

EMERALD BAY MUNICIPAL UTILITY DISTRICT
FINAL AND APPROVED
MINUTES OF REGULAR MEETING
JANUARY 16, 2006

The Board of Directors of the Emerald Bay Municipal Utility District met in regular session on Monday, January 16, 2006, at 10:00 a.m., at the Emerald Bay Club, Emerald Bay, Bullard, TX 75757. Present were Directors Bill Harris, Ray Hartley, Deena Johnson, and Howard Rutherford. Director Jerry Ball was excused. Three Emerald Bay residents were also present.

The meeting was called to order by Bill Harris at 10:00 a.m. **Upon motion duly made and seconded (Johnson/Rutherford), the Board unanimously approved the Minutes of the meetings held on December 19, 2005 (regular), January 5, 2006 (special emergency), and January 11, 2006 (construction).**

Director Hartley reviewed the financials for December 31, 2005. Director Harris reiterated that operating costs of the sewer plant have been reduced considerably with the change from SBCC to Wilkins Contracting as plant operator. *Plant Operations* expenses for October-December 2005 were only \$7,154 compared to \$15,807 for the same period in 2004. However, *Utilities* costs have increased and Director Harris gave an explanation of power charges. Every six months, TXU Delivery petitions the PUC for a rate increase. Director Rutherford asked Mr. Hartley to review the electricity rates and costs for 2004 and compare to 2005 by kilowatt hours per month.

The District had received property taxes of \$157,272 with a tax receivable of \$146,852 due by January 31, 2006. The District must pay principal and interest of \$280,000 on the golf course sprinkler system bond due February 15, 2006. This Note matures on February 15, 2010.

In regard to legal expenses, Mr. Harris interjected that Vince Simpson has mailed the amended easement to his lawyer covering the 20X20 exit road. Bill Harris sent the *Letter of Commitment and Understanding* with the Woodring family to the District's attorney, Glen Patrick, for an opinion of its legality. Mr. Patrick will draft the easements to allow ingress and egress to the Woodrings' property so the District can build a road to wellsite #1. Director Ball has verbal agreement that Woodring will sign the easements to allow extension of said road. Upon execution of the easements, the MUD will then expend the funds to extend CR 1347 about 555 feet at an approximate cost of \$50,000. The road will be built to comply with Smith County specifications and the road will be maintained by the County. The road cannot be closer than 20 feet to the fence on Simpson's property.

Discussion followed regarding the Source of Funds to pay for water system construction and organization expenses. The bond proceeds of \$1,750,000, the \$25,000 for sale of distribution lines to Shell Shores, an advance from sewer operations of \$65,000, and member assessment of \$162,000 will produce \$870,000 to pay the remaining estimated costs of \$788,225. **After review of check details, a motion was made and seconded (Rutherford/Johnson) to approve the December financial report with unanimous consent.**

Director Harris advised that Wilkins' crew made an error in laying the pipeline in the undeveloped area between the MUD property and the boat storage which deviated outside of the Emerald Bay Club granted easement. Therefore, Director Harris notified the Club Board and requested a ruling on the matter. The Club Board agreed to grant a revised easement to cover the deviation rather than ask the contractor to move the pipeline. Such revision was granted at the January 9 Club Board meeting. Mr. Harris also noted that part of the electric power cable from the water tower to wastewater plant would be laid in conduit to protect it from the debris located in the excavated area.

The chain link fencing surrounding the MUD plant property running parallel to LaSalle Drive and the fencing around the golf course maintenance facility was damaged during pipeline construction. All quotes must be reviewed and approved prior to repairs/replacement. In addition, the pipeline contractor, Wilkins, will allow some monetary adjustment for the fence repairs. **Director Harris made a motion to approve the repairs or replacement of fencing in conjunction with the Club Board accepting the proposed fencing changes around the golf course maintenance area. Motion was seconded by Director Hartley and approved by unanimous consent.**

Wilkins Contracting submitted a pay request for \$60,615.48 covering pipeline construction work to date. The contractor is laying the last 600 feet of pipeline to connect the two well sites. **Upon motion duly made and seconded (Rutherford/Hartley), the Board unanimously approved the payment of \$60,615.48 to Wilkins.** Remaining work to be completed by Wilkins includes installation of valve box assemblies and capping or blocking of an existing line at District boundary between Lakeshore Drive and Windcliff Harbor subdivision leaving approximately \$60,000 (including 10 percent retainage) to be paid on the Wilkins contract.

Director Hartley requested a policy be established defining the implementation point of new construction to begin assessing the \$25 Water System Expense Recovery Fee. Presently, Southern Utilities is charging \$500 for new water meters and a minimum water usage fee for construction sites within the District. Southern Utilities should be advised to contact the MUD (Director Rutherford) before installing a new water meter. Director Harris added that a loop wire should be run from the house to sewer tap and back to house (shown on request for water service form). Director Harris also stated that building permits cannot be issued by the Club without notification and validation by signature of both the Vice President of Operations and the President of the Emerald Bay Municipal Utility District. **A motion was made by Director Rutherford and seconded by Director Hartley to assess the \$25 recovery fee at the commencement of**

construction on the permitted site and continue until November 2006 or until the new water system is operational. Motion was approved by unanimous consent. Director Harris made a motion (seconded by Director Johnson) to require all builders notify the Vice President of Operations (Rutherford) prior to setting a new meter to insure proper inspection and approval of such installation. Director Harris will advise the Club Board and office staff of the rulings on \$25 recovery fee and meter installation inspection requirement.

Director Harris reminded the Board that Terry Cowan, the landowner who granted an easement to the District for well site #2, had requested consideration from the District to expand its CCN (Certificate of Convenience and Necessity) to include any future development on his 1,100 acres. The District would have to apply to the TCEQ for a revised CCN to include Mr. Cowan's development. If such CCN is granted, any and all costs related to expansion of the water system, legal fees, etc, would be borne by Mr. Cowan. Mr. Harris is also working with Mr. Cowan to secure an easement for an additional well site to enable future expansion.

Director Hartley received a complaint from one resident of Windcliff Harbor regarding the District's tax equivalent calculations for their property. Mr. Hartley requested the assessed value on all new homes within Windcliff Harbor directly from the Smith County Appraisal District (SCAD). Mr. Hartley used the estimated values provided to calculate the tax equivalent rate. Director Johnson read a sample letter sent to all Windcliff Harbor sewer customers advising of the current tax rate, the assessed value per SCAD, the tax equivalent, and the monthly billing amount. No residents of Windcliff Harbor attended the meeting to personally address the Board with a formal complaint.

Mr. Hartley has an agreement with the builder, Jason Campbell, regarding the District's requirements and charges for sewer service on all newly constructed homes in Windcliff Harbor. However, there must be provision for the District to obtain an agreement with the homeowner at the time of sale. It is therefore recommended that the county records be flagged to require written notification of the District prior to closing. The title company will require the new owner execute a form acknowledging receipt of the District's sewer service requirements and agreement to pay all sewer service charges and MUD taxes, i.e., tax equivalent charges within specified billing period.

Any sewer service customer delinquent on payment of service billings must be given thirty (30) days notice to pay all past due amounts or the District will terminate service within 30 days of such termination notice. One Emerald Bay resident (Ronnie Rucker) is presently delinquent on payment of sewer service billings.

In a brief operations report, Director Rutherford advised the newly installed #3 blower and muffler are operating satisfactorily as well as the sewer plant and all lift stations. Mr. Rutherford will purchase and install a heater in the #3 lift station (hole #5).

In regard to other matters affecting the District's new water system, Mr. Harris noted the next important task was to clear the location around both well sites, request revisions for the SCADA system, and obtain telecommunications equipment. At this point, Director Hartley presented the latest water project status report as of December 31, 2005, for Board review and revision of estimates of construction costs. Directors Rutherford and Harris will meet with Jacobe Brothers Construction (JBC) regarding completion of the wellheads. Mr. Rutherford will also meet with Terry Cowan to flag the corners at wellsite #2 in order to install power boxes. Mr. Harris asked Directors Hartley and Johnson to work jointly to complete the water system rules and regulations for inclusion on the District's website. Lastly, Mr. Harris will ask Kirk Bynum of Brannon Corporation to update all drawings of the water system upon completion of the project.

There being no further business, a motion to adjourn the meeting at 11:29 a.m. was made and seconded (Harris/Johnson) with unanimous consent.

Respectfully submitted,

Deena M. Johnson
Secretary

William F. Harris
President

Attachments:

Financial Report 12/31/05

Brannon Ltr on Wilkins Invoice for \$60,615.48

Water Project Status as of 12/31/05

Tax Equivalent Ltr to Windcliff Harbor sewer customers