

**FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37**

**MINUTES OF MEETING OF BOARD OF DIRECTORS**

**SEPTEMBER 16, 2020**

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 16, 2020, 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:

Stephen Berckenhoff	President
Rudy Ammer	Vice President/Investment Officer/Co-Tax Compliance Officer
Larry W. Davis	Secretary
Kenneth L. Comeaux	Assistant Secretary
Greg Murray	Treasurer

All members of the Board were present, thus constituting a quorum. Also attending either in person or by Teleconference were Kim Shelnett of Myrtle Cruz, Inc. (the "Bookkeeper" or "MCI"), bookkeeper for the District; David Ferrier of Equi-Tax, Inc. (the "Tax Assessor/Collector" or "Equi-Tax"), tax assessor/collector for the District; Bob Ring of Inframark (the "Operator" or "Inframark"), operator for the District; and Alan P. Petrov of Johnson Petrov LLP (the "Attorney" or "JP"), attorneys for the District; David Leyendecker, of Clay & Leyendecker, Inc., engineer; Joshua Garcia of USA Waste Solutions; Gregg Temple, Chief of EMS for Fort Bend ESD No. 2 as well as two ESD No. 2 Board Members; and JD Schuck and Larry Daniels, residents of 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. Public Comment.

Mr. Schuck commented that 1) there is no reason to raise the tax rate and 2) there is still an issue with the emergency spillway at the Katy Boardwalk project.

2. Approval of Minutes. The Board next considered approval of the regular meeting minutes of August 19, 2020, which was previously distributed to the Board. Upon motion by Director Davis, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board approved the minutes subject to a correction.

3. Proposal from USA Waste Solutions, a copy of which is attached hereto as Exhibit "A". Mr. Joshua Garcia introduced himself to the Board and reviewed a proposal for providing solid waste collection services and recycling services. The rates provided were for a three (3) year term of \$22.65/month and a five (5) year term of \$21.50/month.

Mr. Garcia responded to questions from the Board and the Board thanked Mr. Garcia. Director Berckenhoff stated that since the District's current solid waste contract does not end for

another six (6) months, and that the Board will reach out to USA Waste Solutions sometime after the first of the year to obtain proposals at that time.

4. The President then moved down to Item 8 of the agenda, Update on Fire Protection Services with the City of Katy and/or EDS No. 2. Chief Greg Temple from Fort Bend County EMS No. 2 (the "FBESD No. 2") introduced himself and reviewed the services provided by FBESD No. 2. Mr. Temple also described how the County currently provides EMS Service paid for currently in the County resident's tax dollars.

Director Berckenhoff stated the District was created back in the mid-1980s and the City of Katy provided EMS services on a voluntary basis to the District and Pin Oak Village. Research has been done back to 1984 and it does not appear that the District ever had a formal written agreement for EMS services. The District also has attempted to obtain a formal written agreement with the City of Katy over the past eight (8) months, unsuccessfully.

Director Berckenhoff had questions concerning the County's revenue stream for EMS services, to which Mr. Temple responded that Mark Flathouse, the County Fire Marshal would be able to answer those questions.

Mr. Temple stated that FBESD No. 2 is also known as Willow Fork Fire Department. Director Berckenhoff asked what is the current tax rate for ESD#2, to which Mr. Temple responded FBESD No. 2's tax rate is \$0.10 per \$100 assessed valuation, which is capped at that level by Statute. He also stated that the current insurance rating for FBESD No. 2 is ISO2.

Discussion ensued.

Director Berckenhoff stated that a portion of the District resides within the FBESD No. 2 boundaries and is already paying the \$0.100 per \$100 assessed valuation tax; but then another portion of the District is not within the boundaries of the FBESD No. 2 and it would be necessary to determine how to charge those residents approximately \$30.00 per month through the water bill if the District went into a contract with FBESD No. 2. Director Berckenhoff thanked the Chief and his staff for their time.

5. Bookkeeper's Report and Investment Report. Ms. Shelnett distributed the Bookkeeper's Report and Investment Report, copies of which are attached hereto as Exhibit "B". She reviewed the written report and responded to questions. Discussion ensued.

a. Ms. Shelnett first reviewed the written report and responded to questions from the Board. Ms. Shelnett explained that she spoke to Mike Harrington regarding a consolidated billing from Hudson, which might take a few billing cycles.

b. Ms. Shelnett next reviewed current and year-to-date revenue and expenditures against the District's budget for the fiscal year ended August 31, 2020. She also stated that there is a shortfall of \$49,110.08. She stated that she will do some research and report back. She noted that the Spirt of Texas CD maturity is September 23, 2020, and she asked if the Board wanted to renewal for 6 month or 1 year. Director Ammer suggested renewing with Independent Bank for 6 months at a rate of 0.35%.

Upon motion by Director Murray, seconded by Director Ammer, after full discussion and with all Directors present voting aye, the Board approved the Bookkeeper's Report and Investment Report, as presented, authorized payment of checks numbered 1948 through 1972 from the

Operating Account, including renewing the Sprint of Texas CD with Independent Bank for a 6 month period at a rate of 0.35%.

6. Tax Assessor/Collector Report. The Tax Assessor/Collector's Report was presented by Mr. Ferrier, a copy of which is attached hereto as Exhibit "C".

a. Mr. Ferrier reviewed with the Board the Tax Assessor/Collector's Report. He also responded to questions from the Board.

b. Mr. Ferrier next reported that 98.8% of the 2019 taxes had been collected as of August 31, 2020.

c. Mr. Ferrier next presented the proposal from Thornhill Law Firm to begin water termination. Mr. Ferrier stated that Thornhill Law Firm is asking that if the accounts have not been cured come November 2<sup>nd</sup>, that the remaining unpaid accounts will be given to the Operator for water service termination.

Director Berckenhoff asked Mr. Ferrier to confirm the current 2019 appraised values of the District to date as of the latest supplemental is \$177,536,718.00, which is slightly lower than the certified values for 2018, which were \$177,671,844.00. Mr. Ferrier explained that how values can be affected by new exemptions or protest of values and that he believed those numbers were in error. Mr. Ferrier explained that the numbers used for the notice come from the Fort Bend County Appraisal District.

Upon motion by Director Ammer, seconded by Director Davis, 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 2278 thru 2282 from the Tax Account and the Delinquent Tax Attorney Report, including authorizing terminations in November.

d. Next, the President opened the public hearing on the 2020 tax rate at 7:22 p.m., reporting that the notice of which was published, as required, in the Katy Times for seven (7) days prior to the meeting, a copy of which is attached hereto as Exhibit "C-1". The President asked if there was any comment from the public. Mr. J.D. Shuck commented that the published notice contained numbers that show an increase in home values.

The President stated that according to the notice, the Board intends to levy a 2020 total ad valorem tax rate of \$0.50 per \$100 of assessed value for the year 2020. The President closed the public hearing at 7:28 p.m.

Director Berckenhoff reviewed the historical tax rates, and in 2015, the rate was \$0.50 per \$100 of assessed value, and for year's 2016 to date, the tax rate was \$0.49 per \$100 of assessed value. The Board then discussed adopting the proposed 2020 tax rate.

Upon motion by Director Ammer suggested the District adopt a rate of \$0.50 per \$100 of assessed value in order to cover the upcoming costs of EMS Services contract, but there was no second.

Upon motion by Director Comeaux, seconded by Director Murray, after full discussion and with all Directors present voting aye, except Director Ammer, who opposed, the Board adopted

the Order Setting Rate and Levying Tax for 2020 (the "Tax Rate Order"), with a total ad valorem tax rate of \$0.49 per \$100 of assessed value for tax year 2020, entirely comprised for maintenance only, for the fiscal year ending August 31, 2020. A copy of the Tax Rate Order is attached hereto as Exhibit "C-2".

e. The Board then discussed approval of an Amended District Information Form, a copy of which is attached hereto as Exhibit "C-3", which is required to be amended to show the current tax rate, any outstanding debt, of which there is none, 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 Comeaux, seconded by Director Ammer, after full discussion and with all Directors present voting aye, the Board approved the Amended District Information Form, and authorized JP 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 2020 taxes. Upon motion by Director Ammer, seconded by Director Murray, after full discussion and with all Directors present voting aye, the Board adopted the Order Appointing Tax Assessor/Collector, appointing Equi-Tax, Inc. as Tax Assessor/Collector for the District, a copy of which is attached hereto as Exhibit "C-4".

g. The Board next consider adopting the Resolution Concerning Tax Collection Procedures. Upon motion by Director Ammer, seconded by Director Murray, 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 "C-5".

7. Operations Report. Next, Mr. Ring presented the Operations Report, a copy of which is attached hereto as Exhibit "D".

a. Mr. Ring reviewed the current operations in the District with the Board and answered questions. Next, Mr. Ring also reported there were fourteen (14) delinquent accounts scheduled for termination due to non-payment of water and sewer bills. No members of the public wished to comment on termination of water for non-payment of the water and sewer bills.

Upon motion by Director Comeaux, seconded by Director Davis, after full discussion and with all Directors present voting aye, the Board approved the Operations Report and 2) authorized termination of service to fourteen (14) delinquent accounts pursuant to the District's Rate Order.

8. Engineering Report. Mr. Leyendecker presented the Engineering Report. He stated that the Boardwalk Phase 2 Project is set to bid in October and includes the improvement of the Spillway. Mr. Leyendecker also stated that Allen Perez is trying to bid his water and sewer extension tonight, if the bids turn out well, it will be approximately 2-years before he needs water/sewer capacity. Katy Water Development Authority is looking at working with TxDOT at doing some improvement on Pin Oak Road from the city limits to I-10. There are a preliminary set of plans on the sewer plant.

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

9. New Business.

a. 2021 AWBD Mid-Winter Conference.

The Board then considered attendance at the Association of Water Board Directors – Texas (the "AWBD") the 2021 Mid-Winter Conference, Friday, January 29 thru Saturday, January 30, in Austin, Texas. Upon motion by Director Ammer, seconded by Director Comeaux, after full discussion and with all Directors present voting aye, the Board authorized the Directors' attendance to the AWBD 2021 Mid-Winter Conference, Friday, January 29 thru Saturday, January 30, in Austin, Texas.

Director Berckenhoff stated that AWBD contacted him to serve on a panel as a representative of AECOM.

b. Proposal regarding Garbage Collection Services. Discussed above. No formal action taken.

10. Old Business.

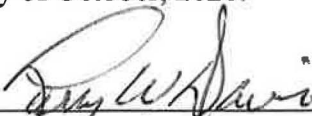
a. Update on Fire Protection Services with the City of Katy (the "City").

Discussed above. No formal action taken.

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

SIGNED, PASSED and APPROVED this 21st day of October, 2020.

[DISTRICT SEAL]

  
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Secretary, Board of Directors

EXHIBITS:

- A - Proposal from USA Waste Solutions
- B - Bookkeeper's Report
- C - Tax Assessor/Collector's Report/Delinquent Tax Attorney Report
- C-1 Notice of Public Hearing on Tax Rate and Affidavit of Publication
- C-2- Order Setting Rate and Levying Tax for 2019
- C-3- Amended and Restated District Information Form
- C-4- Order Appointing a Tax Assessor/Collector
- C-5- Resolution Concerning Tax Collection Procedures
- D - Operations Report

