

MINUTES OF REGULAR MEETING  
OF  
CYPRESS FOREST PUBLIC UTILITY DISTRICT

August 2, 2005

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 2nd day of August, 2005, 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: John Shipp of the Champion Forest Civic Club; Rozann Janek of the Champion Forest Fund; Debbie Shelton of First Southwest Company; Al Padron of The Legacy Group; Salim Joubran and Nabil Joubran of Pepe Engineering, Ltd.; Mary Jarmon of Myrtle Cruz, Inc.; Esther Flores of Tax Tech, Inc.; Bob Haas of Aqua Services, L.P. ("Aqua Services"); Steve Robinson of Allen Boone Humphries Robinson LLP ("ABHR"); and Justine M. Cherne, Recording Secretary.

Director Balog called the meeting to order.

RECEIVE PUBLIC COMMENTS

Director Balog opened the meeting to receive public comments. Mr. Shipp stated that he wants a make-up trash collection day for Mondays which fall on holidays. The Board thanked Mr. Shipp for his comments. A copy of his public comment card is attached.

CONSIDER OPTIONS FOR PARTICIPATION WITH CHAMPION FOREST FUND IN PROJECTS FOR CIVIC IMPROVEMENT AND BEAUTIFICATION OF PUBLIC AREAS WITHIN THE DISTRICT

Ms. Janek next distributed a letter requesting that the District use the balance of the funds from the public water conservation project recently completed for repair of the irrigation system serving the common area esplanades. She stated that there are 40 common area esplanades located within the District. She reviewed a map of the common area esplanades located within the District and an invoice for recently completed irrigation repairs. She reviewed a proposal in the amount of \$5,996.72 from Lawn Escape, Inc. for additional irrigation repairs and an irrigation action list. She stated that irrigation repairs in the amount of \$68.50 and \$55.00 were performed on an as needed basis. Discussion ensued regarding the procedures for repairing the irrigation system. Mr. Robinson noted that the irrigation system is not part of the District's facilities and reviewed the legal roles of municipalities versus homeowners associations. He reviewed the requirements for the District's participation in projects that are equitable and achieve a public purpose. Director Petrick noted that a meeting was held with all of the homeowners associations located within the District and that there was a positive response for beautification in the common area esplanades. Ms. Janek stated that the Champion Forest Fund has procedures in place to oversee the repair and maintenance of the irrigation system and that Aqua Services has been effectively assisting with the process.

Following review and discussion, Director Lawrence moved that the Board approve distribution of the balance of the funds from the public water conservation project recently completed in the amount of \$5,577.00 to the Champion Forest Fund for repair of the irrigation system serving the common area esplanades. Director Lynch seconded the motion, which was approved by unanimous vote.

Ms. Janek distributed a Champion Forest Guard House Beautification Action Item List. Per Board members' requests, Ms. Janek updated the Board on the activities of the Champion Forest Fund, including a plan for amending the deed restrictions. Documents distributed to the Board by Ms. Janek are attached.

CONSIDER ELECTRICITY COSTS FOR STREET LIGHTING, DISTRIBUTION OF SURVEY, AND AUTHORIZE APPROPRIATE ACTION

The Board concurred to table this item.

AUTHORIZE EXECUTION OF SECURITY SERVICES AGREEMENT AND AUTHORIZE ANY NECESSARY ACTION

The Board next reviewed fees paid by other utility districts for security services contracted directly with the Harris County Constable Department. Mr. Robinson noted

that a revised Security Services Agreement had been previously distributed to the Board for review. Following review and discussion, Director Lawrence moved that the Board authorize execution of a Security Services Agreement in the amount of \$285.00 per month with Champion Forest Fund, Inc. as presented. Director Petrick seconded the motion, which was approved by unanimous vote. A copy of the Security Services Agreement is attached.

#### REPORT ON AUDIT ANALYSIS OF ELECTRICITY, REVIEW ELECTRICITY PROVIDER OPTIONS

Mr. Padron next reviewed with the Board the following reports: Energy Audit Results, an Audit Report, and a Rate Optimization Report, Budget Impact, copies of which are attached. He reported that The Legacy Group has begun the refund recovery process for sales tax in the amount of \$550.00 which was applied to exempt accounts. He stated that The Legacy Group is waiving its fee for the refund amount. He answered questions from Board members regarding the reports, savings, and contract terms.

Mr. Padron next reviewed a Rate Optimization Report, Indicative Pricing, containing electricity rates from Constellation, Direct Energy and Entergy for different term lengths and projected annual savings based on Reliant's rates, a copy of which is attached. He reminded the Board that its current provider is Constellation. He stated that the market is volatile. The Board discussed proposed term lengths for a new electricity contract. Following review and discussion, Director Lawrence moved that the Board authorize Director Balog to execute a contract with Direct Energy for a three-year term. Discussion ensued regarding whether Constellation would match the rates from Direct Energy. Mr. Padron stated that he will contact Constellation to determine whether they will match the rates. Director Petrick amended the motion to include authorization to execute a contract with Constellation if the rates are matched. The motion passed by majority vote with Director Lynch opposed.

#### APPROVE MINUTES

The Board next considered approving the minutes of the District's regular meeting held on July 5, 2005. Following review and discussion, Director Lynch moved that the Board approve the minutes as written. Director Jackson seconded the motion, which was approved by unanimous vote.

#### BOOKKEEPER'S REPORT, DISCUSS BUDGET FOR FISCAL YEAR ENDING SEPTEMBER 30, 2006 AND AUTHORIZE ANY NECESSARY ACTION

The Board next received the bookkeeper's report and considered payment of the bills. Ms. Jarmon reviewed the written report and presented checks for the Board's approval. Ms. Jarmon and Mr. Robinson answered Director Lynch's questions

regarding the District's reserves for the General and Operating Funds. Ms. Jarmon reviewed the year-to-date budget, Maintenance Fund Recap, and the fiscal year expenditures for the administrative building. She reported that a check in the amount of \$275,000.00 was received from Kleinwood M.U.D. for the District's sale of excess wastewater capacity. Ms. Cherne reported that a letter approving the release of a deposit in the amount of \$275,625.00 placed in escrow for the transaction is ready for execution, a copy of which is attached.

Ms. Jarmon next reviewed the investment report as required by the Public Funds Investment Act. Following review and discussion, Director Jackson 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. Copies of the reports and a list of the checks presented for payment are attached.

Ms. Jarmon next reviewed a draft budget for fiscal year ending September 30, 2006. Discussion ensued regarding how much is expended versus budgeted for each consultant, the budget for administrative costs, and formatting of the budget to reflect operations revenues and expenses based on the operator's billing. Ms. Jarmon stated that she will revise the budget per the changes discussed and distribute a draft to the Board prior to the next meeting.

#### 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. Ms. Flores reported that a rendition penalty assessed to business personal property by the Harris County Appraisal District ("HCAD") is listed as miscellaneous income on the report. She stated that 98.34% of the year 2004 taxes had been collected as of the end of the prior month. She then presented 6 checks for approval and reviewed the delinquent list. After review and discussion, Director Lynch moved that the Board approve the tax assessor/collector's report and payment of the tax bills. Director Petrick seconded the motion, which was approved by unanimous vote.

#### CONSIDER PROPOSED TAX RATE, SET PUBLIC HEARING DATE AND AUTHORIZE NOTICE OF PUBLIC HEARING REGARDING DISTRICT ADOPTION OF TAX RATE

Ms. Flores reported that certified assessed values are expected from HCAD sometime after Labor Day. Ms. Shelton next discussed the preliminary assessed value received from HCAD and allocation of the tax rate. No Board action was necessary.

#### ENGINEER'S REPORT

The Board next received the engineer's report, a copy of which is attached. Mr.

Joubran updated the Board generally on construction projects within the District and reviewed with the Board the items more particularly described hereafter.

RECEIVE UPDATE ON INSTALLATION OF FENCE AT THE ELEVATED STORAGE TANK SITE AND AUTHORIZE APPROPRIATE ACTION

Mr. Joubran reported that installation of the fence has been completed and inspected. He stated that the operation of the gate will be inspected tomorrow. He reviewed a field change to the loop detector authorized by Pepe Engineering, Ltd. for no extra cost. Discussion ensued regarding replacement of a gate and fencing located in front of the Southwestern Bell building. Mr. Joubran stated that the section was not replaced because it is owned by Southwestern Bell under an easement for access. Following discussion, Director Lawrence moved that the Board authorize Pepe Engineering, Ltd. to obtain a quote for replacement of the gate and fencing located in front of the Southwestern Bell building for review at the next regularly scheduled meeting and ABHR to contact Southwestern Bell to obtain permission for the replacement. Director Jackson seconded the motion, which was approved by unanimous vote.

DISCUSS MAINTENANCE PLAN

Mr. Joubran reported that rehabilitation of the sanitary sewer trunk lines is complete. He reminded the Board that bids were received for the rehabilitation of sanitary sewer lines to serve Champion Forest Sections One and Two.

Mr. Joubran reviewed a revised Summary of Yearly Budget Requirements for a projected twenty-year maintenance plan, a copy of which is attached to the engineer's report. Mr. Joubran stated that the District's sanitary system is approximately 25 to 30 years old and presented a preliminary recommendation for rehabilitating the system over a ten year period. He answered questions from Board members regarding the sanitary sewer system and the preliminary recommendation. Discussion ensued regarding the preliminary recommendation, projected cash flow needs for the rehabilitation of the District's sanitary sewer lines, the possibility of performing rehabilitation of all of the District's sanitary sewer lines as one overall maintenance project, and the possibility of holding a bond election to fund the rehabilitation. Mr. Joubran stated that line surveys are necessary to more fully evaluate the extent of rehabilitation needed. Following review and discussion, Director Lawrence moved that the Board authorize Mr. Joubran to obtain a proposal from Source Point Solutions for surveying of the sanitary sewer lines and to prepare a recommendation of the sections to be evaluated for review at the next regularly scheduled meeting. Director Petrick seconded the motion, which was approved by unanimous vote.

UPDATE ON REHABILITATION OF SANITARY SEWER TRUNK LINES

Mr. Joubran reported that the final inspection of the project has been performed and that a letter of completion will be forwarded to the TCEQ. No Board action was necessary.

REVIEW PROPOSALS AND AWARD CONTRACT FOR REHABILITATION OF THE SANITARY SEWER LINES IN CHAMPION FOREST SECTIONS 1 AND 2

Mr. Joubran reported that the bids received for rehabilitation of the sanitary sewer lines were evaluated. He stated that the low bidders were Insituform Technologies, Inc. for Section One in the amount of \$982,371.00 and Repipe Texas, Inc. in the amount of \$457,023.00 for Section 2. He stated that an evaluation of financing options for the project needs to be performed.

Mr. Joubran next reviewed a presentation on the bid proposal process and the actions undertaken prior to the preparation of the contract award recommendation for the rehabilitation of the sanitary sewer lines in Champion Forest Sections 1 and 2. Mr. Robinson answered questions from Board members regarding the process for reviewing bids and awarding contracts. Discussion ensued regarding possibly performing the project as part of an overall maintenance project of rehabilitating the District's sanitary sewer lines, as discussed earlier, and financing options. Mr. Robinson stated that elections can only be held twice a year in May and November. Mr. Joubran stated that he is not aware of a substantial risk or an emergency situation that necessitates performing the rehabilitation right away. Following discussion, the Board requested Mr. Joubran to request extensions from the contractors.

APPROVE PLANS AND SPECIFICATONS AND AUTHORIZE ADVERTISEMENT FOR BIDS FOR CONSTRUCTION OF WATER, SEWER AND DRAINAGE FACILITIES FOR RAVENEAUX PLACE HIGHRISE CONDOS

Mr. Joubran updated the Board on the design of utilities to serve the Chateaux Raveneaux Condominiums included in Bond Application No. 9. He recommended approving the capacity requirements requested in the amount of 43,155 gallons per day for wastewater and 51,786 gallons per day for water for the proposed luxury senior citizens residence to be located on a five-acre tract east of the condominiums. A copy of the request is attached to the engineer's report. He stated that he is working to resolve issues related to drainage capacity requirements for the facilities.

CONSIDER REQUEST FOR UTILITY ALLOCATION COMMITMENT

Mr. Joubran reported that the District's sanitary sewer utility allocation and commitment has been updated to incorporate the sale of surplus capacity and information on proposed new development. A copy of the updated allocation is

attached to the engineer's report. He stated that all contemplated developments have adequate sanitary sewer capacity. No Board action was necessary.

#### ADDITIONAL ENGINEERING ITEMS

Mr. Joubran reviewed activities related to the proposed development of approximately 300 units of condominiums on the Raveneaux Golf Course.

Discussion ensued regarding developing a method for evaluating consultant contracts in the future.

Following review and discussion, Director Petrick moved that the Board approve the engineer's report as presented, including the request for utility allocation and commitment for the proposed Houston Conservatory Senior Living Apartments. Director Lynch seconded the motion, which was approved by unanimous vote.

#### ADOPT RESOLUTION REQUESTING RELEASE OF FUNDS FROM ESCROW AND CHANGE IN PROJECT SCOPE FOR REHABILITATION OF THE SANITARY SEWER LINES IN CHAMPION FOREST SECTIONS 1 AND 2

The Board concurred to table this item.

#### REVIEW ENGINEER'S CONTRACT AND AUTHORIZE APPROPRIATE ACTION

Mr. Joubran thanked the Board for the opportunity to provide engineering services to the District and requested the Board to renew the engineer's contract without any amendments. Following review and discussion, Director Petrick moved that the Board approve renewal of the engineer's contract without amendments. Director Jackson seconded the motion, which was approved by unanimous vote.

#### 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. He reported that the one-month water production accountability for last month was 91.7% and the four-month accountability average was 91.7%. He reviewed charts of installed and paid tap fees and a grease trap inspection report. He next reported that 31 termination letters were mailed. He reported that eight or nine meters will need to be replaced at an approximate cost of \$3,000.00. Discussion ensued regarding the District's water production accountability, the fees paid by the District to the North Harris County Regional Water Authority, and the percentage of meters provided to the Champion Forest Fund. Mr. Haas reported on the repairs made to the flushing valves. Following review and discussion, Director Lynch moved that the Board approve the operator's report as presented. Director Lawrence 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 with the exception of the account that was paid today. Director Lawrence seconded the motion, which was approved by unanimous vote.

## REVIEW OUTLINE OF PROCEDURES FOR REQUESTING PROPOSALS FOR OPERATOR'S CONTRACT

The Board next reviewed an outline of procedures for requesting proposals for operator's contract. Board members stated that the request for proposals will provide information for comparison purposes. Following review and discussion, the Board concurred to consider approval of the outline, ABHR's comments to the outline, and a list of operators developed in coordination between Director Lynch and ABHR at the next regularly scheduled meeting.

## DISCUSS MATTERS RELATED TO NHCRWA

Director Balog reported on the activities of the North Harris County Regional Water Authority (the "NHCRWA"). No Board action was necessary.

## DISCUSS OPERATIONS OF KLEINWOOD CENTRAL SEWAGE TREATMENT PLANT JOINT POWERS BOARD MEETING, DISCUSS SALE OF SURPLUS CAPACITY AND AUTHORIZE ANY NECESSARY ACTION

Director Lynch reported on the operations and maintenance of the Kleinwood Central Sewage Treatment Plant and the Joint Powers Board meeting. No Board action was necessary.

## DISTRICT WEB SITE

The Board next discussed the web site. Board members stated that they were generally pleased with the site. The Board requested that the site be accessible to modem users. The Board concurred not to launch the site with more than 10% of the content under construction and requested that links to pages under construction be removed. The Board concurred to discuss authorizing the web site to be launched at the next regularly scheduled meeting.

## RECEIVE REPORT FROM DIRECTOR PETRICK ON PARK MATTERS

Director Balog reported that he received an invitation to attend a North Houston Association Environmental Committee luncheon on August 4, 2005, at which Joe B. Allen will provide an update on new legislation affecting utility districts, including park matters. Director Lynch moved that the Board authorize Directors Balog and Petrick to attend the luncheon. Director Lawrence seconded the motion, which was approved by unanimous vote.

Director Petrick reported that there is no update on construction of a proposed trail within the District. He stated that he will meet with the Champion Forest Beautification Committee this month and review qualifications received from landscape architects.

Director Petrick next reported on his activities on behalf of the District and in coordination with a loose alliance of concerned groups and citizens in the proposed development of a public park within the 462 acres of property being sold by Hewlett-Packard ("HP"). He reported on Harris County funding discussions and stated that an access agreement has not yet been received from Kickerillo Companies.

Director Petrick stated that the Champion Forest Garden Club received permission to plant wildflowers on property owned by the Harris County Flood Control District (the "HCFCD") five or six months ago but has not received a response from Rachel Decker on the project. Mr. Robinson stated that he will assist Director Petrick with obtaining a response from the HCFCD.

No Board action was necessary.

## DISCUSS NEW LEGISLATION APPLICABLE TO THE DISTRICT

Mr. Robinson next reviewed new legislation passed by the Texas Legislature regarding District use of funds received from cities, uniform election dates, disclosure of relationships with contractors, and mandatory training for public officials. No Board action was necessary.

## CONSIDER CHANGING FORMAT OF THE DISTRICT'S AGENDA

The Board next considered a proposed revised format of the District's Board of Directors meeting agenda. Following review and discussion, Director Lawrence moved that the Board change the format of the meeting agenda as discussed. Director Lynch seconded the motion, which was approved by unanimous vote.

SUCH OTHER MATTERS

Director Lynch stated that he will contact WCA to determine the cost for a make-up trash collection day for Labor Day. The Board authorized Director Lynch to coordinate with the Champion Forest Fund on developing a survey for distribution to the District's residents regarding trash collection services.

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

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE FOR THE MINUTES OF THE AUGUST 2, 2005 BOARD MEETING]

(SEAL)

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Secretary, Board of Directors

## ACTION ITEMS

- [June] The Champion Forest Fund to prepare a proposal for additional public water conservation projects to which the \$5,577.00 remaining from the \$50,000.00 originally estimated and placed in the District's budget could be applied.
- [June] The Fund to assist with obtaining the total amount of annual electricity costs for street lighting for all of the homeowners associations located within the District.
- Director Balog to execute a contract with Direct Energy Constellation, if the rates are matched, for a three-year term. Mr. Padron to contact Constellation to determine whether they will match the rates.
- Ms. Jarmon to revise the 2006 budget per the changes discussed and distribute a draft to the Board prior to the next meeting.
- Pepe Engineering, Ltd. to obtain a quote for replacement of the gate and fencing located in front of the Southwestern Bell building for review at the next regularly scheduled meeting and ABHR to contact Southwestern Bell to obtain permission for the replacement.
- Mr. Joubran to obtain a proposal from Source Point Solutions for surveying of the sanitary sewer lines and to prepare a recommendation of the sections to be evaluated for review at the next regularly scheduled meeting.
- Pepe Engineering, Ltd. to forward letter of completion to the TCEQ for rehabilitation of the sanitary sewer lines.
- Mr. Joubran to request extensions from the contractors for rehabilitation project of sanitary sewer lines in Sections 1 and 2.
- Board concurred to consider approval of the outline, ABHR's comments to the outline, and a list of operators developed in coordination between Director Lynch and ABHR at the next regularly scheduled meeting.
- Directors Balog and Petrick to attend a North Houston Association Environmental Committee luncheon on August 4, 2005
- Web site committee to continue to coordinate with Ms. Payne and ABHR to forward Board's comments on web site to Ms. Payne.
- Mr. Robinson stated that he will assist Director Petrick with obtaining a response from the HCFC.

- [Last Month] Preparation of annual newsletter to begin and articles for inclusion to be submitted prior to the September meeting of the Board.
- Meeting Agenda format change.
- Director Lynch to contact WCA to determine the cost for a make-up trash collection day for Labor Day and to coordinate with the Champion Forest Fun on developing a survey for distribution to the District’s residents regarding trash collection services.

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