

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37  
MINUTES OF MEETING OF BOARD OF DIRECTORS

SEPTEMBER 21, 2011

The Board of Directors (the "Board" or the "Directors") of Fort Bend County Municipal Utility District No. 37 (the "District") met in regular session at 7:00 p.m. at 1301 Misty Bend, Katy, Texas 77494, on Wednesday, September 21, 2011, pursuant to notice of said meeting posted in accordance with Chapter 551 of the Texas Government Code. The roll was called of the members of the Board, to-wit:

Don Poe	President
Larry W. Davis	Vice President
Kenneth L. Comeaux	Secretary/Investment Officer
Stephen Berckenhoff	Treasurer
David A. Carp	Assistant Secretary

All members of the Board were present. Also attending all or portions of the meeting were: Rudy Ammer and Paul Pisiso, District residents; Kim Shelnett of Myrtle Cruz, Inc. (the "Bookkeeper"), bookkeeper for the District; Kenneth Byrd of Equi-Tax, Inc. (the "Tax Assessor-Collector" or "Equi-Tax"), tax assessor-collector for the District; Joe Williams of Severn Trent Environmental Services, Inc. (the "Operator" or "ST"), operator for the District; David Leyendecker, P.E. of Clay & Leyendecker, Inc. (the "Engineer"), engineers for the District; and Elliot M. Barner of Johnson Radcliffe Petrov & Bobbitt PLLC ("JRPB"), attorneys for the District.

The President, after finding that the notice of the meeting was posted as required by law and determining that a quorum of the Board was present, called the meeting to order and declared it open for such business as may regularly come before it.

1. The President inquired whether there was any public comment concerning the business of the District. Mr. Pisiso stated that he had received notice from the District's delinquent tax attorney that if he did not pay his delinquent ad valorem taxes by September 21, 2011, his water service would be terminated. Director Poe then called the public hearing for termination of delinquent tax accounts to order. Mr. Pisiso explained that he was currently in the process of executing a reverse mortgage and expected it to be finalized no later than the end of the month. Mr. Byrd reminded him that the 2011 taxes would be due soon, and he needed to make sure he was accounting for those as well. Director Poe then closed the public hearing.

Upon motion by Director Carp, seconded by Director Comeaux, after full discussion and all Directors present voting aye, the Board approved a 30-day extension for Mr. Pisiso to pay his delinquent taxes before his service is terminated.

2. The Board then considered approval of the August 17, 2011 regular meeting minutes. Upon motion by Director Beckenhoff, seconded by Director Comeaux, after full

discussion and with all Directors present voting aye, the Board approved such minutes as presented.

3. Mr. Barner explained to the Board that the United States Department of Justice (the "DOJ") has implemented a new policy requiring that governmental entities subject to Section 5 of the Voting Rights Act of 1965 request preclearance of cancellations of all general elections, as a cancellation is now deemed a change that affects voting. Mr. Barner stated that the DOJ recommended adopting a policy regarding cancellation of general elections for preclearance submission to avoid having to redundantly make cancellation submissions. Mr. Barner then presented the Order Establishing Policy Regarding Cancellation of General Elections Upon Declaration of Unopposed Candidates Elected to Office (the "Order") for the Board's review, and noted that the policy generally states that the District will follow the provisions of the Texas Election Code regarding cancellations of general elections. Upon motion by Director Carp, seconded by Director Berckenhoff, after full discussion and with all Directors present voting aye, the Board voted unanimously to adopt the Order. A copy of the Order is attached hereto as Exhibit "A".

4. Mr. Barner then requested the Board's authorization to prepare an election history for the District related to taxing authority, the issuance of bonds, and a schedule of incumbency for Directors of the District. Upon motion by Director Comeaux, seconded by Director Berckenhoff, after full discussion and with all Directors present voting aye, the Board voted unanimously authorized the preparation of an election history for the District.

5. Mr. Barner then reviewed a memorandum prepared by JRPB explaining the effect of the Federal Military and Overseas Voter Empowerment Act (the "Federal MOVE Act") on the upcoming May 2012 general elections, a copy of which is attached hereto as Exhibit "B".

Mr. Barner explained that in 2009, Congress passed the Federal MOVE Act to provide that all states must plan for a 45-day window for a military or overseas ballot to make a "round-trip" back to a governmental entity. In response, Mr. Barner went on to explain, the Texas Legislature passed SB 100, which extended the deadline for receipt of military and overseas ballots for the March 2012 primary and set the March 2012 primary run-off early voting to begin three (3) days after the May 2012 uniform election date.

Because of these legislative changes, Mr. Barner further explained, many counties throughout the State have found themselves unable to provide voting equipment to local governmental entities preparing to conduct May 2012 general elections. Mr. Barner went on to state that a potential remedy for local governmental entities was also provided for in SB 100. Mr. Barner explained that local governmental entities may now choose to keep their general elections on the May 2012 uniform election date or move their general elections to the November 2012 uniform election date, and this decision must take place prior to December 31, 2012. He further reported that there is also a rule change proposed by the Texas Secretary of State (the "SoS"), based upon the SoS's perceived intent of SB 100, that local governmental entities may also choose to move their general elections to the May 2013 uniform election date. Mr. Barner stated that the latter is still merely a proposed rule, and he does not recommend moving the District's general election to the May 2013 uniform election date, as the proposed rule may change prior to final adoption.

Mr. Barner went on to explain that Fort Bend County is able to provide voting equipment to local governmental entities for the May 2012 general election. The Directors then concurred to retain utilization of the May uniform election date in even-numbered years as the date of the District's general election.

6. Ms. Shelnut presented the Bookkeeper's Report and Investment Report, copies of which are collectively attached hereto as Exhibit "C".

a. Ms. Shelnut first reviewed the written report and responded to questions from the Board.

b. Ms. Shelnut next reviewed current and year-to-date revenue and expenditures against the District's budget for the fiscal year ending August 31, 2012.

Upon motion by Director Berckenhoff, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board approved the Bookkeeper's Report as presented, and authorized payment of checks numbered 6465 through 6488 from the Operating Account.

7. The Tax Assessor-Collector's Report was presented by Mr. Byrd, a copy of which is attached hereto as Exhibit "D".

a. Mr. Byrd reviewed the written report and responded to questions from the Board.

b. The Tax Assessor-Collector's Report reflected that 99.3% of the 2010 taxes have been collected as of August 31, 2011.

Upon motion by Director Comeaux, seconded by Director Berckenhoff, after full discussion and with all Directors present voting aye, the Board approved the Tax Assessor-Collector's Report as presented, and authorized payment of check numbers 1843 through 1845 from the Tax Account.

c. The President next called the public hearing on the 2011 tax rate to order, notice of which was published, as required, in the *Katy Times* for seven (7) days prior to the meeting. The President noted that there were no parties present to offer public comment. The President stated that according to the notice the Board intends to levy a 2011 total ad valorem tax rate of \$0.52 per \$100 of assessed value for the year 2011. The public hearing was adjourned.

d. The Board then discussed adopting the proposed 2011 tax rate. Upon motion by Director Comeaux, seconded by Director Berckenhoff, after full discussion and with all Directors present voting aye, the Board adopted the Order Setting Rate and Levying Tax for 2011 (the "Tax Rate Order"), with a total ad valorem tax rate of \$0.52 per \$100 of assessed value for tax year 2011, entirely comprised of an operation and maintenance tax for the fiscal year ending August 31, 2011. A copy of the Tax Rate Order is attached hereto as Exhibit "E".

e. The Board then discussed approval of an Amended and Restated District Information Form, a copy of which is attached hereto as Exhibit "F", which is required

to be amended to show the current tax rate, the outstanding debt and the Notice to Purchasers form, and is to be recorded in the Fort Bend County Real Property Records (the "FBCRPR") and filed with the Texas Commission on Environmental Quality (the "TCEQ"). Upon motion by Director Berckenhoff, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board approved the Amended and Restated District Information Form, and authorized JRFB to record same in the FBCRPR and file it with the TCEQ, as required by law.

f. The Board next considered appointing a Tax Assessor/Collector for collection of 2011 taxes. Upon motion by Director Berckenhoff, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board adopted the Order Appointing Tax Assessor/Collector, appointing Kenneth Byrd as Tax Assessor/Collector for the District, a copy of which is attached hereto as Exhibit "G".

g. The Board next considered a Resolution Concerning Tax Collection Procedures. Upon motion by Director Comeaux, seconded by Director Carp, after full discussion and with all Directors present voting aye, the Board voted to adopt the Resolution Concerning Tax Collection Procedures, thereby rejecting the tax payment options. A copy of the resolution is attached hereto as Exhibit "H".

Mr. Byrd exited the meeting at this time.

8. Mr. Williams then presented the Operator's Report, a copy of which is attached hereto as Exhibit "I".

a. Mr. Williams first reviewed the written report and responded to questions from the Board.

b. Mr. Williams reported that 89.63% of the water pumped was accounted for during the previous month.

c. Mr. Williams then reported that there were no excursions at the wastewater treatment plant.

d. Mr. Williams reported that there were 11 delinquent accounts for non-payment of water and sewer bills.

e. Mr. Williams then reported to the Board that, although the Mills Pointe Homeowners Association has submitted payment for its current bill, it has not submitted a payment to the District in the previous two (2) months per its payment plan.

f. Mr. Williams reported that a resident located at 1802 Blue Sage Drive has complained of a sewer odor in her house. The resident claims that the odor was caused by the work performed in the sanitary sewer easements behind her house. Mr. Williams stated that he recommended the resident contact a plumber, and stated that the p-traps may need cleaning. Mr. Williams reported that the resident is adamant

that it is the District's responsibility; however, in Mr. Williams' opinion, the odor is not caused by any work the District has performed.

g. Mr. Williams also reported that the District received a letter from Bryan Lavers, a resident located at 1930 Shadow Forest Drive, a copy of which is attached to the Operator's Report. Mr. Lavers requested that the penalties charged to him for a late payment in October 2010 be waived. Mr. Williams went on to explain that, according to the resident, his payment was mailed timely and the post office must have lost it. Director Davis stated that he was in favor of waiving the fee this one time because the resident has never been late before. Upon motion by Director Davis, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board agreed to waive the October 2010 penalty on Mr. Laver's account.

Upon motion by Director Davis, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board approved the Operator's Report as presented, and authorized termination of service to 11 delinquent accounts pursuant to the District's Rate Order.

9. The Engineer's Report was presented by Mr. Leyendecker.

a. Mr. Leyendecker reported that the specifications and contract documents were ready for attorney review. Mr. Barner stated that the contract documents would be reviewed and, if they were in order, the Board would be able to vote on their approval at October Board meeting.

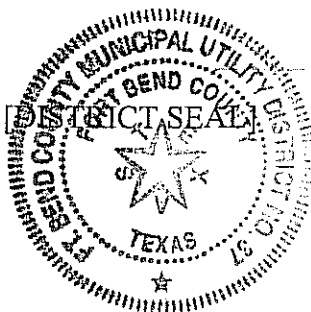
b. Mr. Leyendecker reported that the Emergency Preparedness Plan was completed and will be submitted to the TCEQ.

Upon motion by Director Davis, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board approved the Engineer's Report.

10. Mr. Ammer then discussed with the Board the status of the landscape design for the Westheimer Parkway median. Mr. Ammer stated the design has not been completed because he has not found a licensed landscape architect that, in his opinion, was willing to complete the design for a reasonable price. He stated that he was continuing to search for someone to complete the design.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, the meeting was adjourned.

SIGNED, PASSED and APPROVED this the 19<sup>th</sup> day of October, 2011.



  
Secretary, Board of Directors

EXHIBITS:

- A - Order Establishing Policy Regarding Cancellation of General Elections Upon Declaration of Unopposed Candidates Elected to Office
- B - Memorandum regarding the Federal Military and Overseas Voter Empowerment Act (the "Federal MOVE Act")
- C - Bookkeeper's Report, including Investment Report
- D - Tax Assessor-Collector Report
- E - Order Setting Rate and Levying Tax for 2011
- F - Amended and Restated District Information Form
- G - Order Appointing Tax Assessor/Collector
- H - Resolution Concerning Tax Collection Procedure
- I - Operations Report