

MINUTES OF REGULAR MEETING  
OF  
CYPRESS FOREST PUBLIC UTILITY DISTRICT

October 5, 2004

THE STATE OF TEXAS   §  
  §  
COUNTY OF HARRIS   §

The Board of Directors of Cypress Forest Public Utility District, Harris County, Texas, met in regular session, open to the public, on the 5th day of October, 2004, at the Cypress Forest Public Utility District's Administrative Building, 16215 Champion Forest Drive, Spring, Texas, 77379, within the boundaries of the District, and the roll was called of the duly constituted officers and members of the Board, to-wit:

Roger P. Balog	President
Michael J. Lynch, Jr.	Vice President
Thomas J. Petrick	Secretary
William J. Lawrence	Assistant Vice President
Deborah L. Jackson	Assistant Secretary

and all of said Directors were present except Director Lawrence, thus constituting a quorum.

Also present at the meeting were the following: Leah Borello of the Champion Forest Maintenance Fund (the "Maintenance Fund"); Debbie Shelton of First Southwest Company; Al Padron of Legacy Group; Greg Sonnier of Lawn Escape, Inc.; Donna Cox and Linn Smyth of the Champion Forest Garden Club; Salim Joubran of Pepe Engineering, Ltd.; Kim Shelnett of Myrtle Cruz, Inc.; Greg Ordeneaux of Tax Tech, Inc.; Bob Haas of Aqua Services, L.P. ("Aqua Services"); Steve Robinson of Allen Boone Humphries LLP ("ABH"); and Justine M. Cherne, Recording Secretary.

Director Balog called the meeting to order.

APPROVE MINUTES

The Board first considered approving the minutes of the District's regular meeting held on September 7, 2004. Following review and discussion, Director Petrick moved that the Board approve the minutes as written. Director Jackson seconded the motion, which was approved by unanimous vote except for Director Lynch who was not present for the vote.

RECEIVE UPDATE ON PROPOSAL FOR WATER CONSERVATION PROJECT,  
AUTHORIZE EXECUTION OF AGREEMENT WITH CHAMPION FOREST FUND,  
INC. AND AUTHORIZE APPROPRIATE ACTION

Mr. Robinson reviewed with the Board an Agreement for Public Water Conservation Project, a copy of which is attached as an exhibit to these minutes. Director Petrick stated that the agreement contains the recommendations of the Champion Forest Entrance Enhancement Committee for performance of landscaping and irrigation of the four existing planted areas around the monuments by Lawn Escape, Inc. in an amount not to exceed \$22,216.00. Director Petrick stated that upon approval by the Board, he will present the agreement to the Board of Directors of the Maintenance Fund at a meeting scheduled for tomorrow night. In response to Director Balog's inquiry regarding future maintenance responsibilities for the project, Ms. Borello stated that the Board of Directors of the Maintenance Fund has been discussing future maintenance responsibilities for the project and is reviewing maintenance proposals during tomorrow night's meeting. Following review and discussion, Director Jackson moved that the Board authorize execution of the Agreement for Public Water Conservation Project with Champion Forest Fund, Inc. in an amount not to exceed \$22,216.00 as presented. Director Petrick seconded the motion, which was approved by unanimous vote, except for Director Lynch who was not present for the vote. A copy of the agreement is attached as an exhibit to these minutes. The Board concurred that Director Petrick would continue to be the District's representative on the beautification committee for coordination and oversight of the project.

RECEIVE PRESENTATION FROM LEGACY GROUP, CONSIDER ELECTRICITY  
PROVIDER PROPOSALS, AND AUTHORIZE APPROPRIATE ACTION

Mr. Padron next reviewed proposals from electricity providers and responded to Directors' questions regarding penalties, fees, and the services provided by Legacy Group. A copy of a Rate Optimization Report containing indicative pricing is attached as an exhibit to these minutes. Mr. Padron reviewed information regarding pricing per kilowatt hour and terms of the electricity provider contracts, and responded to questions. He recommended that the Board accept the proposal from Constellation New Energy, Inc. Discussion ensued regarding invoicing and proposed terms. Following review and discussion, Director Petrick moved that the Board accept the proposal for electricity from Constellation New Energy, Inc. for a term of one year and authorize Director Balog to execute the contract. Director Jackson seconded the motion, which was approved by unanimous vote, except for Director Lynch who was not present for the vote.

SUCH OTHER MATTERS

Director Balog stated that a member of the public was present to address the Board. Ms. Cox requested that the Board appoint a member to act as a liaison to clarify

recycling collection issues. Director Balog noted that Director Jackson is the Board's representative in charge of community relations.

CONSIDER REQUEST FROM REPUBLIC WASTE SERVICES FOR 2.5% FUEL SURCHARGE AND AMENDED CONTRACT AND AUTHORIZE APPROPRIATE ACTION

Mr. Robinson reviewed with the Board e-mail correspondence from Curtis Lacy of Republic Waste Services, a copy of which is attached as an exhibit to these minutes. The Board discussed Republic Waste Services' proposed rate change, rates and services provided by other garbage companies and customer service issues. Following review and discussion, the Board authorized ABH to solicit proposals for garbage and recycling collection services for the District for review at the next regularly scheduled meeting.

RECEIVE PRESENTATION ON DEVELOPMENT OF A DISTRICT WEB SITE

Following discussion regarding the possibilities of integrating global positioning satellite technology and monthly customer billing with development of a District web site, the Board concurred to table this item.

BOOKKEEPER'S REPORT

The Board next received the bookkeeper's report and considered payment of the bills. Ms. Shelnutt presented 43 checks for the Board's approval. She reviewed the year-to-date budget and the fiscal year expenditures for the administrative building. Director Petrick recommended holding the check for payment of the August monthly cleaning of the administrative building because the building does not appear to have been cleaned. Discussion ensued regarding fees for lawn maintenance. The Board authorized Director Petrick to discuss lawn maintenance services and options with the Maintenance Fund. Ms. Shelnutt next reviewed the investment report as required by the Public Funds Investment Act and responded to Directors' questions. Copies of the reports and a list of the checks presented for payment are attached as an exhibit to these minutes.

Discussion ensued regarding utilization of surplus capital projects funds. Mr. Robinson recommended forwarding an application to the Texas Commission on Environmental Quality ("TCEQ") for use of surplus funds from the District's capital projects fund to reimburse the general operating fund for the acquisition of utilities for Champions Cove in the amount of \$145,000 as per the settlement agreement in the matter of *Yi-Hsien Lin, Tsai Shiu Lin, and Yi-Chang Lin vs. Cypress Forest P.U.D.* Mr. Robinson explained that legal fees paid in connection with the law suit cannot be paid from the District's capital projects fund. Following discussion, Director Lynch moved

that the Board authorize ABH to prepare the surplus funds application. Director Petrick seconded the motion, which was approved by unanimous vote.

Following review and discussion, Director Lynch moved that the Board approve the bookkeeper's report and authorize payment of the bills. Director Petrick seconded the motion, which was approved by unanimous vote.

#### TAX ASSESSOR/COLLECTOR'S REPORT

The Board next received the tax assessor/collector's report and considered payment of the tax bills. Copies of the report and a list of the checks presented for payment are attached as an exhibit to these minutes. Mr. Ordeneaux stated that 98.88% of the year 2003 taxes had been collected as of the end of the prior month. He then presented 6 checks for approval and reviewed the delinquent list. He discussed the over-65 deferral provision of the tax code. After review and discussion, Director Lawrence moved that the tax assessor/collector's report be approved and the tax bills be paid. Director Lynch seconded the motion, which was approved by unanimous vote.

#### PUBLIC HEARING REGARDING DISTRICT TAX RATE

Director Balog opened the public hearing regarding the District tax rate and upon no comment from the public, Director Jackson moved that the Board close the public hearing. Director Lynch seconded the motion, which was approved by unanimous vote.

#### ADOPT ORDER LEVYING TAXES

Mr. Ordeneaux presented the publisher's affidavit from the *Houston Chronicle* for the publication of the Notice of Public Hearing on Tax Rate, a copy of which is attached as an exhibit to these minutes. Following review and discussion, Director Jackson moved that the Board adopt an Order Levying Taxes for the year 2004, based on a levy of a \$0.30 tax, with \$0.05 allocated to maintenance and operations and \$0.25 allocated to debt service. Director Petrick seconded the motion, which was approved by unanimous vote. The Board confirmed its intention that the 2004 tax levy includes a debt service component for the calendar year ending December 31, 2005, and a maintenance tax component for the fiscal year ending September 30, 2005. A copy of the order is attached as an exhibit to these minutes.

#### CONDUCT ANNUAL REVIEW OF INVESTMENT POLICY AND ADOPT RESOLUTION REGARDING ANNUAL REVIEW OF INVESTMENT POLICY

The Board next conducted an annual review of the District's investment policy. Mr. Robinson discussed the requirements of the Public Funds Investment Act. No changes to the policy were recommended by the District's consultants. Following

review and discussion, Director Jackson moved that the Board adopt a Resolution Regarding Annual Review of Investment Policy without amendment to the District's Investment Policy. Director Lynch seconded the motion, which was approved by unanimous vote. A copy of the resolution is attached as an exhibit to these minutes.

ADOPT RESOLUTION ESTABLISHING AUTHORIZED DEPOSITORY INSTITUTIONS AND ADOPTING LIST OF QUALIFIED BROKER/DEALERS

The Board next discussed the District's authorized depository institutions and list of qualified broker/dealers. Mr. Robinson reported that updates to the District's lists were recommended by the District's consultants. Following review and discussion, Director Jackson moved that the Board adopt a Resolution Establishing Authorized Depository Institutions and Adopting List of Qualified Broker/Dealers as presented. Director Lynch seconded the motion, which was approved by unanimous vote. A copy of the resolution is attached as an exhibit to these minutes.

ACCEPT ANNUAL DISCLOSURE STATEMENTS OF THE BOOKKEEPER AND INVESTMENT OFFICER

The Board next reviewed the annual disclosure statements of the bookkeeper and investment officer. Following review and discussion, Director Jackson moved that the Board authorize filing of the annual disclosure statements of the bookkeeper and investment officer with the Texas Ethics Commission. Director Lynch seconded the motion, which was approved by unanimous vote. Copies of the statements are attached as an exhibit to these minutes.

REVIEW THE FINANCIAL ADVISOR'S CONTRACT AND AUTHORIZE APPROPRIATE ACTION

The Board next reviewed the financial advisor's contract. Ms. Shelton reviewed the terms and services of the contract. She stated that there were no changes proposed to the current contract and that First Southwest Company would like to continue as the District's financial advisor. The Board thanked Ms. Shelton for her services. After discussion, Director Lynch moved that the Board continue its contract with First Southwest Company as the District's financial advisor. Director Jackson seconded the motion, which was approved by unanimous vote.

ENGINEER'S REPORT

The Board next received the engineer's report, a copy of which is attached as an exhibit to these minutes. Mr. Joubran updated the Board generally on construction projects within the District and reviewed with the Board the items more particularly described hereafter.

DISCUSS MAINTENANCE PLAN, APPROVE PAY ESTIMATES, CHANGE ORDERS AND TIME EXTENSIONS FOR REHABILITATION OF SANITARY SEWER TRUNK LINES

Mr. Joubran updated the Board on the rehabilitation of the sanitary sewer trunk lines. He stated that the sanitary sewer trunk lines have been substantially cured-in-place. He reported that the contractor is proceeding with the rehabilitation of the sanitary sewer manholes and that the project should be complete by December 22, 2004. He reported that he is facilitating repairs to the esplanades and the irrigation systems located in Cypresswood Drive and Champion Forest Drive. He reported there were no pay estimates for consideration at this time.

RECEIVE UPDATE ON SANITARY SEWER INSPECTION BY SOURCE POINT SOLUTIONS, INC.

Mr. Joubran updated the Board on the inspection and televising of 29,140 feet of the sanitary sewer system in Champion Forest Sections One and Two by Source Point Solutions, Inc. He stated that Source Point Solutions, Inc. has completed the inspection and evaluation. He reported that Pepe Engineering, Ltd. is reviewing the report and video tapes to provide a recommendation to the Board before the end of the year.

RECEIVE UPDATE ON DESIGN OF WATER, SEWER AND DRAINAGE FACILITIES FOR RAVENEAUX PLACE HIGHRISE CONDOS, AUTHORIZE EXECUTION OF STORM SEWER EASEMENT

Mr. Joubran updated the Board on the design of utilities to serve the Chateaux Raveneaux Condominiums. He reported that the design of the project is progressing and that the cost of the project was included in Bond Application No. 9. He stated that water line and sanitary sewer easements will be needed for the facilities. He stated that discussions with Tony Kindred have been held to obtain a storm sewer easement along the southern boundary line of the condominiums. He stated that Mr. Kindred has not been able to obtain approval for the easement from his mortgage lender. He stated that the storm sewer easement will be obtained from the developer. No action was necessary for this item.

AUTHORIZE EXECUTION OF WATER LINE EASEMENT FOR ECKERD DRUG STORE

Mr. Robinson reported that an executed water line easement was received for the Eckerd Drug Store located at the southwest corner of Champions Forest Drive and Louetta Road. He reported that ownership is being confirmed through a title company. No action was required for this item.

## RECEIVE UPDATE ON HCFCD ACCEPTANCE OF DISTRICT FACILITIES

Mr. Joubran reported that a revised list containing five additional and reasonable repair items for the detention facilities located in Champion Forest, Section 11 was received after a conversation with Web Pederson of the Harris County Flood Control District ("HCFCD"), a copy of which is attached to these minutes as an exhibit. He stated that Rebel Contractors, Inc. completed the repairs. He stated that Mr. Pederson said he would inspect the facilities and forward a letter approving acceptance of the facilities to begin the conveyance process. No action was required for this item.

## AUTHORIZE EXECUTION OF UTILITY COMMITMENT LETTER AGREEMENT FOR PROPOSED SHOPPING CENTER AND RESTAURANT FACILITIES

Mr. Joubran next reported that the necessary documents have been received for a request for utilities from Morris and Associates on behalf of Brazos Management Enterprises, Inc. to serve a 2.336-acre tract located on Louetta Road in Sterling Gate, Section Two. He recommended that the District agree to reserve 19,967 gallons per day of water supply and 15,974 gallons per day of sewage treatment capacity to serve a shopping center and a 7,900 square-foot restaurant proposed for development on the tract. He stated that the District has capacity available to serve the tract.

Mr. Joubran presented and recommended approval of the final pay estimate from Champions Hydro-Lawn in the amount of \$2,000 for erosion control of the water line and trestle repair project. He stated that the pay estimate will be equally shared with Cy-Champ Public Utility District.

Following review and discussion, Director Jackson moved that the Board approve the engineer's report as presented, including approval of execution of a utility commitment letter agreement with Brazos Management Enterprises, Inc. and payment of the District's share of the pay estimate from Champions Hydro-Lawn for erosion control in the amount of \$1,000. Director Petrick seconded the motion, which was approved by unanimous vote.

## DISCUSS OPERATIONS OF KLEINWOOD CENTRAL SEWAGE TREATMENT PLANT JOINT POWERS BOARD MEETING

Director Lynch reported on the operations of the Kleinwood Central Sewage Treatment Plant and the Joint Powers Board meeting. He reported that good improvements in plant efficiency have been made and the use of electricity has decreased approximately \$8,000 compared with the same month one year ago. He reviewed upcoming maintenance items. No action was required for this item.

## OPERATOR'S REPORT

Mr. Haas reviewed the written maintenance and operations report, builder back charges, and invoices with the Board. A copy of the operator's report is attached as an exhibit to these minutes.

Discussion ensued regarding a letter received from Harris County Emergency Services #11 ("ESD #11") requesting the District to maintain the voluntary contribution on water statements through the end of the year, a copy of which is attached as an exhibit to these minutes. Following review and discussion, Director Lynch moved that the Board terminate and remove the voluntary contribution collected by the District from the November water bill, and include a message on the November water bill to notify the residents that ESD #11 has the power to levy taxes for year 2004. Director Petrick seconded the motion, which passed by majority vote with Director Jackson opposing the motion. The Board authorized Director Lynch to forward the text of the message to Aqua Services for placement on the District's November water bill.

Mr. Haas reported that the one-month accountability for last month was 90.2% and the four-month accountability average was 94.2%. He reviewed performance test reports for the District's water wells and stated there were no concerns. He next reported that 18 termination letters were mailed.

Following review and discussion, Director Lynch moved that the Board approve the operator's report as presented. Director Jackson seconded the motion, which was approved by unanimous vote.

## CONDUCT HEARING ON TERMINATION OF WATER SERVICE

Mr. Haas reported that the customers on the attached termination list were delinquent by more than 50 days and had been given written notice 10 days prior to this meeting of the opportunity to appear before the Board of Directors to explain, contest or correct the utility service bill and to show reason why the utility service should not be terminated because of nonpayment. Following discussion, Director Lynch moved that since the residents were neither present at the meeting nor had presented any written statement on the matter, the utility service to those residents be terminated in accordance with the District's Rate Order. Director Petrick seconded the motion, which was approved by unanimous vote.

## CONSIDER PROPOSALS FOR BEAUTIFICATION OF ELEVATED STORAGE TANK SITE AND AUTHORIZE APPROPRIATE ACTION

Mr. Haas reported that he received a proposal from Foster Fence for replacing the top support rail and the brackets of the fence located around the District's elevated storage tank in the approximate amount of \$6,000. Discussion ensued regarding

fencing options. Following discussion, the Board requested Mr. Haas to obtain proposals for the options discussed for review at the next regularly scheduled meeting.

DISCUSS MATTERS RELATED TO NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY

Director Balog reported that no meeting of the North Harris County Regional Water Authority (the "NHCRWA") was held last week and that a meeting is scheduled for next week. He stated that a budget hearing is scheduled for the November meeting of the NHCRWA. He reported that the NHCRWA saved millions of dollars by coordinating with the City of Houston on the construction of one large distribution line instead of each entity constructing two separate lines along Greens Road. No action was required for this item.

DISCUSS AMENDMENT TO LEASE AGREEMENT WITH CHAMPION FOREST FUND, INC.

Mr. Robinson reported that Director Lawrence is scheduling a meeting with Champion Forest Fund, Inc. to discuss amending the Lease Agreement as authorized by the Board. No action was required for this item.

RECEIVE UPDATE ON AGREEMENT WITH BROWN & BROWN OF TEXAS, INC. REGARDING INSURANCE COVERAGE MATTERS

Mr. Robinson next reviewed with the Board correspondence containing a proposed settlement agreement with Brown & Brown of Texas, Inc. ("B&B") regarding insurance coverage matters for payment of the costs and expenses incurred by the District's consultants in the matter of *Yi-Hsien Lin, Tsai Shiu Lin, and Yi-Chang Lin vs. Cypress Forest P.U.D.*, a copy of which is attached as an exhibit to these minutes. He stated that B&B is offering payment of \$60,000 of the expenses. The Board discussed possible action items. Following review and discussion, Director Petrick moved that the Board accept the terms of the proposed settlement agreement from B&B in the amount of \$60,000 and authorize execution of the agreement by Director Balog, subject to review by ABH. Director Jackson seconded the motion, which was approved by unanimous vote.

RECEIVE UPDATE ON PREPARATION OF DISTRICT NEWSLETTER

The Board next discussed preparation of the newsletter. Ms. Cherne reported that articles are due one week prior to the regularly scheduled November meeting.

CONVENE EXECUTIVE SESSION, RECONVENE OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING THE DEPLOYMENT, OR SPECIFIC OCCASIONS FOR IMPLEMENTATION, OF SECURITY PERSONNEL OR DEVICES

The Board concurred that an executive session was not necessary.

SUCH OTHER MATTERS

Discussion ensued regarding proposed bicycle routes being considered by Harris County.

There being no other matters to come before the Board, the meeting was adjourned.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE FOR THE MINUTES OF THE OCTOBER 5, 2004 BOARD MEETING]

(SEAL)

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Secretary, Board of Directors

## ACTION ITEMS

- Director Petrick to present the Agreement for Water Conservation Project to the Board of Directors of the Maintenance Fund and continue to be the District's representative on the beautification committee for coordination and oversight of the project.
- Director Balog to execute the contract with Constellation New Energy, Inc. for a term of one year.
- ABH to solicit proposals for garbage and recycling collection services for the District for review at the next regularly scheduled meeting.
- ABH to prepare a surplus funds application to the TCEQ.
- Pepe Engineering, Ltd. to review the sanitary sewer inspection report and video tapes from Source Point Solutions, Inc. to provide a recommendation to the Board before the end of the year.
- Pepe Engineering, Ltd. to obtain storm sewer easement from the developer of Raveneaux Place Highrise Condos.
- ABH confirming ownership of the water line easement for the Eckerd Drug Store through a title company.
- Mr. Pederson of the HCFCD to forward a letter approving acceptance of the drainage and detention facilities to begin the conveyance process.
- Aqua Services to terminate and remove the voluntary contribution collected by the District for ESD #11 from the November water bill, and include a message on the November water bill to notify the residents that ESD #11 has the power to levy taxes for year 2004. Director Lynch to forward the text of the message to Aqua Services for placement on the District's November water bill.
- Mr. Haas to obtain proposals for fencing options for the beautification of the elevated storage tank side for review at the next regularly scheduled meeting.
- Director Lawrence to coordinate on scheduling a meeting with the Champion Forest Maintenance Fund to discuss an agreement for the District's long-term use of the administrative building.
- Director Balog to execute settlement agreement with B&B subject to review by ABH.

- Newsletter articles are due one week prior to the regularly scheduled November meeting.

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