

MINUTES OF SPECIAL MEETING  
OF  
CYPRESS FOREST PUBLIC UTILITY DISTRICT

October 21, 2004

THE STATE OF TEXAS   §  
  §  
COUNTY OF HARRIS   §

The Board of Directors of Cypress Forest Public Utility District, Harris County, Texas, met in special session, open to the public, on the 21st 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, thus constituting a quorum.

Also present at the meeting were the following: Leah Borello and J.J. Minnahan, Jr. of the Champion Forest Maintenance Fund (the "Maintenance Fund"); Donna Cox, Wendy Fryfogle, Rozann Janek and Linn Smyth of the Champion Forest Garden Club (the "Garden Club"); Steve Robinson of Allen Boone Humphries LLP ("ABH"); and Justine M. Cherne, Recording Secretary.

Director Balog called the meeting to order. He stated that the special meeting was called as soon as possible to address certain events that have occurred since the last meeting of the Board and to provide an information session to dispel any rumors that may be circulating. He stated that the agenda will be followed and the public will have an opportunity to provide comments to the Board. He stated that the Board may or may not act after the executive session.

Everyone present at the meeting introduced themselves.

PRESENTATION AND DISCUSSION OF BACKGROUND OF DISTRICT  
ADMINISTRATIVE BUILDING PURCHASE, TRANSFER TO CHAMPION FOREST

MAINTENANCE FUND, INC. AND LEASE AGREEMENT, DISCUSS OPTION FOR DISTRICT ADMINISTRATIVE BUILDING LEASE/PURCHASE/UPKEEP/USE/CONTROL AND AUTHORIZE APPROPRIATE ACTION

Mr. Robinson reviewed the background of the District Administrative Building purchase, transfer to Champion Forest Maintenance Fund, Inc. (the "Maintenance Fund") and the Lease Agreement. He stated that the goal of the transaction was to provide a permanent location for Board meetings. He stated that the property formerly contained an unused pool and was being foreclosed. He stated that the political atmosphere of the time was that it was anticipated that the City of Houston (the "City") would annex the area at any time as it had recently done with Kingwood. He stated that the transaction was structured so that if the area was annexed by the City, the Administrative Building would not become a City public building by annexation or condemnation, and would continue to remain a facility for use by the District's residents by termination of the leasehold estate on the day prior to annexation. He stated that the prepaid rental of the land, the construction of the building and the purchase of the building's contents along with all of the building's maintenance, operations and insurance have been paid solely from the District's general operating funds which come from the District's residents. He stated that construction of the building cost over \$300,000 plus the cost of the purchase of the land, and costs including maintenance, electricity, mowing, insurance, etc. He stated that the Maintenance Fund paid for the demolition of the pool. He stated that the District pre-paid a lump sum to, and leased the property from, the Maintenance fund for a term of 15 years.

Mr. Robinson stated that no one expected the District to be in existence today. He stated that the political atmosphere has changed and the City is not fully annexing additional tracts and is not expected to annex additional tracts in the foreseeable future. He stated that the City has been entering into Strategic Partnership Agreements for limited annexation purposes to collect and share a one-cent City sales tax with utility districts. He stated that the District has not entered into such an agreement because the agreement is only available to utility districts which are contiguous with the City.

Mr. Robinson stated that given the current political atmosphere, the Board decided to discuss amending the current Lease Agreement with the Maintenance Fund to provide for the Board's right to continue to use and maintain the building on a long-term basis. He stated that this decision was made prior to the May 2004 Directors Election and was put on hold pending the outcome of the election. He stated that after the last meeting of the Board, members of the Board were surprised to learn that the Maintenance Fund was requesting an additional large payment for amending the current Lease Agreement. Mr. Robinson stated that the Board has the following options:

1. Take no action with regard to the Lease Agreement and the agreement will expire in eight years at which time the Administrative Building will

become owned by the Maintenance Fund. He stated that the District would not have the right to use, or the obligation to maintain, the building under this option. He stated that there is a holdover occupancy provision, if mutually agreed, for a monthly payment by the District of \$500. He stated that the Board met for over 20 years within the District for free and may not be favorable to the monthly payment.

2. Remain as a holdover under the terms of the Lease Agreement and pay \$500 a month and all maintenance and operations obligations. He stated that maintenance and operations obligations are currently costing approximately \$1,000 a month. He stated that the Maintenance Fund has the unilateral right to deny the holdover occupancy request.

3. Extend the lease and maintain the maintenance and operations obligations or turn the maintenance and operations obligations over to the Maintenance Fund and obtain use of the building on a long-term basis.

4. Acquire the property either through a voluntary sales transaction or an involuntary condemnation process. Mr. Robinson stated that an appraisal would need to be obtained to determine the fair market value of the property, building and contents for this option. He described the condemnation process.

Mr. Robinson stated that the Board uses the Administrative Building for usually one meeting per month, certain committee meetings and for elections. He stated that the Board wants the building to be used by the community and would like the building to remain available for community use.

Ms. Smyth commented that the citizens are the source of the funding for the District and the Maintenance Fund and that a policy of cooperation needs to be stated as a goal for both organizations. Director Balog noted that the District represents a larger constituency than the Maintenance Fund. Mr. Robinson explained the differences between the Maintenance Fund and the District. He stated that the Maintenance Fund is a private organization governed by adopted Bylaws. He stated that the District is a governmental entity with taxing authority and is a political subdivision of the State of Texas governed by the State Constitution and State laws. He stated that the District cannot legally spend funds on the same types of activities as the Maintenance Fund. He noted that the Board has been extremely cooperative in entering into agreements for public projects with the Maintenance Fund and hopes to continue to enter into such agreements in the future. He stated that there are certain activities that a governmental entity does not have the legal authority to do. He noted that this District is not unique and that other homeowners associations are working with utility districts on such issues.

Director Lawrence stated that the inability of the Maintenance Fund to provide all of the services desired within the neighborhood are exacerbated by the Bylaws which are ineffective and unable to raise enough dues. Mr. Robinson stated that the District is not legally able to pay for such services as Constable patrols. He stated that the District has the ability to provide Constable patrols for the District's facilities. He stated that the District is legally bound to treat everyone within its boundaries on an equal basis and must ensure that one neighborhood is not benefiting over another neighborhood. He stated that neighborhoods without public access present another challenge as the District must only participate in projects that benefit the public.

Mr. Robinson responded to Ms. Janek's inquiry regarding a reference to a resolution for the purchase of a building in the November 2003 minutes. He stated that the Harris County Appraisal District sought approval from member governmental entities for purchase of a building.

In response to Mr. Minnahan's inquiry as to the District's intent regarding the Lease Agreement, Mr. Robinson stated that, since the District paid for the building and no annexation of the area is anticipated by the City, the District would like a long-term extension of the Lease Agreement for \$1.00 per year and to continue to pay for the maintenance and operation costs. Mr. Minnahan stated that he and Kerry LeGrone have been appointed by the Maintenance Fund to discuss the Lease Agreement. Director Balog stated that the current form of the Lease Agreement was entered into only to prevent the City from obtaining ownership of the building. He stated that the City does not plan to annex the area and the reason for maintaining the current form of the Lease Agreement is removed. He stated that he strongly suggests that the Lease Agreement be replaced by District ownership of the building. Mr. Minnahan noted that they are halfway through the term of the Lease Agreement and discussed the worth of the asset at the end of the term. He stated that it is not a service to the constituents of the Maintenance Fund to sell or lease the land for \$1.00. In response to an inquiry from Director Lawrence, Mr. Robinson stated that the parties are able to mutually terminate the Lease Agreement.

OPEN FORUM ON USE AND CONTROL OF THE DISTRICT ADMINISTRATIVE BUILDING AND WATER CONSERVATION PROJECTS AND AUTHORIZE APPROPRIATE ACTION

Director Balog next opened the meeting to receive public comments on the use and control of the District Administrative Building and water conservation projects. He stated that members of the public may address the Board without interruption but that no questions will be taken.

Ms. Cox inquired why this issue regarding the Lease Agreement has surfaced at this time. Ms. Janek inquired why the Water Conservation Project was put onto hold

after ramp-up. Mr. Robinson stated that no decision of the Board has been made, however, the Board was asked to spend a large sum of money for a project and wants to make a decision based on the new information learned while discussing an extension of the Lease Agreement. Ms. Smyth inquired why the Water Conservation Project was combined with the Lease Agreement when the Champion Forest Enhancement Committee (the "Enhancement Committee") was notified that the Agreement for Public Water Conservation Project was approved by the District and the Maintenance Fund. She requested that the Board fulfill their obligations and move forward on the Water Conservation Project which she noted was reasonable and prudent. In response to Mr. Minnahan's inquiry regarding the agreements, Director Balog noted that Director Lawrence is the District's representative responsible for discussing an extension to the Lease Agreement.

Ms. Fryfogle commented that the Enhancement Committee spent many hours preparing the proposal for the Water Conservation Project which was accepted by both Boards and she is confused as to how the project can be stopped over issues related to the Lease Agreement. Mr. Robinson stated that the Board has not taken action to send or not send a check for the Water Conservation Project and finds it necessary to consider such action in light of new facts.

Ms. Fryfogle stated that she verified October 15, 2004 as the start date for the Water Conservation Project with Director Petrick. She stated that Lawn Escape, Inc. is a business which has not been treated fairly. She stated that the plants and workmen have been ordered. Ms. Cox requested the Board to postpone any decisions regarding the Lease Agreement until after the Maintenance Fund elections. Ms. Smyth recommended that the Board move quickly. She stated that the Garden Club has worked on this project for four years.

Ms. Borello stated that the Water Conservation Project is self-funding, worthwhile, beneficial, and smart and will increase property values. She strongly recommended that the District move forward with the project. She stated that the Maintenance Fund has a fiduciary responsibility when considering the terms of the Lease Agreement. She stated that a formal proposal for extending the Lease Agreement was not presented to the Maintenance Fund and believed the discussion held at the Maintenance Fund's October meeting was initial dialogue. She stated that she expects that both Boards will negotiate in good faith. She stated that the negotiation is a process that will occur over more than one or two meetings.

Ms. Smyth requested that the issues of the Water Conservation Project and the Lease Agreement be separated and that the project move forward.

Director Lynch requested that the Maintenance Fund give consideration to the community as a whole and not attempt to extricate money from the many to benefit a few.

Ms. Borello stated that the discussion held at the Maintenance Fund's October meeting was an informal dialogue and not an action by the Board.

Ms. Janek noted that the Enhancement Committee feels they have been forthright and honest and worked in good faith. She stated that the Enhancement Committee worked to correct deficiencies found in the District's prior agreement with the Maintenance Fund for upgrading of the irrigation system. Director Balog stated that members of the Board were shocked by the request for money from the Maintenance Fund and scheduled this meeting as soon as possible to discuss the issues with, and receive input from, the Enhancement Committee. In response to inquiries, Director Balog stated that Director Petrick will notify the Enhancement Committee of any actions taken by the Board. No action was necessary for this item.

CONVENE EXECUTIVE SESSION PURSUANT TO SECTION 551.072 OF THE TEXAS GOVERNMENT CODE TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY

Director Lawrence moved that the Board convene in executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property. Director Lynch seconded the motion, which was approved by unanimous vote.

RECONVENE OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY

The Board next reconvened in open session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property. Following review and discussion, Director Lynch moved that the Board suspend any discussions of the Lease Agreement at this time. Director Petrick seconded the motion, which was approved by unanimous vote, except for Director Lawrence who was not present for the vote.

OPEN FORUM ON USE AND CONTROL OF THE DISTRICT ADMINISTRATIVE BUILDING AND WATER CONSERVATION PROJECTS AND AUTHORIZE APPROPRIATE ACTION

The Board next discussed the Agreement for Public Water Conservation Project with Champion Forest Fund, Inc. Following discussion, Director Lynch moved that the Board approve an immediate release of the funds for the project. Director Jackson seconded the motion, which was approved by unanimous vote, except for Director

Lawrence who was not present for the vote. The Board requested that Director Jackson write an article for the Champion Forest Newsletter regarding the District's approval of funds for the project.

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 21, 2004 BOARD MEETING]

(SEAL)

---

Secretary, Board of Directors

## ACTION ITEMS

- Director Jackson to write an article for the Champion Forest Newsletter regarding the District's approval of funds for the project.