

MINUTES  
CYPRESS FOREST PUBLIC UTILITY DISTRICT

April 7, 2009

The Board of Directors (the "Board") of Cypress Forest Public Utility District, Harris County, Texas (the "District"), met in regular session, open to the public, on the 7th day of April, 2009, at the Cypress Forest Public Utility District Administrative Building, 16215 Champion Forest Drive, Spring, Texas 77379, inside the boundaries of the District, and the roll was called of the members of the Board:

Thomas J. Petrick	President
Linn Jensen Smyth	Vice President
Fred P. Jones	Secretary
Greg DiCioccio	Assistant Secretary
Michael J. Lynch, Jr.	Assistant Vice President

and all of the above were present, thus constituting a quorum.

Also present for all or part of the meeting were the following: Jim Reed and Bob Jackson, residents of the District; Karen Sears of The Legacy Group; John E. Fox of Fox & Bubela, Inc.; Kim Shelnett of Myrtle Cruz, Inc.; Esther Flores of Tax Tech, Inc.; Nabil and Salim Joubran of Pepe Engineering, Ltd. ("Pepe Engineering"); Gus Gustafson of SouthWest Water Company ("SWWC"); Angie Lutz of Allen Boone Humphries Robinson LLP ("ABHR"); and Justine M. Cherne, Recording Secretary.

PUBLIC COMMENTS

Director Petrick opened the meeting to receive public comments. There were no public comments.

CONSENT AGENDA:

APPROVE MINUTES

FINANCIAL AND BOOKKEEPING, INCLUDING PAYMENT OF BILLS

TAX ASSESSMENT AND COLLECTION, INCLUDING PAYMENT OF BILLS

ENGINEERING, INCLUDING LONG-TERM MAINTENANCE PLAN

OPERATION OF DISTRICT FACILITIES

Upon a motion made by Director Lynch and seconded by Director DiCioccio, the Board voted unanimously to approve the Consent Agenda. Copies of the bookkeeper's report, tax assessor/collector's report, the engineer's report, and the operator's report are attached.

## ADDITIONAL FINANCIAL AND BOOKKEEPING ITEMS

Ms. Shelnuttt reviewed two additional checks for payment of meeting expenses and of legal fees to ABHR for litigation services. She stated that the additional checks will be included on next month's report. She reported that she was notified by the District's insurer that only ABHR's first invoice in the amount of \$7,331.64 and all of the invoices received from Viada & Strayer will be reimbursed. Ms. Shelnuttt next reviewed corrections to the balance of the District's escrow funds. Following review and discussion, Director Smyth moved to approve payment of the additional checks as presented. Director Lynch seconded the motion, which was approved by unanimous vote.

## ADDITIONAL TAX ASSESSMENT COLLECTION ACTION ITEMS

Ms. Flores reported that the District's account with Capital One, N.A. will be moved to Wells Fargo Bank, N.A. due to the inability to obtain an executed Depository Pledge Agreement from Capital One, N.A. Discussion next ensued regarding estimated assessed values. Following review and discussion, Director Jones moved to authorize execution of a Depository Pledge Agreement with Wells Fargo Bank, N.A. Director Smyth seconded the motion, which was approved by unanimous vote.

## ARBITRAGE REBATE STUDY FOR SERIES 2004 BONDS

The Board next reviewed an arbitrage rebate study for the District's Series 2004 Bonds that states that the District does not owe a yield reduction payment.

## MATERIAL EVENT NOTICE

Ms. Lutz reported that the District's underlying rating has been upgraded from A- to A+ by Standard and Poor's Financial Services LLC. She stated that a material event notice will be filed as required.

## HURRICANE IKE, EMERGENCY PLANNING AND COMMUNICATION

Mr. Gustafson stated that he continues to work on the preparation of emergency response plans specific to each of the District's facilities and interconnections, including generator use, and that he is coordinating with Mr. Nabil Joubran on the plans.

Ms. Lutz reviewed a response letter from the Federal Emergency Management Agency ("FEMA") to all utility districts that submitted a Notice of Intent for funding from the Hazard Mitigation Grant Program. She reported that of the \$13 million FEMA has to award, the program received almost \$304 million in requests. She stated that only four types of projects will be considered for funding: 1) Emergency Operations Centers, 2) police, fire, and Emergency Medical Services, 3) city halls for continuity of government, and 4) water plants. She stated that of these four, only a small amount of

money will go to water plants. She said that requests for generators to serve wastewater facilities, lift stations, pump stations or other miscellaneous items were denied. She noted that the District's Notice of Intent included generators for two water plants and two lift stations. Following review and discussion, the Board concurred to not submit an application for Phase 2 of FEMA's Hazard Mitigation Grant Program.

#### ADDITIONAL ENGINEERING ACTION ITEMS

Mr. Nabil Joubran gave a presentation on the District's surface/ground water blending project for Water Plant Nos. 1 and 2, including background, implementation, design, bidding, construction, and development of the engineer's cost estimate, and responded to Board members' questions. A copy of the presentation is attached. Discussion ensued regarding the District's capital projects budget and surplus funds.

Mr. Nabil Joubran next reviewed four bids for the construction of the ammonia injection systems for the District's surface/ground water blending project for Water Plant Nos. 1 and 2. He recommended awarding the contract in the amount of \$323,888.00 to the low bidder, B-5 Construction, Inc. Following review and discussion, the Board concurred with the engineer's recommendation that B-5 Construction, Inc. was a responsible bidder whose bid would result in the best and most economical completion of the project. Director Smyth moved to award the contract to B-5 Construction, Inc. and authorize execution of the contract. Director DiCioccio seconded the motion, which was approved by unanimous vote. Copies of the bid tabulation and recommendation letter are attached to the engineer's report.

Mr. Nabil Joubran next stated that he was asked to delay his evaluation of the efficiency of the District's operations approximately a year and a half ago, and asked whether the Board wanted Mr. Gustafson and him to begin work on the project. Discussion ensued regarding methods for performing such an evaluation and review of previously prepared documents. Following discussion, the Board concurred to authorize Director DiCioccio to coordinate with Mr. Nabil Joubran on development of a method for such an evaluation.

Mr. Nabil Joubran discussed his coordination with SWWC and the owner of a proposed bakery to bring the business in compliance with the District's Rate Order. Following review and discussion, Director DiCioccio moved to amend the District's Rate Order to impose a penalty on commercial owners who provide utilities to businesses which are not in compliance with the District's Rate Order. Director Lynch seconded the motion, which was approved by unanimous vote.

Mr. Gustafson reported that a resident whose meter was removed for non-payment of utility charges made an unauthorized connection to the District's water system through a pipe connected between the District's waterline and the resident's home. He stated that prior to the discovery of the unauthorized connection, the resident did not make a payment on the account per the payment plan previously

offered. He stated that the resident has subsequently paid \$300.00 towards the \$924.33 that was past due. He stated that the resident was notified that the matter would be presented to the Board to consider implementing a fine for the unauthorized connection per the District's Rate Order, along with adding the cost of removing the unauthorized connection to the past due amount owed on the account. Following review and discussion, Director Jones moved to implement a fine in the amount of \$1,000.00 for the unauthorized connection. Discussion ensued regarding the fine and the possibility for unauthorized connections contaminating the District's entire water supply. Following discussion, Director Jones amended his motion and moved to implement a fine in the amount of \$500.00 for the unauthorized connection. Director Petrick seconded the motion, which was approved by unanimous vote. The Board authorized ABHR to forward a letter to the resident to notify him of the fine.

Mr. Nabil Joubran stated that he does not recommend that the District subscribe to The Legacy Group's online access electricity software at this time.

#### RAVENEAU TRACT DEVELOPMENT, APPRAISAL REPORT

Mr. Fox next explained the process of appraisal to develop an opinion of value per the appraisal report for the park property previously distributed and responded to Board members' questions.

#### DISTRICT FACILITY OPERATIONS

Mr. Gustafson next reviewed the estimated rate of loss of water due to leaks, the District's cost of producing water, and discussed water accountability and the estimated annual savings to be realized by the District through the repair of the water leaks detected by Samco. Following review and discussion, the Board concurred to consider engaging Samco for leak detection services at the November regularly scheduled meeting.

No customer correspondence was presented.

Mr. Gustafson reported that he is working with Director Petrick on the consultant review process prior to presenting an updated operator's contract.

Mr. Gustafson distributed a Consumer Confidence Report for consideration at next month's meeting.

#### ADOPT AMENDED RATE ORDER

The Board next discussed the District's water rates and billing procedures for Multi-Family Residential Users. Following review and discussion, Director Smyth moved to amend the District's Rate Order to clarify the District's water rates and billing procedures currently applied to Multi-Family Residential Users. Director DiCioccio seconded the motion, which was approved by unanimous vote.

## CONDUCT HEARING ON TERMINATION OF WATER SERVICE

The Board next conducted a hearing on the termination of water service. The Board discussed the amount owed by past due accounts. Mr. Gustafson reported that the customers included on the termination list attached to the operator's report 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 declare why the utility service should not be terminated for reason of nonpayment. Following discussion, Director DiCioccio 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 Lynch seconded the motion, which was approved by unanimous vote.

## ADOPT DROUGHT CONTINGENCY PLAN

Ms. Lutz reported that Districts which have previously adopted Drought Contingency Plans are required to adopt revised plans no later than May 1, 2009. She stated that all retail or wholesale public water suppliers are required to provide a copy of the revised plan to the regional water planning group for each region within which the water system operates. She noted that a copy of the District's current Drought Contingency Plan was distributed last month for the Board's review. After review and discussion, and upon a motion made by Director DiCioccio and seconded by Director Lynch the Board voted unanimously to adopt the Order Adopting Amended and Restated Drought Contingency Plan; Providing for Implementation and Enforcement Thereof; Providing Penalties for Violations; and Containing Other Provisions Related to the Subject, direct that a copy be filed with the appropriate regional planning group, and direct that a copy be retained in the District's permanent records.

## ADOPT IDENTITY THEFT PREVENTION PROGRAM

Ms. Lutz reviewed new rules for identity theft prevention issued by the Federal Trade Commission. She stated the Fair and Accurate Credit Transactions Act of 2003 as implemented by Part 681 of Title 16 of the Code of Federal Regulations (the "Rule") requires certain "creditors" with "covered accounts" to prepare, adopt, and implement an identity theft prevention program to identify, detect and mitigate patterns, practices or specific activities which could indicate identity theft. She stated that because the District maintains "covered accounts" with utility service customers and for other purposes which involve multiple payments or transactions, the District is required to develop, adopt, and implement a written Identity Theft Prevention Program by May 1, 2009. She added that the District's operator will be the Program Administrator and will be responsible for implementation of the Program. After review and discussion, Director DiCioccio moved to adopt an Order Adopting Identity Theft Prevention Program and Providing for Implementation and Enforcement Thereof, direct that a copy be retained in the District's permanent records, and direct the District's operator to implement the Identity Theft Program. Director Lynch seconded the motion, which

carried unanimously. The Board concurred to periodically review and amend the Identity Theft Program to reflect any changes in risks to the District's customers.

#### REPAIR AND MAINTENANCE ITEMS

Mr. Gustafson reviewed a proposed letter for distribution to the District's residents to provide information regarding the District's Emergency Response Plan, including communication information, for use during the upcoming hurricane season. Following review and discussion, the Board authorized Director Smyth to coordinate with Mr. Gustafson on the letter, and on the number and location of and wording for signs for water conservation and boil water notices.

Mr. Gustafson next discussed information he is gathering regarding options for renting and purchasing generators. He recommended the installation of quick connections at the District's lift stations to allow for the future connection of generators without the use of an electrician. Following discussion, Director Lynch moved to approve the installation of the connections in an amount not to exceed \$10,000.00. Director DiCioccio seconded the motion, which was approved by unanimous vote.

#### REQUIREMENTS UNDER HB 3693, DEMAND RESPONSE ELECTRICITY PROGRAM RESULTS AND COST SAVINGS

Ms. Sears next discussed the District's requirements for recording and reporting of electricity, water, and natural gas consumption and for implementing a utility savings plan under House Bill 3693 due to the District's anticipated expenditures of over 200,000 annually for electricity. She reviewed the services provided by The Legacy Group to compile data for analysis to prepare a Billing Verification Report to assist with the implementation of a utility savings plan and to provide the required annual report to the State Energy Conservation Office. She stated that the cost for the services is approximately \$250.00 per meter per year. After discussion, it was determined this request was premature.

Ms. Sears briefly reviewed The Legacy Group's coordination with CenterPoint Energy to provide District facility information for a Critical Load Program for consideration at next month's meeting. Mr. Joubran noted that per the engineer's report, Pepe Engineering is seeking guidance regarding providing District facility information requested by Harris County's consultant, CDM. Following Ms. Lutz' recommendations regarding CDM's request, the Board authorized Pepe to provide as much information to Harris County as possible by the April 15, 2009, deadline and concurred to consider the Critical Load Program at next month's meeting.

#### RAVENEAU TRACT DEVELOPMENT, WEST END TRAIL/18<sup>TH</sup> HOLE PROJECT, BOND SCHEDULE

Mr. Nabil Joubran reported that the application for the issuance of bonds for the

acquisition of land for park and recreational facilities was submitted to the Texas Commission on Environmental Quality (the "TCEQ") on April 6, 2009.

#### RESOLUTION EXPRESSING INTENT TO REIMBURSE OPERATING ACCOUNT

The Board discussed engineering expenditures incurred related to the preparation of the District's bond application. After discussion, Director Jones moved to adopt a Resolution Expressing Intent to Reimburse Operating Account to reimburse the District's operating account from future bond proceeds for the engineering expenditures. Director Lynch seconded the motion, which was approved by unanimous vote.

#### PUBLIC COMMUNICATIONS

Director Smyth reported on public communications activities, including coordination on National Night Out with the Champion Forest Fund, coordination with the Champion Forest Garden Club on the Spring into Action program, updates to the District's website and newsletter, planting at the District's Administrative Building by the Garden Club, distribution of articles on drinking tap water and water conservation, and sponsorship of the water conservation coloring book program at Klein Independent School District.

#### RENEWAL OF INSURANCE POLICIES

The Board next reviewed insurance renewal proposals received from Highpoint Insurance Group, LLC and Anco-McDonald Waterworks Insurance. Following review and discussion, Director Lynch moved to accept the renewal proposal from Highpoint Insurance Group, LLC in the amount of \$11,837.00. Director Jones seconded the motion, which was approved by unanimous vote.

#### MATTERS RELATED TO NHCRWA

Director Smyth reported that the North Harris County Regional Water Authority has scheduled surface water conversion seminars for Directors and consultants on April 25 and April 30, 2009.

#### KLEINWOOD REGIONAL WASTEWATER TREATMENT PLANT

Director Lynch reported on the Joint Powers Board meeting and operations and maintenance of the Kleinwood Regional Wastewater Treatment Plant. He reviewed the following repair and maintenance projects for the Board's approval: 1) repair of clarifier no. 2; 2) rental of a generator for the 2009 hurricane season; and 3) installation of an additional generator. He stated that the District's share of the costs is 26.5%. Following discussion regarding the procedures for requesting the District's approval for such projects, the Board concurred to consider approval of the projects at next month's meeting after receipt of the appropriate documentation for the projects.

MATTERS RELATED TO HOMEOWNERS ASSOCIATIONS

There was no discussion on matters related to homeowners associations.

WATER CONSERVATION PROJECT

There was no discussion regarding the Water Conservation Project.

ADMINISTRATIVE BUILDING AND GROUNDS

Director Petrick reported on repairs and maintenance performed for the District's Administrative Building and grounds and reviewed an invoice in the amount of \$3,060.00 from DSA Painting & Carpentry. Following review and discussion, Director Lynch moved to approve payment of the invoice as presented. Director DiCioccio seconded the motion, which was approved by unanimous vote.

Director Petrick reviewed a proposal in the amount of \$3,350.00 from Carpet Villa, Inc. for replacement of the grey carpet within the District's Administrative Building. Following review and discussion, Director Jones moved to accept the proposal from Carpet Villa, Inc. as presented. Director Smyth seconded the motion, which was approved by unanimous vote, except for Director Lynch who was not present for the vote.

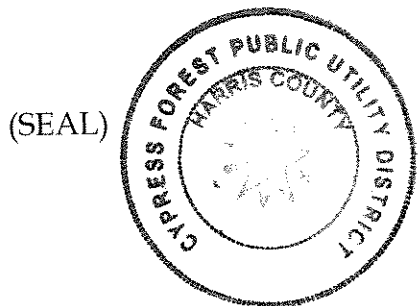
MEETING SCHEDULE AND AGENDA

The Board next discussed their meeting schedule and items for inclusion on the agenda.

CONVENE IN EXECUTIVE SESSION

The Board did not convene in executive session pursuant to Sections 551.072, 551.087, and 551.071 of the Texas Government Code to discuss and consider the acquisition of real property, the terms and conditions of an economic development package, and consultation with attorney about pending or contemplated litigation.

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



  
Secretary, Board of Directors

LIST OF ATTACHMENTS TO MINUTES

	Minutes
	<u>Page</u>
Bookkeeper's Report .....	1
Tax Assessor/Collector's Report.....	1
Engineer's Report.....	1
Operator's Report.....	1
Presentation .....	3