

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

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

July 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 July 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 of Environmental Development Partners, L.L.C. ("EDP"); Karen Sears of Storm Water Solutions, LP ("SWS"); LaDonna Wells and James Kimble, District residents; 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. Wells addressed the Board requesting a credit for high water usage. She stated that, after reporting the high water usage, EDP concluded that the water meter seemed to be malfunctioning. Mr. Merck stated that he would confirm Ms. Wells' historical usage and determine the amount of credit to be issued to Ms. Wells' account, if any. Upon discussion, the Board authorized EDP to investigate the original meter readings and the replacement meter readings and report back to the Board at its August 14, 2023, meeting with a recommendation regarding Ms. Wells' account. There being no comments offered, the Board continued to the next item of business.

Ms. Wells and Mr. Kimble exited the meeting.

### **APPROVAL OF MINUTES**

The Board considered approval of the minutes of its meeting held on June 12, 2023. Mr. Jenkins requested that the minutes be revised to reflect the contract amount for the construction of an eight-inch sanitary sewer line to serve the Northwest Petroleum tract in the amount of \$61,620.

Upon discussion, Director Lakin moved that said minutes be approved, as revised. Director Schreiber seconded said motion, which unanimously carried.

### **DETENTION AND DRAINAGE REPORT**

Ms. Sears presented to and reviewed with the Board a Storm Water Management Report, a copy of which is attached hereto as Exhibit A. She then presented a proposal for fence maintenance along Hurst Park in the amount of \$2,250, a copy of which is included with Exhibit A. A discussion ensued whether SWS could maintain both sides of the fence line. She stated that the property is owned by 5-7 homeowners and the District would need to enter into an agreement with each homeowner to allow the District onto private property for maintenance. As a result, the Board requested that SWS maintain the fence on the District's side of the fenceline at this time. Thereafter, Director Lakin moved that (i) the proposal from SWS for the maintenance of the fence along Hurst Park be approved in the amount of \$2,250, and (ii) SWS be authorized to remove a fallen tree from the Hurst Park detention pond in an amount not to exceed \$450. 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.

### **OPERATOR'S REPORT**

Mr. Merck reviewed with the Board an Operator's Report, a copy of which is attached hereto as Exhibit C, and discussed the information contained therein. Mr. Jenkins inquired as to the high percentage of discharge loading at the Wastewater Treatment Plant. Mr. Merck stated that he would investigate the issue and contact Mr. Jenkins with his findings.

Mr. Merck next reported that EDP received an appeal from an apartment customer for high water usage. He stated that the customer is requesting that the month with high water usage be adjusted based on historical usage. Upon discussion, Director Lakin moved that EDP be authorized to (i) adjust the customer's water bill based on historical usage, and charge the water usage at the lowest tiered rate, and (ii) write-off certain accounts in the total amount of \$10,827.75, as recommended. Director Schreiber seconded said motion, which unanimously carried.

Mr. Merck stated that the District received a Notice of Violation from the Texas Commission on Environmental Quality ("TCEQ"), a copy of which is attached hereto as Exhibit D. He stated that EDP has already addressed the violation and responded to the TCEQ.

### **ENGINEERING REPORT**

Mr. Jenkins presented to and reviewed with the Board a written Engineering Report dated July 9, 2023, a copy of which is attached hereto as Exhibit E, detailing the status of various projects within the District. Upon review and discussion, Director Lakin then moved that the action items

in the Engineering Report be approved, including (i) authorizing Quiddity to advertise for bids the 2022 wastewater treatment plant improvement project, (ii) approval of the construction contracts with Bull-G Construction for construction of the Northwest Petroleum sanitary sewer line extension, (iii) approval of Pay Estimate No. 1 to McDonald Municipal and Industrial in connection with the Hurst Park lighting improvements project, and (iv) authorizing Quiddity to advertise for bids the 2023 off-site lift station improvements project. Director Schreiber seconded said motion, which unanimously carried.

Mr. Jenkins next reported to the Board that the Bammel N. Houston Mosque inquired if the Board would allow them to construct only a portion of the required water line at this time. Upon discussion, the Board declined said request and stated that the entire water line would be required to be constructed.

A discussion ensued regarding the Überitto restaurant and the status of Quiddity's receipt of revised plans. Director Lakin reported that the restaurant is open and questioned whether this was in violation of the District's Rate Order. Mr. Merck stated that EDP does not have an account listed and a meter has not been installed. Upon discussion, the Board concurred that EDP coordinate efforts with Quiddity, and SPH to complete plan approval for Überitto and to take any action in connection therewith in the event of non-compliance, including, but not limited to, termination of water service.

#### **UTILITY COMMITMENTS**

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

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

Mr. Lai reported that SPH is communicating with the property owners affected by the TxDOT F.M. 1960 sidewalk and/or road expansion project and will coordinate with Quiddity to respond to questions in connection therewith.

#### **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**

Director Carroll reported to the Board that the next meeting to discuss the F.M. 1960 Green Medians Project would be held on August 1, 2023.

## **AMENDMENT TO THE NINTH AMENDED AND RESTATED DISTRICT INFORMATION FORM**

The Board next considered the approval and execution of an Amendment to the Ninth Amended and Restated District Information Form (the "Amendment"), reflecting a change in the form of Notice to Purchasers, a copy of which is attached hereto as Exhibit F. After discussion regarding same, Director Culbreth moved that the Amendment be approved and that all Board members present be authorized to execute same on behalf of the Board and the District. Director Robson seconded said motion which carried unanimously.

## **ADOPTION OF RESOLUTION AUTHORIZING INCREASE IN FEES OF OFFICE**

The Board considered adoption of a Resolution Authorizing an Increase in the Fees of Office. Mr. Lai advised the Board that House Bill 2815, passed by the 88<sup>th</sup> Texas Legislature, amends Section 49.060 of the Texas Water Code to allow for an increase in director fees of office up to the amount of the per diem set by the Texas Ethics Commission for member of the legislature. Following discussion, Director Robson moved that the Resolution Authorizing Increase in Fees of Office, attached hereto as Exhibit G, be approved, and that the President and Secretary be authorized to execute same on behalf of the Board and District. Director Schreiber seconded the motion, which unanimously carried.

## **ADOPTION OF ORDER ADOPTING A CODE OF ETHICS, FEES AND EXPENSE POLICY, POLICY RELATING TO CONSULTING SERVICES, UNIFORM FINANCIAL ACCOUNTING AND REPORTING STANDARDS, POLICY RELATING TO ADOPTION OF ANNUAL OPERATING BUDGET, AND CREATING AN AUDIT COMMITTEE ("CODE OF ETHICS")**

Mr. Lai presented to the Board a proposed Code of Ethics, a copy of which is attached hereto as Exhibit H, and advised that that the language relative to the Fees and Expense Policy has been updated to provide for the increase in director fees of office and that, with Board approval, directors may claim fees of office for virtual attendance or watching recorded sessions of conferences, but limited in number to the actual number of days of the conference during which live presentations were made. Following discussion, Director Robson moved that the Code of Ethics be approved, that the District's prior adopted code of ethics be revoked, and that the President and Secretary be authorized to execute the Code of Ethics on behalf of the Board and District. Director Schreiber seconded the motion, which unanimously carried.

## **ATTORNEY'S REPORT**

The Board next considered the Attorney's Report. Mr. Lai presented to and reviewed with the Board a Legislative Summary of the 88<sup>th</sup> Regular Session of the Texas Legislative Session prepared by SPH.

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

**List of Exhibits**

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| Exhibit A | Storm Water Management Report   |
| Exhibit B | Delinquent Tax Report   |
| Exhibit C | Operator's Report   |
| Exhibit D | TCEQ Violation Notice   |
| Exhibit E | Engineering Report  |
| Exhibit F | Amendment to the Ninth Amended and Restated District Information Form |
| Exhibit G | Resolution Authorizing an Increase in the Fees of Office              |
| Exhibit H | Code of Ethics  |