

MINUTES OF REGULAR MEETING  
MONTGOMERY COUNTY UTILITY DISTRICT NO. 4  
MONTGOMERY COUNTY, TEXAS

27 June 2019

THE STATE OF TEXAS           §  
COUNTY OF MONTGOMERY   §

The Board of Directors (the "Board") of Montgomery County Utility District No. 4 (the "District") of Montgomery County, Texas, met in regular session, open to the public, on the 27th day of June, 2019, at the offices of Hays Utility North Corporation, 375 Lake Meadows Drive, Montgomery, Texas 77356, and the roll was called of the duly constituted officers and members of the Board, to-wit:

Gary North	President
Maurice Williams	Vice President
Carl Clay	Secretary-Treasurer
Mike Ganson	Assistant Secretary-Treasurer
Ron Cunningham	Assistant Vice President/Assistant Secretary-Treasurer

and all of said persons were present, with the exception of Director Cunningham, thus constituting a quorum.

Also present were John Bleyl, P.E. of Bleyl Engineering ("Bleyl"), the District's Engineer; Philip Wright of Hays Utility North Corporation ("Hays"), the District's Operator; Katherine Turner of Municipal Accounts & Consulting, L.P. ("Municipal"), the District's Bookkeeper; Mark Windell of MHW Development and Construction Corp. ("MHW"); Doris Hickman, President of the Board of Directors of Montgomery County Utility District No. 3 ("MCUD 3"); and Dick Yale, Cole Konopka, and Susan Stebbins, representing Coats Rose, P.C. ("Coats Rose"), the District's Attorney.

### **Public Comments**

Director North called the meeting to order, and he noted that there was a member of the public present who wished to address the Board. Mr. Windell stated that he was in attendance to request that the District annex a tract of land located at 15075 Marina Drive, located outside the boundaries of the District, and he said that MHW had already submitted the required deposit in the amount of \$10,000.00 for the legal and engineering costs to prepare a feasibility study for the proposed annexation. Mr. Windell explained that MHW planned to begin construction of twelve townhomes as phase 1 of a new development. He continued that the townhomes were expected to be priced between \$450,000.00 and \$500,000.00, and he said that MHW was preparing a site plan for the construction of sixteen townhomes on a nearby non-contiguous tract as phase 2 of the development. Mr. Windell reported that MHW planned to request that the District annex the second tract, and he told the Board that MHW had today engaged

Bleyl as the engineers for both of phases of the development. He told the Board that there are no liens on either tract and that both tracts are owned by MHW. Mr. Yale discussed the general timeline and procedures for an annexation to the District, reminding the Board that the City of Conroe (the "City") must consent to the annexation. He continued that if the construction of the project was completed prior to the final approval of the proposed annexation, the District could provide water and wastewater service to the townhomes as out-of-District customers in the interim. He recommended that the District annex both of the tracts in one annexation procedure to save engineering and legal costs. Director North told Mr. Windell that the Board would defer consideration and possible action on MHW's request for annexation until Bleyl presented the feasibility study to the Board. Mr. Windell departed the meeting at this time.

Ms. Hickman informed the Board that Ed Kelly of the April Sound Property Owners' Association (the "POA") had contacted her to relay that a representative of the POA would begin to attend the meetings of MCUD 3's Board of Directors. She said that Mr. Kelly would probably to contact Director North concerning attendance by a representative of the POA at future meetings of the District's Board of Directors.

### **Wastewater Treatment Plant Committee**

Mr. Wright reported that the members of the Wastewater Treatment Plant (the "WWTP") Committee had learned that the new hatch had been installed on top of the existing wet well at the lift station at the WWTP. He said that the wet well and the lift station were in good working order. He commented that Hays had not yet received the statement of the total cost for the fabrication and installation of the hatch.

### **Joint Water Operations Committee**

Director North stated that the Joint Water Operations Committee ("JWOC") meeting that had been scheduled for 20 June 2019 had been postponed. He said that new correspondence to the Board from Jim Dougherty, special counsel to MCUD 3, had been received the day before the JWOC meeting and that the District's representatives on the JWOC had determined that the Board needed time to review Mr. Dougherty's correspondence. Ms. Hickman requested that the 18 July 2019 meeting of the JWOC proceed as scheduled.

### **Approval of Minutes**

The Board then considered approval of the minutes of the meeting of the Board of Directors of 23 May 2019. Upon a motion duly made by Director Ganson and seconded by Director Williams, the Board voted unanimously to approve the minutes of 23 May 2019 as written.

## Engineer's Report

Mr. Bleyl presented the Engineer's Report, a copy of which is attached hereto as an exhibit to these minutes.

Rehabilitation of the District's Sanitary Sewer Lines in Lakeview Village. Mr. Bleyl reported that Texas Pride Utilities, LLC ("Texas Pride"), the contractor for the rehabilitation project, was on schedule to complete the project by 25 July 2019. He reminded the Board that the project included the installation of a cured-in-place pipe lining, pipe bursting, and repairs to the District's sanitary sewer manholes in Lakeview Village.

Sealing of the District's Sanitary Sewer Manholes in April Sound Subdivision. Mr. Bleyl recalled that the contract for the project to seal the inner walls of District's sanitary sewer manholes located on the west side of the District had been awarded to Infrastructure Rehab USA, Inc. ("Infrastructure Rehab"). He requested that the Board approve the contract subject to the review by Coats Rose of the bonds and insurance for the project. Mr. Yale commented that Coats Rose had prepared a memorandum regarding the status of Infrastructure Rehab's bonds and insurance for the contract, a copy of which is attached as an exhibit to these minutes. He said that the contractor's workers' compensation insurance is provided by a company domiciled in Louisiana, and he added that the person listed as the agent for SureTec Insurance Company, the surety for Infrastructure Rehab's performance and payment bonds, was not listed as an appointment of SureTec on the website of the Texas Department of Insurance. He added that the Board could approve and execute the construction contract today, with the contract to be held subject to confirmation that SureTec's agent is currently registered as an appointment of SureTec with the Texas Department of Insurance. After further discussion, upon a motion duly made by Director Clay and seconded by Director Ganson, the Board voted unanimously to authorize Director North to execute the contract with Infrastructure Rehab with the understanding that Bleyl would hold the executed contract until the foregoing insurance issue is resolved.

Application to Use Surplus Funds. Mr. Bleyl told the Directors that the Texas Commission on Environmental Quality (the "Commission") had approved the District's application to use surplus funds for the Lakeview Village sanitary sewer lines rehabilitation and the project to seal the inner walls of the sanitary sewer manholes. A copy of the Commission's letter of approval to the District, dated 19 June 2019, is included in the Engineer's Report.

Relocation of the District's Storm Sewer at 29 Lakeview Village. Mr. Bleyl mentioned that the owner of the property at 29 Lakeview Village had not responded to telephone calls from Bleyl's representatives regarding the proposed repairs to the bulkhead and the possible relocation of the District's storm sewer on the property. He recommended that the item be omitted from future agendas for the Board of Directors meetings.

Repairs to the District's Ground Storage Tank at Water Plant No. 1. Next, Mr. Bleyl discussed the results of Bleyl's research on alternatives to repair or replace the bottom of the District's ground storage tank (the "GST") to stop water from leaking. He recalled that Hays had obtained a bid from Superior Tank Company, Inc. ("Superior Tank") to remove and replace the failing bottom of the GST at a cost of \$60,000.00. Mr. Bleyl said that Bleyl had investigated two tank lining products manufactured by Carboline Company, but he said that neither product would be appropriate because the products do not adhere consistently to galvanized surfaces. He recommended that the District award the contract to replace the bottom of the GST to Superior Tank. Director Clay requested that Bleyl also research whether the GST had cathodic protection built in. Mr. Bleyl said that he would locate two more companies to bid on the replacement of the bottom of the GST. Mr. Wright mentioned that Hays had estimated that the GST could be losing 200,000 gallons of water per month to the leaks from the bottom of the tank.

After further discussion, upon a motion duly made by Director Ganson and seconded by Director Williams, the Board voted unanimously to accept the Engineer's Report.

### **Operator's Report**

Next, Mr. Wright reviewed the Operator's Report, a copy of which is attached hereto as an exhibit. He reported that the District had been pumping approximately 56.47% of the water supplied to the District and to MCUD 3. He noted that the District's billed water consumption for the period of 29 April 2019 through 29 May 2019 was 13,740,000 gallons. Mr. Wright added that the total pumpage for both districts was 24,076,000 gallons and that the total water accountability for both districts was 93.72% (ratio of billed to pumped water).

Mr. Wright reported that the WWTP had treated 25,678,000 gallons of wastewater during May 2019. He noted that the average flow of wastewater to the WWTP had been 8,280,000 gallons per day during the same period.

Mr. Wright reviewed a short list of customer accounts that were delinquent in the payment for water and sewer services, as included in the Operator's Report. He noted that two accounts had been terminated and that the affected customers had paid the amounts past due and had service restored.

Hays had replaced the starter and reprogrammed the "multismart" controller on the Water Oak #20 lift station, stated Mr. Wright. He added that in June 2019, Hays had performed maintenance on the controllers on all of the lift stations located in the District. He continued that Hays replaces the batteries that provide emergency back-up power to the District's equipment each year before the start of hurricane season.

Mr. Wright then mentioned that tests of bacteriological samples of drinking water from certain residences could produce false positive results for certain bacteria. He added that whole-house water softening systems are a frequent cause of such false

positive results. He said that Hays is installing drinking water sampling stations in other districts that will allow water samples to be collected from existing taps on water distribution lines that are not connected to a water softening system. He said that Hays could install five strategically located sampling stations in the District to provide an adequate number of drinking water samples unaffected by water softeners at a cost of approximately \$1,750.00 per station. The Board determined that no action was needed.

After discussion, upon a motion duly made by Director Ganson and seconded by Director Williams, the Board voted unanimously to accept the Operator's Report as presented and to authorize the termination of any customer accounts that remained unpaid by the deadline.

### **Bookkeeper's Report and Tax Assessor/Collector's Report**

Ms. Turner then presented the Bookkeeper's Report, a copy of which is attached hereto as an exhibit to these minutes. She remarked that the bank formerly known as BBVA Compass Bank was now BBVA Bank. She reviewed the District's account balances, the District's balance sheet, and the actual versus budget comparison for the months of January through May 2019. She requested approval for payment of the District's bills. Ms. Turner also reviewed the Construction Fund breakdown of interest and account maintenance fees from the District's Series 2011 Bonds and Series 2014 Bonds. Ms. Turner noted that the Texas Cooperative Liquid Assets Securities System had paid an average interest rate of 2.55% on the District's accounts in May 2019.

Then the Board considered the report from Municipal regarding the funds that should be escheated to the Comptroller of the State of Texas (the "Comptroller"). A copy of the report is attached to and shall be considered to be part of these minutes. Ms. Turner also called attention to the District's check payable to the Comptroller in the amount of \$391.69 for the unclaimed funds.

Ms. Turner commented that Steve Haskins of Protocol Bookkeeping Inc., the Bookkeeper for MCUD 3, had confirmed that he had received the District's invoice to MCUD 3 in the amount of \$28,171.68 for expenses owed to the District for certain shared maintenance costs for the districts' water distribution system. After further discussion, upon a motion duly made by Director Williams and seconded by Director Ganson, the Board voted unanimously to accept the Bookkeeper's Report and to authorize payment of the District's bills.

Ms. Turner presented the Tax Assessor/Collector's Report, prepared by Tammy McRae, Tax Assessor/Collector for Montgomery County, Texas, for the month of May 2019, a copy of which is attached hereto as an exhibit to these minutes. Ms. Turner noted that the District had collected 96.78% of its 2018 tax levy as of the end of the reporting period. Upon a motion duly made by Director Ganson and seconded by Director Williams, the Board voted unanimously to accept the Tax Assessor/Collector's Report.

## **Website Traffic Report**

Director Williams reviewed the report on the traffic on the District's website for the month of May 2019. A copy of the report is attached hereto and made a part of these minutes.

## **Lone Star Groundwater Conservation District**

Ms. Stebbins distributed a memorandum regarding the 9 April 2019 meeting of the Board of Directors of the Lone Star Groundwater Conservation District ("Lone Star") and a memorandum regarding the 14 May 2019 meeting of the Board of Directors of Lone Star, copies of which are attached hereto as exhibits to these minutes. She added that the memorandum regarding the 11 June 2019 meeting of Lone Star's Board of Directors was still being prepared, and she said that she would distribute the memorandum to the Directors by electronic mail message. Mr. Bleyl mentioned that Lone Star had established a technical study group and a non-technical study group comprised of certain Lone Star Directors to consider proposals for new rules for well spacing and groundwater pumpage withdrawal rates.

## **Attorney's Report**

Next, Mr. Yale presented the Attorney's Report. He asked Mr. Wright whether he had requested that the owners of the property located at 130 April Wind East execute the proposed Full and Complete Release and Indemnity Agreement (the "Release and Indemnity Agreement") to the District for the dead trees that Hays had removed from the property. He recommended that Mr. Wright mail the proposed Release and Indemnity Agreement to the property owners and request that the owners execute and return the document to Hays.

Mr. Yale stated that the Access Easement between Kay Eaton and the District had been executed by the parties, and he noted that the executed document had been recorded in the Real Property Records of Montgomery County, Texas. A copy of the recorded Access Easement is attached hereto as an exhibit to these minutes. Mr. Wright told the Board that Ms. Eaton sold the property after she executed the Access Easement.

Mr. Yale reviewed the letter dated 26 June 2019 to Mr. Wright and Patricia Harris of Hays from Coats Rose regarding specific language that must be included on bills to customers in accordance with Senate Bill 239. He noted that the requirement would become effective on 1 September 2019. Mr. Yale added that the names and addresses of customers should be omitted from the delinquent letter lists provided to the District's consultants, including Coats Rose. Mr. Konopka stated that certain utility districts had received Open Records requests from real estate investment groups for the delinquent letter lists, including the names and addresses of the districts' delinquent customer accounts. He said that the investment groups frequently added the names and addresses to mailing lists for home buyout offers. He recommended that if the Directors wished to continue to receive the delinquent letter list including the names and

addresses, then Hays should only provide that list to the Directors. After discussion, the Board determined that it was unnecessary for the Directors to receive the list including the names and addresses of delinquent accounts. A copy of the letter from Coats Rose is attached hereto as an exhibit to these minutes.

Mr. Yale then submitted to and reviewed with the Board a memorandum prepared by Coats Rose that summarizes certain bills approved by the 86<sup>th</sup> Texas Legislature – Regular Session (2019) that could affect water districts. A copy of the memorandum is attached to and shall be considered to be part of these minutes. He reviewed the memorandum in detail with the Board, including issues concerning property tax rates, the District's elections, and information required to be posted on the websites of water districts that have websites.

Mr. Wright and Ms. Hickman departed the meeting at this time.

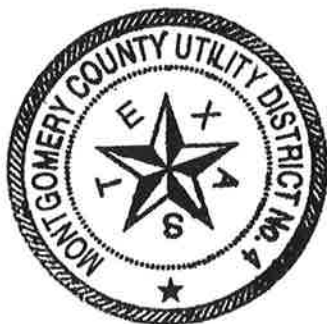
### **Executive Session**

Then the Board entered into an executive session at 11:22 a.m., pursuant to V.T.C.A. Government Code, Chapter 551, to discuss potential litigation. The Board reconvened in open session at 12:05 p.m.

Upon a motion duly made by Director Clay and seconded by Director Williams, the Board voted unanimously to authorize Director North to execute certain correspondence to the Board of Directors of MCUD 3 concerning certain changes proposed to the 2012 Water Facilities Agreement between the districts. Director North requested that Mr. Konopka contact Ryan Nesmith of Robert W. Baird & Co. Incorporated, the District's Financial Advisor, to review the possible economic effects of a consolidation of the District and MCUD 3.

There being no further business to come before the Board, the meeting adjourned.

(SEAL)



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Secretary, Board of Directors

Montgomery County Utility District No. 4  
Regular Meeting of 27 June 2019  
Attachments

1. Engineer's Report
2. Memorandum from Coats Rose, P.C. regarding bonds and insurance on a contract with Infrastructure Rehab USA, Inc.
3. Operator's Report
4. Bookkeeper's Report
5. Report of Unclaimed Property to be Escheated to the State of Texas
6. Tax Assessor/Collector's Report
7. Website Traffic Report
8. Memoranda from Coats Rose, P.C. regarding the activities of the Lone Star Groundwater Conservation District on 9 April 2019 and 14 May 2019
9. Access Easement between the District and Kay Eaton
10. Letter from Coats Rose, P.C. to Hays Utility North Corporation concerning Language for Customer Billing and Delinquent Letter Lists
11. Memorandum from Coats Rose, P.C. concerning the Legislative Summary