

EMERALD BAY MUNICIPAL UTILITY DISTRICT
FINAL AND APPROVED
MINUTES OF REGULAR MEETING
OCTOBER 22, 2007

The Board of Directors of the Emerald Bay Municipal Utility District met in regular session on Monday, October 22, 2007, at 9:00 a.m., at the Emerald Bay Club, Emerald Bay, Bullard, TX 75757. Present were Directors Bill Harris, Ray Hartley, Deena Johnson, Paul Randolph, and Howard Rutherford. Sixty-one (61) Emerald Bay residents attended the meeting.

Director Hartley called the meeting to order at 9:03 a.m. and made a brief statement. Mr. Hartley acknowledged the Board made a mistake and the Board apologizes for this action. However, the present Board has been more attentive to legal matters to protect the District's assets from outside influences than any other Board since 1992. This Board has labored to repair and improve its existing utility infrastructure and created a new water facility that saved the community at least \$100,000. The Board must consist of five (5) members, but postings for vacancies on the Board and general elections have not produced members willing to serve in these capacities.

Director Hartley then introduced the District's legal counsel, Glen Patrick (McNally & Patrick), to address the issues raised in an email broadcast to District members regarding the resignation and reappointment of Bill Harris to a term expiring May 2010 and appointment of Paul Randolph to a term expiring May 2008. Mr. Patrick explained these actions were taken at the Board's regular monthly meeting on June 22, 2007, to fill the unexpired term (May 2010) created by the resignation of Bob Worsham. The District was unable to find anyone willing to serve the remaining three years (May 2010) but Mr. Randolph consented to serve through May 2008. The solution was for Bill Harris to resign his May 2008 term and the Board to appoint Paul Randolph to assume the shorter term.

Mr. Patrick noted that the Texas legislature passed a statute in 2005 (§54.103) limiting the reappointment of a director within two years of a vacancy date. Thus the problem arose with the reappointment of Mr. Harris to assume the May 2010 term.

Mr. Patrick has reviewed the June 22 Minutes and the statutes of the water code, government code, local government code, and the Texas Constitution. Mr. Patrick suggested the Board take corrective action by rescinding the appointments and rescinding the resignation of Mr. Harris thereby restoring Mr. Harris to his elected term expiring May 2008. Mr. Randolph could be appointed to serve for the unexpired term ending May 2010.

Director Hartley made a motion to rescind the appointments made at the June 22, 2007, meeting to fill board vacancies. Said motion was seconded (Johnson) and Directors Hartley, Johnson, and Rutherford approved the action.

Director Hartley made a motion to rescind the acceptance of the resignation of Bill Harris made at the June 22, 2007, meeting. Said motion was seconded (Rutherford) and Directors Hartley, Johnson, and Rutherford approved the action.

Director Hartley made a motion to appoint Paul Randolph to fill board position vacated by Bob Worsham that expires May 2010. Said motion was seconded (Johnson) and Directors Hartley, Johnson, and Rutherford approved the action.

Mr. Patrick reiterated that any action taken by the Board can be rescinded or changed to resolve issues and/or take corrective action to protect the District.

Director Hartley gave a brief explanation of a new law passed by the Texas legislature allowing taxing authorities to tax goods in transit and then opened the floor to public discussion on the matter. Various questions were asked by the audience members and the Board responded thereto. Any business within the District's boundaries that stores declared inventory in an offsite location can be taxed for shipment of those goods (goods in transit). The collected taxes would go into the District's ad valorem fund to pay principal and interest on the District's bond (maturity in 2010). This tax will not affect the Emerald Bay Club's kitchen as it is a non-profit entity; nor the District as it is tax exempt. Mr. Hartley noted this new law does not affect any present members of the District, but it would be prudent to approve this Resolution for future taxation. **Director Hartley made a motion to pass the Resolution of Taxation of Goods in Transit. Upon second by Director Rutherford, the motion was accepted by unanimous consent.**

Director Hartley made a motion to accept the Minutes of the September 17, 2007, regular monthly meeting as written. Upon second (Rutherford), the Minutes were approved by unanimous consent.

The financial report was presented by Director Hartley. Under sewer system, the *Operations & Maintenance* costs as well as *Administrative, Legal and Other* were over budget. Regardless, *Net Income* is still more than budgeted (\$297). Under water system, *Total Income* remains less than budgeted (\$11,057) but *Net Income* was \$3,313 more than budgeted amount. The District's balance sheet remains strong with \$375,795 cash on hand as of 9/30/07. The capital fund has \$39,094 (almost \$10,000 more than budgeted). These funds will be used for repairs to the system; i.e., increasing water pressure in parts of subdivision, uncovering/repairing manholes, locating sewer lines and cut-off valves. **Director Hartley made a motion to approve the September 30 financials. Director Rutherford seconded said motion, and the financial report was accepted by unanimous consent.**

Director Rutherford commented on field operations noting several water leaks had been repaired and Director Hartley added that 60 water meters had been changed out. Director Harris noted the sewer lines on Henry Drive were jetted (cleaned) out, but the

procedure failed to pinpoint the manhole under a concrete driveway. Repairs to driveway and manhole will range \$3,000-\$5,000.

Director Harris noted the renovation of the existing plant office space and addition of a conference room with seating capacity for 15-20 members for District meetings should be completed within two to three weeks. The plant expansion also includes a shop area to house parts and equipment.

Lastly, Director Harris briefed the members on the District's concerns about the impact of development outside the District on the system's infrastructure. The District is required to provide utility service to developments within one-quarter mile of our service. Some (27) residents of Windcliff Harbor (neighboring subdivision) receive sewer service on a contractual basis. Our Austin-based law firm (Potts & Reilly) specializes in TCEQ issues and prepared the rules and procedures for provision of non-standard service. Mr. Harris noted provisions would be added to cover development within the District boundaries to accommodate those builders at a lesser fee structure than for outside developers.

There being no further business, the meeting was adjourned at 10:03 a.m. upon motion duly made (Hartley) and seconded (Johnson) with unanimous consent.

Respectfully submitted,

Deena M. Johnson
Secretary

William F. Harris
President

Attachments:
Financial Statements 9/30/07