

# **HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 109**

## **Minutes of Meeting of Board of Directors**

April 10, 2023

The Board of Directors (the "Board") of Harris County Water Control and Improvement District No. 109 (the "District") met at 5302 Old Lodge Drive, Houston, Harris County, Texas, on April 10, 2023, in accordance with the duly posted notice for such special public meeting, and the roll was called of the duly constituted officers and members of said Board as follows:

Warren Carroll, President  
Vic Robson, Vice President  
Allen Schreiber, Secretary  
William Lakin, Assistant Secretary  
W. Kemp Culbreth, III, Assistant Secretary

all of whom participated in the meeting, thus constituting a quorum.

Also attending the meeting were: Bradley Jenkins and Conner Murphy of Quiddity Engineering, LLC ("Quiddity"); Tommy Merck and Todd Burrer of Environmental Development Partners, L.L.C. ("EDP"); Karen Sears of Storm Water Solutions, LP ("SWS"); Jennifer Hanna of FORVIS, LLP ("FORVIS"); Cheryl Snyder, Rich Snyder, Annette Means, Nathan Burcham, Heather Burcham, Shannon Gilbert, Stephanie Nieman and Chance Nieman, members of the public; and Eric Lai 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 began by opening the meeting for public comments. Ms. Means, Ms. Syder, Mr. Gilbert, Ms. Buchanan, and Ms. Nieman addressed the Board regarding their various issues with the waste disposal and collection services provided by Best Trash, LLC. Directors Culbreth, Lakin and Carroll addressed the residents' concerns and noted that the Board would work to address the various concerns raised with Best Trash's performance.

All members of the public exited the meeting at this time.

### **APPROVAL OF MINUTES**

The Board considered approval of the minutes of its meeting held on March 13, 2023. After discussion, Director Schreiber moved that said minutes be approved, as written. Director Lakin seconded said motion, which unanimously carried.

## **DETENTION AND DRAINAGE REPORT**

Ms. Sears presented to and reviewed with the Board a Storm Water Management Report prepared by SWS, a copy of which is attached hereto as Exhibit A. She presented a proposal from SWS for the regrading of the backslope swales at Hurst Park detention pond in the amount of \$4,750.00. Upon discussion, Director Lakin moved that the proposal be approved for the regrading of the Hurst Park detention pond backslope swales in the amount of \$4,750.00. Director Culbreth seconded said motion, which unanimously carried.

## **DELINQUENT TAX REPORT**

The Board considered a Delinquent Tax Report prepared by Ted A. Cox, P.C., ("Cox") a copy of which is attached hereto as Exhibit B. Mr. Lai reviewed said report with the Board. Upon review, the Board concurred that no action was required.

## **RESOLUTION AUTHORIZING AN ADDITIONAL PENALTY ON DELINQUENT REAL PROPERTY TAXES**

The Board considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes. Mr. Lai advised that the Board is authorized pursuant to Section 33.07 of the Texas Tax Code, as amended, to impose, under certain conditions on July 1, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on taxes that remain delinquent as of July 1 of the year in which they became delinquent. He noted that the additional penalty to be imposed by this Resolution will not apply to delinquent personal property taxes which have incurred an additional penalty pursuant to that certain Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes, which was passed and approved by the District on January 9, 2023. After further discussion, it was moved by Director Culbreth, seconded by Director Robson, and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes, a copy of which is attached hereto as Exhibit C, be adopted by the District, and that Cox be authorized to proceed with the collection of the District's 2022 delinquent real property tax accounts on July 1, 2023, subject to proper notice having been given as provided in said Resolution, including the filing of lawsuits, as necessary.

Ms. Sears exited the meeting at this time.

## **APPROVAL OF AUDIT REPORT FOR FISCAL YEAR ENDED DECEMBER 31, 2022**

Ms. Hanna presented and reviewed the draft of the District's audit report prepared for the fiscal year ended December 31, 2022, a copy of which is attached hereto as Exhibit D. In connection with the requirements of Statement on Auditing Standards No. 115 ("SAS 115"), Ms. Hanna also presented the Board with a Management Letter prepared by FORVIS concerning the Board's internal controls over financial reporting, and correspondence from FORVIS to the District concerning significant accounting policies and practices, copies of which are attached hereto with the audit report. Ms. Hanna advised the Board that included with such correspondence was a proposed response from Management, which is substantially the same as the response approved

by the Board last year. After further discussion, it was moved by Director Schreiber, seconded by Director Robson and unanimously carried that the audit report for the District's fiscal year ended December 31, 2022, be approved subject to final review by SPH, that the President be authorized to execute the Annual Filing Affidavit on behalf of the Board and the District, that the final audit report and Annual Filing Affidavit be filed with the appropriate governmental authorities, including the Texas Commission on Environmental Quality and the State Comptroller's office, and that the proposed Managements Response to the SAS 115 letter be approved and adopted.

### **CONTINUING DISCLOSURE REPORT**

Mr. Lai reported that McCall, Parkhurst & Horton, LLP, the District's disclosure counsel, will file the District's continuing disclosure report once the audit is finalized.

Ms. Hanna exited the meeting at this time.

### **OPERATOR'S REPORT**

Mr. Burrer addressed the Board regarding the allegations against Inframark, EDP's parent company, and Envirodyne Laboratories, Inc. ("Envirodyne") for the falsification of data related to the Kingwood Central Wastewater Treatment Plant ("WWTP"). He explained the WWTP's history, including that the WWTP was built in 1972 and sustained flood-related damage in 2017 due to Hurricane Harvey. Mr. Burrer stated that despite recommending various changes and/or repairs to the WWTP, the City refused to authorize any repairs to be made. Mr. Burrer reported that Inframark contracted with a third-party to perform sampling and Envirodyne to perform testing. Mr. Burrer reported that it was recently discovered that an employee of Envirodyne had faked the sample results to cover discrepancies at the WWTP. Mr. Burrer stated that Inframark has since terminated its contract with Envirodyne them instead engaged North Water District to perform sampling at the WWTP. Mr. Burrer further reported that those individuals involved in this incident are no longer affiliated with or employed by Inframark.

Mr. Burrer exited the meeting at this time.

Mr. Merck reviewed with the Board an Operator's Report, a copy of which is attached hereto as Exhibit E, and discussed the information contained therein.

Mr. Merck reported to the Board that the ground storage tank suction line is leaking at Water Plant No. 2. He requested authorization for EDP to install a Line Stop Valve in the amount of \$15,800. Mr. Merck stated that the Line Stop Valve will allow EDP to perform the repairs to the suction line. Upon discussion, Director Schreiber moved that EDP be authorized to install a Line Stop Valve in the amount of \$15,800, and authorized repairs to the suction line in an amount not to exceed \$10,000. Director Robson seconded said motion, which unanimously carried.

Mr. Merck also reported to the Board that EDP received a Texas Commission on Environmental Quality ("TCEQ") inspection report that listed 13 violations at the District's facilities. He stated that most of said violations already have been or are currently being addressed.

Mr. Jenkins stated that EDP will send a letter to the TCEQ addressing the violations listed in the inspection report.

Mr. Merck then presented to and reviewed with the Board a delinquent report and the annual report on the District's Identity Theft Prevention Program, copies of which are attached to the Operator's Report. Upon discussion, Director Schreiber moved that (i) EDP be authorized to prepare a 2022 Consumer Confidence Report for the Board's review, and (ii) the District make no changes to its Identity Theft Prevention Program as recommended by EDP. Director Robson seconded said motion, which unanimously carried.

### **ENGINEERING REPORT**

Mr. Jenkins presented to and reviewed with the Board a written Engineering Report dated April 6, 2023, a copy of which is attached hereto as Exhibit F, detailing the status of various projects within the District. Upon review, Director Schreiber moved that the action items listed in the Engineering Report be approved. Director Lakin seconded said motion, which unanimously carried.

Mr. Jenkins also presented to and reviewed with the Board a 2023 Water Plant Inspection Report, a copy of which is attached hereto as Exhibit G. He stated that the total cost of repairs to the District's water plants, based on that report, is estimated to be \$50,000. Upon discussion, Director Schreiber moved that the Water Plant Inspection Report be approved, and that EDP be authorized to coordinate with Quiddity to execute the repairs listed in said report. Director Lakin seconded said motion, which unanimously carried.

### **UTILITY COMMITMENTS**

The Board deferred consideration of requests for utility commitments after noting that no new requests were received.

### **F.M. 1960 SIDEWALK AND/OR EXPANSION PROJECT BY TEXAS DEPARTMENT OF TRANSPORTATION ("TXDOT")**

The Board next discussed the proposed water meter relocation and water line easement, including an appraisal from Integra Realty Resources relative to the F.M. 1960 Expansion Project. Upon discussion, Director Lakin moved that SPH be authorized to move forward with the proposed water meter relocation project and contact various landowners affected by such project about same. Director Robson seconded said motion, which unanimously carried.

### **AMENDMENT TO SANITARY SEWER TREATMENT CONTRACT BY AND BETWEEN THE DISTRICT AND HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 202 ("NO. 202")**

The Board deferred action concerning the amendment to the Sanitary Sewer Treatment Contract by and between the District and No. 202.

## **F.M. 1960 GREEN MEDIANS PROJECT**

The Board deferred discussion regarding the activities of the F.M. 1960 Green Medians Joint Powers Board. Director Carroll stated that the next meeting will be held on May 2, 2023.

## **ATTORNEY'S REPORT**

The Board next considered the Attorney's Report. Mr. Lai reported \_\_\_\_\_ . Upon discussion, Director Robson moved that the Subscriber Agreement be approved. Director Culbreth seconded said motion, which unanimously carried.

## **FUTURE AGENDAS**

Other than as discussed earlier in the meeting and reflected above, there were no additional agenda items requested.

## **ADJOURNMENT**

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

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Allen Schreiber, Secretary  
Board of Directors

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**List of Exhibits**

- Exhibit A Storm Water Management Report
- Exhibit B Delinquent Tax Report
- Exhibit C Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes
- Exhibit D Audit Report for Fiscal Year End December 31, 2022
- Exhibit E Operator's Report
- Exhibit F Engineering Report
- Exhibit G Water Plant Nos. 1, 2, and 3 Inspection Report