as well as the progress of surface water conversion. A copy of the flyer is included with the Operator's Report. The flyers will be distributed to the District's customers, he told the Board.

D. **Fire Hydrant at Stuebner-Airline and Louetta.** Mr. Thiry reported that the fire hydrant (the "Hydrant") in front of the Exxon Station at the northwest corner of Stuebner-Airline and Louetta needs to be reset at the boot. He noted that the secondary valve on the hydrant is broken and needs to be replaced. Mr. Thiry stated that EDP also desires to (1) relocate the Hydrant approximately 5 feet to the north so that it would be away from the roadway and driveway approach, provided that there is sufficient room in the easement to do so; and (2) install bollards to protect the Hydrant. He estimated the cost to repair and relocate the Hydrant at \$3,000.

After discussion, upon a motion duly made and seconded, the Board voted unanimously to authorize the District's Operator to repair and relocate the Hydrant as described above.

**TERMINATION OF SERVICE**

Consideration was then given to the termination of water and sewer service to certain accounts. The President recognized Mr. Thiry, 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 presented the report concerning the District Office (the "Office Report"), a copy of which is attached hereto. Mr. Schuett stated that he would obtain proposals for replacement of the front door and one of the back doors for consideration at a future meeting of the Board.

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

### **BOOKKEEPER'S REPORT**

Mr. Schuett reviewed with the Board the Bookkeeper's Report on behalf of Claudia Redden & Associates, Inc. A copy of the Bookkeeper's Report is attached hereto as an exhibit to these minutes. The Directors also reviewed certain invoices for payment by the Board, as well as the Investment Report.

Director Fowler presented a report regarding the investment of certain funds of the District in certificates of deposit. He noted that the following financial institutions could offer to the District certificates of deposit with the most favorable interest rates: Icon Bank, Texas Community Bank, Texas Enterprise Bank, and Third Coast Bank. The Directors deferred action on this matter to a future meeting of the Board.

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

### **KMF**

There was no report on the KMF.

### **THE FALLS ASSOCIATION**

There was no report on The Falls Association.

### **CHAMPION WOODS ASSOCIATION**

There was no report on the Champion Woods Association.

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

Director Williams reported on the activities of the KJPB. He stated that the bid price for an emergency generator was less than originally anticipated.

**NHCRWA**

Mr. Green distributed copies of a memorandum from the District's Attorney regarding the 4 January 2010 meeting of the NHCRWA board of directors. A copy of the memo is attached hereto.

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

Approved this 25 February 2010.

Robert Ehmman  
Secretary, Board of Directors

