

**FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 35,**  
**OF FORT BEND COUNTY, TEXAS**

Minutes of Meeting of Board of Directors

December 2, 2020

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on December 2, 2020, in accordance with the duly posted notice of public meeting, and the roll was called of the duly constituted officers and members of said Board, as follows:

Susan Ruske, President  
Piero Battistini, Vice President  
Sergio Handal, Secretary  
Trevor Eynon, Assistant Secretary  
Steven Olsen, Assistant Secretary

all of whom participated in the meeting via telephone conference call, thus constituting a quorum.

Also attending the meeting via telephone conference call were: Erica Slater of Principal Management Group of Houston ("PMI"), Community Manager for Seven Meadows Community Association, Inc. ("Seven Meadows"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Taylor Watson of Municipal Accounts & Consulting, L.P. ("MAC"); Jeff Safe of Brown & Gay Engineers, Inc. ("BGE"), who joined the call later in the meeting, as noted herein; Jerry Schroeder of Champions Hydro-Lawn, Inc. ("Champions"), who joined the call later in the meeting, as noted herein; Katie May and Christopher Townsend of Inframark ("Inframark"); Chuanyu (Tony) Feng, a resident of the District; Dan Contreras, President of Seven Meadows; and Bryan Yeates of Schwartz, Page & Harding, L.L.P. ("SPH"). Melanie Walsh of SPH joined the call later in the meeting, as noted herein.

**EXPLANATION OF TELEPHONE CONFERENCE CALL MEETING PROCEDURES AND CALL TO ORDER**

Mr. Yeates explained to the Board the procedures to be used during the telephone conference call meeting. In connection therewith, he informed the participants that the meeting would be recorded, and requested that participants clearly state his or her name before speaking, including when making or seconding a motion. Mr. Yeates further explained that he would conduct a roll call vote for all motions and that Board members should wait to vote on a motion until his or her name has been called. Similarly, Mr. Yeates stated that a full roll call of all participants would be conducted at the start of each telephone conference meeting for attendance purposes.

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

**COMMENTS FROM THE PUBLIC**

The Board began by opening the meeting for public comments. No comments from the public were presented.

## **ACCEPTANCE OF OFFICIAL BONDS, STATEMENTS OF ELECTED OFFICER, AFFIDAVITS OF CURRENT DIRECTOR, AND OATHS OF OFFICE FOR ELECTED DIRECTORS**

In connection with their election as Directors of the District, Director Olsen and Tony Feng presented their respective Statements of Elected Officer and Affidavits of Current Directors and took their Oaths of Office. Director Olsen and Mr. Feng also presented their respective Official Bonds to the Board and the Board found said Bonds to be in proper form. After discussion on the matter, it was moved by Director Ruske, seconded by Director Eynon and unanimously carried, that the Board approve said Bonds, accept said Statements of Elected Officer, Affidavits of Current Director, and Oaths of Office and declare Steven Olsen and Tony Feng to be duly elected and qualified Directors of the District.

## **ELECTIONS NOT TO DISCLOSE CERTAIN INFORMATION**

Mr. Yeates presented to the Board an Election Not to Disclose Certain Information for the newly elected directors. Mr. Yeates advised the Board that, pursuant to Section 552.024 of the Texas Government Code, as amended, the directors are permitted to elect to withhold public access to certain information in the custody of the District relating to home addresses, home telephone numbers, social security numbers and information regarding family members. Following discussion, each director executed an Election not to Disclose Certain Information presented for such purpose.

## **ELECTION OF OFFICERS**

The next item to be considered was the reorganization of the officers of the Board. After discussion on the matter, the Board concurred that Director Ruske continue to serve as President, Director Battistini continue to serve as Vice President, Director Handal continue to serve as Secretary, and Director Olsen continue to serve as Assistant Secretary.

The Board then considered nominations for the office of Assistant Secretary. Director Ruske nominated Director Feng for that office, and there being no further nominations, the nominations were closed. A vote was called, and upon motion duly made by Director Ruske, seconded by Director Battistini and unanimously carried, Director Feng was duly elected as Assistant Secretary of the Board and the District.

## **DISTRICT REGISTRATION FORM**

The Board considered approving a District Registration Form required by the Texas Commission on Environmental Quality (the "TCEQ"). Mr. Yeates explained that, in accordance with the Texas Water Code, municipal utility districts are required to file names, mailing addresses, officer positions and terms of new directors with the TCEQ within thirty days after an election or appointment. He advised that, with the Board's approval, SPH will complete the District Registration Form to reflect the new terms of office for Directors Olsen and Feng, and will file the form with the TCEQ. After further discussion of the matter, Director Ruske moved that the Board authorize SPH to complete the District Registration Form as discussed and file same with the TCEQ. Director Olsen seconded said motion, which unanimously carried.

## **LOCAL GOVERNMENT OFFICERS LIST**

Mr. Yeates advised the Board that the District is required to maintain a list of Local

Government Officers, which includes the members of the Board and the District's Investment Officers in connection with conflict of interest disclosure requirements. After discussion on the matter, Director Olsen moved that SPH be authorized to update the District's list of Local Government Officers as required by law. Director Ruske seconded said motion, which unanimously carried.

### **CONFLICTS DISCLOSURE STATEMENT REPORTING REQUIREMENTS**

Mr. Yeates next discussed with the Board the conflicts disclosure statement reporting requirements for officers of certain local government entities, including water district directors, pursuant to Chapter 176 of the Local Government Code. He then presented Director Feng with a memorandum prepared by SPH which summarizes same and a questionnaire regarding conflict of interest disclosure reporting and discussed same.

### **OPEN GOVERNMENT TRAINING FOR DIRECTORS**

Mr. Yeates discussed with Director Feng the open government training requirements for public officials. Mr. Yeates advised that public officials, including directors of a municipal utility district, must complete separate training courses regarding the Texas Open Meetings Act and the Texas Public Information Act. Mr. Yeates presented to and reviewed with Director Feng a memorandum prepared by SPH which summarizes the training requirements. Mr. Yeates advised that the deadline for Director Feng to complete the training is the 90th day after he has taken the oath of office or otherwise assumed his responsibilities as a public official. Mr. Yeates further requested that Director Feng provide the certifications of completion to SPH upon his completion of the training courses.

### **APPROVAL OF MINUTES**

As the next order of business, the Board considered approval of the minutes of its meetings held on November 4, 2020, and November 13, 2020. After discussion, Director Olsen moved that the minutes for said meetings be approved, as written. Director Handal seconded said motion, which unanimously carried.

### **FORT BEND COUNTY PRECINCT THREE CONSTABLE'S OFFICE ("FBCCO") ACTIVITY REPORT**

Ms. Slater presented a Monthly Contract Deputy Report for the month of November, 2020, regarding FBCCO, a copy of which is attached hereto as **Exhibit A**. It was noted that no action was required of the Board.

### **INTERLOCAL AGREEMENT FOR ADDITIONAL LAW ENFORCEMENT SERVICES**

Mr. Contreras next reported that Seven Meadows is close to finalizing the proposed renewal of the Interlocal Agreement for Law Enforcement Services by and between the District, Fort Bend County (the "County"), Seven Meadows, and Fort Bend County Municipal Utility District No. 34, of Fort Bend County, Texas ("No. 34") for the 2020 – 2021 term (the "Interlocal Agreement"), which is currently being revised by the County to provide for 8-hour shifts instead of 10-hour shifts going forward. He requested that the Board approve the Interlocal Agreement, subject to final approval by the Seven Meadows Board of Directors. After discussion, it was moved by Director Ruske, seconded by Director Battistini and unanimously carried, that the

Interlocal Agreement be approved and that the President be authorized to execute same on behalf of the Board and the District.

### **TAX ASSESSOR-COLLECTOR REPORT**

Ms. Flores presented to and reviewed with the Board the Tax Assessor-Collector Report for the month ending November 30, 2020, a copy of which is attached hereto as **Exhibit B**. After discussion, it was moved by Director Olsen, seconded by Director Ruske and unanimously carried, that the Tax Assessor-Collector Report be approved as presented, that the disbursements identified therein be approved for payment, and that approval of a reminder message printed on customers' December water bills regarding payment of their 2020 taxes be ratified in all respects.

### **DELINQUENT TAX REPORT**

Mr. Yeates reported that a Delinquent Tax Report was not received this month from Perdue, Brandon, Fielder, Collins & Mott, L.L.P., the District's delinquent tax collections attorneys. He stated that the next quarterly report will be provided in January.

### **BOOKKEEPER'S REPORT**

Mr. Watson presented to and reviewed with the Board the Bookkeeper's Report dated December 2, 2020, a copy of which is attached hereto as **Exhibit C**. After discussion, Director Olsen moved that the Bookkeeper's Report be approved and that the disbursements identified therein be approved for payment. Director Ruske seconded said motion, which unanimously carried.

### **STORMWATER MANAGEMENT PROGRAM ("SWMP")**

The Board considered the status of the District's SWMP. Mr. Yeates advised the Board that there were no updates regarding the District's SWMP at this time.

### **OPERATIONS REPORT**

Ms. May presented to and reviewed with the Board the Operations and Maintenance Report ("O&M Report") for the month of October 2020, a copy of which is attached hereto as **Exhibit D**. Ms. May reported to the Board that the District had approximately 93% water accountability for the reporting period, discussed repairs made throughout the District, and reviewed with the Board an inspection report from Landscape Images of Texas ("LIT"), relative to the District's park facilities, a copy of which is attached to the O&M Report.

In connection with the District's five-year sanitary sewer televising plan, Ms. May requested that the Board authorize Inframark to include sidewalk trip hazard inspections as part of the manhole surveys it already conducts on a phased yearly schedule.

Ms. May next reported that Inframark contacted Pump Solutions, Inc. ("Pump Solutions") to inquire about the KSB vortex pump, as previously recommended by Director Handal. She further reported that Pump Solutions advised it would replace the existing KSB pump at Lift Station No. 2 ("LS No. 2") with a KSB vortex pump on a trial basis at no cost to the District and that Pump Solutions further offered to install a loaned KSB vortex pump at Lift Station No. 1 ("LS No. 1") for a six-month period to allow Inframark to assess whether said pump would operate efficiently and alleviate the ragging issues recently experienced at the District's lift

stations. She advised the Board that Inframark requested that BGE review the vortex pump's specifications to ensure it fits the design standards of the District's lift stations and requested that the Board designate a Director to approve installation of a KSB vortex pump at LS Nos. 1 and 2 between Board meetings, subject to BGE's recommendation regarding same.

Ms. May next advised the Board that the following projects have been completed: (i) parking lot restriping, tree trimming, and pressure washing of the facilities at the District's Family Park and Dog Park; and (ii) installation of exhaust fans inside the control panel located at LS No. 1.

Ms. May next presented a list of seven (7) delinquent accounts over \$25.00, a copy of which is included with **Exhibit D**. She advised the Board that the outstanding balances for the properties located at 25710 Caddo Passway and 25715 Abbotglen Lane will be transferred to the respective active accounts for each property and requested that the Board authorize Inframark to forward the remaining five (5) accounts in the total amount of \$463.37 to collections.

After discussion, Director Battistini moved that the Board: (i) authorize Inframark to add sidewalk trip hazard inspections to the District's five-year sanitary sewer televising plan, as recommended by Inframark and as discussed above; (ii) designate Director Handal to authorize installation of KSB vortex pumps at LS Nos. 1 and 2, subject to BGE's recommendation regarding same; and (iii) authorize Inframark to move five (5) accounts to collections, as recommended by Inframark and as discussed above. Director Olsen seconded the motion, which unanimously carried.

Mr. Safe, Mr. Schroeder, and Ms. Walsh joined the meeting during the above discussion.

### **NORTH FORT BEND WATER AUTHORITY ("NFBWA") LARRY'S TOOLBOX PROGRAM 2020 REPORT AND 2021 ENROLLMENT**

Ms. May next discussed with the Board the status of the District's participation in the 2020 Larry's Toolbox Program. She stated that the District has acquired the 9 points necessary to qualify for the 2020 program. Ms. May then presented to and reviewed with the Board the enrollment form for the 2021 Larry's Toolbox Program, a copy of which is included in with the O&M Report, and discussed the details of the program initiatives in which the District could participate. After discussion, Director Ruske moved that the Board authorize Ms. May to submit the enrollment form for the District's participation in the Larry's Toolbox Program for 2021, subject to SPH's review of same. Director Battistini seconded the motion, which carried unanimously.

### **ENGINEER'S REPORT**

Mr. Safe presented to and reviewed with the Board a written Engineer's Report, dated December 2, 2020, a copy of which is attached hereto as **Exhibit E**, relative to the status of various engineering and construction projects within the District, and discussed the matters contained therein.

Mr. Safe next presented to and reviewed with the Board the three lowest bids received by BGE for the proposed repair of an approximate 300-foot portion of Little Prong Creek at Fry Road ("Little Prong Creek Repair Project"), a copy of which is included with **Exhibit E**. He advised the Board that, at its meeting earlier in the day, the Board of Directors of No. 34, awarded the contract for the Little Prong Creek Repair Project to the low bidder, Double Oak

Erosion ("Double Oak"), in the total estimated amount of \$194,930.00, which reflects Double Oak's base bid amount of \$184,930.00 for repairs utilizing the SOX erosion repair system plus the alternate bid item in the amount of \$10,000 for an extended 10-year warranty on materials and labor, as recommended by BGE. With regard to the proposed temporary access agreement by and between No. 34 and Meadowbrook Farm, LP ("Meadowbrook"), relative to the Little Prong Creek Repair Project, Mr. Safe advised the Board that No. 34 authorized BGE to negotiate with Meadowbrook on the cost for the access route, with such cost not to exceed \$16,000. Mr. Safe requested that the Board concur with No. 34's actions. After discussion, Director Olsen moved that: (i) the Board concur with No. 34's award of the contract for the Little Prong Creek Repair Project to Double Oak, as discussed above, subject to approval of the warranty language; and (ii) that BGE be authorized to negotiate the proposed temporary access agreement with Meadowbrook for a price not to exceed \$10,000. Director Ruske seconded the motion, which unanimously carried.

Mr. Safe next advised the Board that the annual inspection of the interior and exterior of ground storage tanks at the Joint Water Plant site have been completed and advised the Board that BGE has determined that no repairs are required at this time.

Mr. Safe next reported that on November 19, 2020, he attended a meeting conducted by the Texas Department of Transportation ("TxDOT") on behalf of the District to obtain information regarding the proposed construction of noise barrier along portions of State Highway 99 (the "Grand Parkway") in connection with TxDOT's plan to widen the section of the Grand Parkway between Interstate 10 and FM 1093. He reported to the Board that TxDOT's noise study indicated that in order for such noise barriers to be effective they must be constructed just south of the HEB shopping center, closer to the residences within the District and outside of TxDOT's right-of-way. Mr. Safe advised the Board that TxDOT is requesting the District's assistance in acquiring the easements necessary for the construction of the proposed noise barrier, noting that TxDOT may not negotiate with private entities, such as Seven Meadows. After discussion, the Board concurred that it would consider facilitating acquisition of the required easements subject to Seven Meadows indicating it is willing to provide said easements and agreeing to accept responsibility for maintenance of the noise barriers.

## **LANDSCAPE ARCHITECT REPORT**

Mr. Safe next presented to and reviewed with the Board a report from KGA DeForest Design, LLC dated December 2, 2020, a copy of which is attached hereto as **Exhibit F**. In connection therewith, Mr. Safe provided an update regarding the status of the contract with Republic Masonry & Fencing, LLC ("Republic") for the replacement of the existing fences at the District's Joint Wastewater Treatment Plant ("JWTP") and Joint Water Plant ("JWP"). Mr. Safe advised the Board that KGA is requesting that the Board concur with No. 34's approval of a change order not to exceed \$4,000 for Republic to purchase a drill bit to address issues created by approximately 200 linear feet of cement stabilizing sand. After discussion, it was moved by Director Battistini, seconded by Director Olsen and unanimously carried, that the Landscape Architect Report and all action items listed therein be approved, including concurrence in: (i) approval by No. 34 of Pay Request No. 4 from Republic in the amount of \$84,195.90 for construction of the replacement fences at the District's JWTP and JWP; and (ii) approval of a change order not to exceed \$4,000, as recommended by KGA and as discussed above.

**CHAMPIONS HYDRO-LAWN, INC. ("CHAMPIONS") MAINTENANCE OPERATIONS AT LITTLE PRONG CREEK**

Mr. Schroeder next presented to and reviewed with the Board a Detention and Drainage Facilities Report dated December 2, 2020, prepared by Champions, for Little Prong Creek and corresponding photographs, a copy of which is attached hereto as **Exhibit G**. Mr. Schroeder then presented a proposal from Champions for removal of beavers from Long Meadow Channel in the estimated amount of \$1,625.00 for setting a trap plus an additional \$250.00 for each beaver removed, noting the damage caused by the beavers is depicted in the Detention and Drainage Facilities Report. A copy of said proposal is attached to the Detention and Drainage Facilities Report. After discussion, Director Olsen moved that the District approve Champions' proposal to remove the beavers from Long Meadow Channel, authorize the President to execute same, and authorize SPH to acknowledge the District's receipt of the related Texas Ethics Commission Form 1295 from Champions. Director Battistini seconded said motion, and with Directors Olsen, Battistini, Ruske and Feng voting "aye", and Director Handal abstaining, the motion passed.

**DISCUSSION REGARDING PROPOSED CREATION OF OFFICIAL LOGO FOR THE DISTRICT**

The Board deferred consideration of the proposed creation of an official logo for the District.

**ATTORNEY'S REPORT**

The Board considered the Attorney's Report. Mr. Yeates advised the Board that that he had nothing further to report to the Board other than the items previously discussed.

**FUTURE AGENDA ITEMS**

The Board considered items to be placed on future agendas. Except as may be reflected above, there were no additional agenda items requested other than routine, ongoing matters.

**ADJOURNMENT OF MEETING**

There being no further business to come before the Board, Director Olsen moved that the meeting be adjourned. Director Battistini seconded said motion, which unanimously carried.

(SEAL)

/s/ Sergio Handal  
Secretary, Board of Directors

## **TABLE OF EXHIBITS**

**December 2, 2020**

- Exhibit A: FBCCO Monthly Activity Report
- Exhibit B: Tax Assessor-Collector's Report
- Exhibit C: Bookkeeper's Report
- Exhibit D: Operations and Maintenance Report
- Exhibit E: Engineer's Report
- Exhibit F: Landscape Architect Report
- Exhibit G: Detention and Drainage Facilities Report; Champions' proposal for beaver removal at Long Meadow Channel

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