

## **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 370**

Minutes of Meeting of Board of Directors

February 12, 2024

The Board of Directors of Harris County Municipal Utility District No. 370 met in regular session, open to the public on February 12, 2024, at 1300 Post Oak Boulevard, Suite 2500, Houston, Harris County, Texas, in accordance with the duly posted notice of a public meeting, and the roll was called of the duly constituted members of said Board of Directors, as follows:

Steven G. Reyenga, President  
Harold Cobb, Vice President  
Mike Ecklund, Secretary  
Linda D. Myers, Assistant Secretary  
Chuck Werninger, Assistant Secretary

all of whom were present, thus constituting a quorum.

Also attending the meeting were: Phillip Dautrich of TNG Utility Corp. ("TNG"); Carter Burton of Municipal Accounts & Consulting, L.P. ("MAC"); Brian Chovanec of Benchmark Engineering Corporation ("Benchmark"); Nolan Poorbaugh of B&A Municipal Tax Service, LLC ("B&A"); Zach Halbert of Champions Hydro-Lawn, Inc. ("Champions"); Angie Hartwell of Touchstone District Services, LLC ("Touchstone"); and Gordon Cranner and Melia Berry of Schwartz, Page & Harding, L.L.P. ("SPH").

The President called the meeting to order and declared it open for such business as might regularly come before the Board.

### PUBLIC COMMENTS

The Board deferred consideration of comments from the public, as no comments were offered.

### APPROVAL OF MINUTES

The Board reviewed the minutes of its meeting held on January 8, 2024. After review and discussion of the minutes presented, Director Reyenga moved that such minutes be approved, as presented. Director Cobb seconded said motion, which unanimously carried.

### DETENTION POND MAINTENANCE AGREEMENT

Mr. Cranner reported on the status of the approval and execution of the Amended and Restated Detention Pond and Landscape Reserve Maintenance Agreement with Villages at Lakepointe ("VAL") (the "Agreement"). Director Werninger reported further regarding his contact the Board of Directors of VAL to confirm the status of the approval and execution of the Agreement.

Director Werninger next informed the Board of a request from the VAL Board of Directors related to District security. After discussion, the Board concurred to defer the matter until the Agreement has been addressed and the request related to District security has been made formally presented in writing to the Board

In connection with the proposals from the Lakes on Eldridge North Community Association for the completed landscaping repairs to landscaping damaged during Winter Storm Uri, Mr. Cranner advised that payment would be made when the final invoices are presented to the District.

### RESIDENTIAL SOLID WASTE PROPOSALS

The Board next considered the ratification of its prior action regarding: (i) acceptance of the Proposal from Best Trash, LLC ("Best Trash"), and the Texas Ethics Commission Form 1295 relative to same and authorization for SPH to acknowledge same on behalf of the Board and the District; (ii) authorization for SPH to provide a sixty (60) day notice of termination to Texas Pride Disposal Solutions, LLC ("Texas Pride") prior to December 31, 2023; and (iii) authorization for SPH to coordinate with Best Trash to prepare for services to begin on March 1, 2024. After discussion, Director Reyenga moved that the Board's prior action be ratified and approved in all respects. Director Cobb seconded said motion, which carried unanimously.

The Board then discussed the collection of the trash and recycling carts/bins by Texas Pride and the status of the communications to the residents regarding the change in trash and recycling service providers, the distribution of the new trash and recycling carts/bins, the new collection days and the commencement of the new service provider. A copy of Best Trash's Information Notice, attached hereto as **Exhibit A**, was presented to the Board. Ms. Hartwell reported on the information currently posted to the District's website and discussed those messages to be posted soon following the meeting and prior to March 1, 2024.

### TAX ASSESSOR-COLLECTOR'S REPORT

Mr. Poorbaugh presented to and reviewed with the Board the Tax Assessor-Collector Report for the period ending January 31, 2024, and the Delinquent Tax Roll as of January 31, 2024, copies of which are attached hereto as **Exhibit B**, including the disbursements presented for payment, as listed therein. Following discussion, it was duly moved by Director Reyenga, seconded by Director Myers, and unanimously carried, that the Tax Assessor-Collector Report be approved and the disbursements identified therein be authorized for payment.

### DELINQUENT TAX REPORT

Mr. Cranner presented to and reviewed with the Board the Delinquent Tax Report dated February 8, 2024, prepared by Ted A. Cox, P.C. ("Cox"), the District's delinquent tax attorney, a copy of which is attached hereto as **Exhibit C**. It was noted that no Board action was required.

## OPERATOR'S REPORT

Mr. Dautrich presented to and reviewed with the Board the Operations and Maintenance Report dated February 12, 2024, a copy of which is attached hereto as **Exhibit D**.

Mr. Dautrich then presented to and reviewed with the Board the Delinquent Accounts Listing (the "Listing") prepared by TNG and noted that the delinquent accounts identified in the Listing will be terminated if payment is not timely received, as per the District's Rate Order; a copy of the Listing is attached to the Operator's Report.

Mr. Dautrich next reported that a boil water notice was issued on January 28, 2024, due to two chlorine pump malfunctions which were repaired. The boil water notice was officially rescinded on February 1, 2024 in order to complete all of the required notice procedures implemented by the Texas Commission on Environmental Quality. The Board then discussed how well the District's public communication program worked in responding to customers' questions and concerns during and after the event.

Mr. Dautrich then reported on the inspection and cleaning of Ground Storage Tank ("GST") No. 1 and advised that GST No. 2 will be completed next.

Mr. Dautrich next presented to and reviewed with the Board a Pressure Monitoring Report, a copy of which is attached to the Operator's Report. He further reported that three (3) pressure sensors were installed in different locations for testing and noted that the report reflects a summary of the data collected to date. Mr. Dautrich noted a pattern of pressure loss from 12:00 a.m. to 1:00 a.m. but was unable to explain the cause of the anomaly. He noted that TNG will continue to research the anomaly to determine its origin and suggested that a valve study may be conducted to confirm that all valves are in working order. Mr. Dautrich noted that permanent sensors may need to be installed. No action was taken by the Board today on this matter.

Mr. Dautrich then reported that TNG will replace the Lift Station "Mission Control" manual dialer due to continual battery problems, and replace it with a "Verbatim" auto dialer call out phone line in the amount of \$6,300.00.

Mr. Dautrich next requested approval from the Board to prepare and submit a Resolution Approving Submittal of the Water Smart Application for Inclusion in the Association of Water Board Directors Water Smart Partners Program (the "Resolution"). The executed Resolution is attached hereto as **Exhibit E**.

After discussion, it was moved by Director Reyenga, seconded by Director Meyers, and unanimously carried: (i) to approve replace the Lift Station "Mission Control" manual dialer due to continual battery problems, and replace it with a "Verbatim" auto dialer call out phone line in the amount of \$6,300.00, and (ii) approve the Resolution Approving Submittal of the Water Smart Application for Inclusion in the Association of Water Board Directors Water Smart Partners Program and authorize the President and Secretary to execute same on behalf of the Board and the District.

## REVIEW OF WATER CONSERVATION PLAN AND DROUGHT CONTINGENCY PLAN

Mr. Cranner discussed with the Board the requirements of Title 30, Section 288.30 of the Texas Administrative Code for retail public water suppliers such as the District to review and, if appropriate, revise their Water Conservation Plan (the "WCP") and Drought Contingency Plan (the "DCP") not later than May 1, 2024, and every five years thereafter. He then requested that the Board consider authorizing TNG and Benchmark to review the District's WCP and DCP for any required updates. Following discussion, Director Reyenga moved that TNG and Benchmark be authorized to review the District's WCP and DCP for any required updates. Director Meyers seconded the motion, which unanimously carried.

## BOOKKEEPER'S REPORT

Mr. Burton presented to and reviewed with the Board the Bookkeeper's Report dated February 12, 2024, a copy of which is attached hereto as **Exhibit F**, including the disbursements presented for payment. After discussion, it was moved by Director Reyenga, seconded by Director Meyers, and unanimously carried, that the Bookkeeper's Report be approved and the checks presented therein be authorized for payment.

## AMENDMENT OF DISTRICT'S FISCAL YEAR END 2024 OPERATING BUDGET

Mr. Burton asked the Board to defer the consideration to amend the District's FYE 2024 Operating Budget until a later Board meeting. After discussion the Board concurred with Mr. Burton's request.

## ADOPTION OF RESOLUTION CONCERNING DEVELOPED DISTRICT STATUS FOR 2024 TAX YEAR

Mr. Cranner next advised the Board that the procedures involved in setting a tax rate each year applicable to a particular district will depend, in part, upon whether it is determined to be a "Developed District" under Texas Water Code Section 49.23602. Mr. Cranner then reviewed with the Board a worksheet completed by Benchmark to assist the Board in making this determination, along with a Resolution Concerning Developed District Status for 2024 Tax Year, a copy of which is attached hereto as Exhibit A to the Resolution Concerning Developed District Status for 2024 Tax Year which is attached hereto as **Exhibit G** (the "Developed District Resolution"). He advised the Board that pursuant to said worksheet the District is a "Developed District." Following discussion, upon motion made by Director Reyenga, seconded by Director Cobb and unanimously carried, the Board determined that the District shall be considered a Developed District for the 2024 Tax Year and adopted the attached Developed District Resolution.

## REVIEW OF INTEREST INCURRED ON DISTRICT'S SERIES 2022 UNLIMITED TAX BONDS

The Board discussed deferred discussion of the engagement of Arbitrage Compliance Specialists to prepare interim rebate reports, track liabilities and monitor the interest earned on the Series 2022 Bonds prior to the District's 5-year arbitrage reporting deadline at this time. A discussion ensued regarding ways to spend down the arbitrage funds. After discussion, the Board

concluded to authorize TNG to obtain an estimate for the purchase and installation of smart meters in the District. Mr. Dautrich noted that he would forward the estimate to the Board for review prior to the next Board meeting.

Mr. Dautrich exited the meeting at this time.

#### STATUS OF CONTINUING DISCLOSURE REPORT

The Board discussed the status of the District's continuing disclosure report due February 28, 2024. Mr. Cranner explained that the continuing disclosure report is due on February 28, 2024, and McCall Parkhurst & Horton, L.L.P. are preparing the report prior to the deadline. However, the Board will not meet until after the report is due. He then requested the Board approve the continuing disclosure report, subject to final review and approval by SPH. After discussion, upon motion made by Director Cobb, seconded by Director Reyenga and unanimously carried, the Board approve the continuing disclosure report, subject to final review and approval by SPH.

#### DETENTION AND DRAINAGE FACILITIES REPORT

Mr. Halbert next presented to and reviewed with the Board a Detention and Drainage Facilities Report dated February 12, 2024, a copy of which report is attached hereto as **Exhibit H**. There was no action required by the Board on this matter.

#### COMMUNICATIONS REPORT

Ms. Hartwell next presented to and reviewed with the Board the Communications Report for the month of February 12, 2024, a copy of which is attached hereto as **Exhibit I**.

Mr. Halbert exited the meeting during the discussion of the Communications Report.

#### ENGINEER'S REPORT

Mr. Chovanec's presented to and reviewed with the Board a written Report on Engineering dated February 12, 2024, a copy of which is attached hereto as **Exhibit J** relative to the status of various projects within the District.

Mr. Chovanec next presented to and requested approval for the payment of two pay requests from Champions totaling \$2,103.09 for storm quality maintenance work completed at Turkey Creek in Satsuma Lakes and for maintenance work completed at Turkey Creek in Addicks Reservoir; copies of the pay requests are attached to the Engineer's Report.

In connection with the Board's discussion last month regarding the preparation of a revised Capital Improvement Plan (the "CIP"), Mr. Chovanec reviewed a preliminary project forecast for the next five (5) to ten (10) years. After the review, the Board requested that the Water Plant Rehabilitation Project be included in the CIP and that a timeline that includes costs, which can be used to determine if the District has enough funds available to proceed with a planned project.

Mr. Chovanec next reported that Benchmark is preparing the proposals for the Cypress Tree Inspection at the two (2) lakes at Ginger Ponds Drive for an estimated cost of \$40,000. A discussion ensued and Director Cobb noted that there are Cypress Trees in the common areas all throughout the District and suggested that the study be expanded to include all District Cypress Trees and possible subsidence issues. After discussion, the Board concurred to defer consideration of the proposals until the next Board meeting in order for Benchmark to modify the proposals accordingly.

After discussion, Director Reyenga moved that the Report on engineering and all action items listed therein be approved, including the approval of all pay estimates and change orders for District projects and all pay applications for the monthly maintenance of Turkey Creek. Director Werninger seconded said motion, which unanimously carried.

#### APPROVE PREVAILING WAGE RATES FOR CONSTRUCTION PROJECTS

Mr. Cranner presented to the Board for review and approval a Resolution Adopting Prevailing Wage Rate Scale for Construction Projects, a copy of which is attached hereto as **Exhibit K**. He reviewed various provisions of the Resolution with the Board. Mr. Cranner advised the Board that the District previously adopted the wage rates for Harris County, and noted that Benchmark is recommending that the District adopt the Department of Labor's updated wage rates for Harris County effective January 1, 2024, and discussed same in detail with the Board. After discussion and consideration of the survey and the proposed Resolution, Director Reyenga moved that the Board adopt the Resolution with Exhibit "A" to same reflecting the wage rates for the Department of Labor for Harris County, and that the President and the Secretary be authorized to execute and attest same on behalf of the Board and the District. Director Cobb seconded said motion, which unanimously carried.

Director Werninger exited the meeting during the discussion of the prevailing wage rates for construction projects.

#### ISSUANCE OF UTILITY COMMITMENTS

The Board deferred consideration of utility commitment requests after noting that no new requests had been received.

#### SOLICITATION OF PROPOSALS FOR RENEWAL OF DISTRICT INSURANCE COVERAGES

Mr. Cranner informed the Board that SPH has received a proposal from McDonald Wessendorff for the policy term commencing April 1, 2024, but due to some carriers not providing timely proposals, AJG has not yet submitted its renewal proposals for the policy term commencing April 1, 2024. After discussion, the Board concurred to defer the matter until the March Board meeting.

MATTERS RELATED TO MAY 4, 2024 DIRECTORS ELECTION

Mr. Cranner reported on issues related to the District's Directors Election (the "Election") to be held on May 4, 2024. In connection therewith, Mr. Cranner presented to and discussed with the Board a memorandum prepared by SPH, a copy of which is attached hereto as **Exhibit L**. Mr. Cranner advised that Harris County will not offer joint election services to political subdivisions for the May 4, 2024 election, and therefore, the District will have to hold an independent election. He further discussed the challenges of administrating an independent election.

ACCESSIBLE VOTING SYSTEM

Mr. Cranner noted that Section 49.111, Texas Water Code, provides an exemption from the requirement to provide certain electronic voting systems at the Election if the District's previous directors election was canceled as uncontested or if fewer than 250 voters voted in the District's previous directors election. Mr. Cranner reported that the District is exempt from said requirement because the District's previous directors election was canceled. Following discussion, it was moved by Director Reyenga, seconded by Director Meyers and unanimously carried that SPH be authorized to provide notice of the District's intent not to provide electronic voting systems for said Election by publication in a newspaper of general circulation in an area that includes the District.

ATTORNEY'S REPORT

The Board next considered the Attorney's Report. In connection therewith, Mr. Cranner advised the Board that he had nothing additional to discuss with the Board of a legal nature which was not covered under specific agenda items.

FUTURE AGENDAS

The Board considered items for placement on future agendas. After consideration on the matter, no specific agenda items, other than routine and ongoing matters and those discussed above, were requested.

ADJOURNMENT

There being no further business to come before the Board, upon motion made by Director Reyenga, seconded by Director Meyers, and unanimously carried, the meeting was adjourned.



  
Secretary

## LIST OF EXHIBITS

- Exhibit A Information Notice by Best Trash, LLC
- Exhibit B Tax Assessor-Collector Report
- Exhibit C Delinquent Tax Report
- Exhibit D Operations and Maintenance Report
- Exhibit E Resolution Approving Submittal of the Water Smart Application for Inclusion in the Association of Water Board Directors Water Smart Partners Program
- Exhibit F Bookkeeper's Report
- Exhibit G Resolution Concerning Developed District Status for 2024 Tax Year
- Exhibit H Detention and Drainage Facilities Report
- Exhibit I Communications Meeting Report
- Exhibit J Engineer's Report
- Exhibit K Resolution Adopting Prevailing Wage Rate Scale for Construction Projects
- Exhibit L Memorandum regarding Joint Elections with Harris County
- Exhibit M Order Calling Directors Election