

**EMERALD BAY MUNICIPAL UTILITY DISTRICT**  
**FINAL AND APPROVED**  
**MINUTES OF SPECIAL MEETING**  
**FEBRUARY 8, 2006**

The Board of Directors of the Emerald Bay Municipal Utility District met in special session on Wednesday, February 8, 2006, at 10:00 a.m., at the MUD Plant, 155 LaSalle Drive, Emerald Bay, Bullard, TX 75757. Present were Directors Jerry Ball, Bill Harris, Ray Hartley, Howard Rutherford, and Deena Johnson. Also present were Bruce Julius and Steve Young of Ameritank and Kirk Bynum of Brannon Corporation. One Emerald Bay resident was in attendance.

The meeting was officially called to order by President Bill Harris at 10:02 a.m. for the purpose of reviewing the welding inspection reports on the elevated storage tank. Mr. Harris asked Kirk Bynum to act as moderator to address the District's concerns regarding some of the welds on the tower. An independent inspector questioned some of the welding techniques. Mr. Bynum contacted another inspection company working on other towers in this area. Bonded Inspection of Dallas did one x-ray on a base cone weld and a visual inspection on two of the riser welds. The inspector advised there was partial penetration and porosity in some areas. Mr. Harris and Mr. Ball advised Ameritank that the District needs assurance that the tower is structurally sound. Steve Young stated that Ameritank did spot radiographic testing on welds of their selection and they are documented as being correct. Director Ball noted that Ameritank's welders did not gouge. Mr. Young stated that Ameritank prefers back-grinding method using 60 series rods designed to knock out rust. Mr. Young noted his personal inspection revealed there are some spots showing surface porosity. President Harris questioned the quality of the welds located at the junction of the base cone to riser joint and junction of the riser and 26-foot riser extension. Mr. Young stated that a thicker metal was used for the stiffening ring and that was added by design to reinforce the structure when the tank was relocated to Emerald Bay.

Director Ball asked Mr. Young about the possibility of issuing an extended and fully bonded warranty on the elevated tower. Mr. Young agreed to provide an extended 10-year fully bonded warranty effective after the initial contractual one-year warranty. A warranty bond, to be paid by Ameritank, will guarantee up to 100 percent of the cost of the project against any structural defects for a period of eleven years. **The elevated storage tank will be insured for one year under the terms of the original contract with an extended warranty bond on workmanship and materials for an additional 10-year period with the exception of the paint.** Director Harris specifically required the bonding company be a Treasury-listed, "A" rated company that is mutually acceptable to both the District and Ameritank. Ameritank uses C&A Surety Company which complies with the District's requirements.

**It is also understood that Ameritank will disinfect the elevated storage tank and conduct a leak test upon connection to the District's water distribution system.** Ameritank detailed the process and requested a two-week notice to do onsite sanitation of the tank.

Kirk Bynum (District engineer) recommended the District reduce the retainage to 1 or 2 percent and hold only \$2,500 as final payment. Director Hartley inquired about the deduction

of the \$100 per day penalty fee for non-completion of project by the November 25, 2005 contract deadline. The Board will reserve judgment on any penalty fees. Steve Young asked when Ameritank might expect final payment from the District. Kirk Bynum advised Ameritank must provide the basis of the warranty bonds before the District would authorize any payment. Upon the departure of Mr. Young and Mr. Julius, the Ameritank meeting was adjourned at 11:26 a.m.

A closed executive session of all District directors and Kirk Bynum was convened at 11:31 a.m. to discuss certain legal matters regarding Southern Utilities.

Open session was reconvened at 11:52 a.m. **Director Hartley made a motion (seconded by Rutherford) to authorize Susan Potts to release the letter response to Mark Zeppa.**

Prior to adjournment, Mr. Harris advised Mr. Bynum that all time billed by Mr. Bynum with regard to the Ameritank issue since expiration of the contract date will be deducted from settlement with Ameritank. Mr. Bynum will prepare a contract for the District to sign off on the project.

There being no further business, the meeting was adjourned at 11:55 a.m. upon motion duly made (Rutherford) and seconded (Johnson) with unanimous consent.

Respectfully submitted,

Deena M. Johnson  
Secretary

William F. Harris  
President