

EMERALD BAY MUNICIPAL UTILITY DISTRICT
FINAL AND APPROVED
MINUTES OF REGULAR MEETING
JUNE 15, 2009

The Board of Directors of the Emerald Bay Municipal Utility District met in regular session on Monday, June 15, 2009, at 5:30 p.m., in the Emerald Bay Club, Presidents Room, 208 South Bay Drive, Bullard, TX 75757. Present were Directors Bill Harris, Ray Hartley, Paul Randolph, Deena Johnson, and Jo Sharp. Twenty-seven (27) Emerald Bay residents attended.

President Harris called the meeting to order at 5:30 p.m. and asked for comments on the Minutes of the May 18 (Regular) and June 8 (Special) meetings. **Director Randolph made a motion to approve the Minutes of both meetings. Upon second (Hartley), the Minutes of May 18 and June 8 were approved by unanimous consent.**

Treasurer Hartley presented the check detail and financial summary as of May 31, 2009. The sewer system operations year-to-date net income was \$592 less than budgeted and \$20,726 less than YTD2008. The water system operations year-to-date net income was \$2,818 more than budgeted and \$11,588 less than YTD2008. The balance sheet reflects total cash is \$104,385 more than YTD2008. **Director Hartley made a motion to accept the checks paid and the financial statements for May 2009. Upon second (Sharp), the May financials were approved by unanimous consent.**

Treasurer Hartley presented the June 9, 2009, proposal from Norman White (CPA) to audit the District's financial statements for the fiscal year ending September 30, 2009. The fee for the 2009 audit is \$5,600. **Director Hartley made a motion to accept the auditor's proposal for 2009. Upon second (Sharp), the audit proposal was approved by unanimous consent.**

Director Hartley noted a request from customer, Duane LeNorman, concerning the water service billing at 127 Fairway. The house was destroyed by fire and has been razed. Mr. LeNorman asked that the District consider termination of water utility service as of March 1, 2009, and issue \$25/month billing credit to June 1. **Director Hartley made a motion that, effective as of March 1, 2009, the water service to 127 Fairway be disconnected until such time as the District receives a request for reconnection of service. Upon second (Randolph), the motion was approved by unanimous consent.**

Director Harris advised that a customer had used the District's cut-off valve to cut off the water service to his residence (122 Emerald Bay Drive). Mr. Harris reiterated that only District directors or employees are authorized to use that cut-off valve. When the customer used the cut-off valve to shut off the water to his residence, the valve was broken causing a water leak. In order to repair the damage, the water to the clubhouse had to be shut off for two hours. After the first violation, the customer was given a gate valve to be installed on his water line and a strict warning by a District director not to

tamper with the District's cut-off valve. About a week later, the same customer cut off his water using the District's cut-off valve. Again water to the clubhouse had to be cut off in order to repair a water leak. Director Harris instructed Director Johnson to draft a rule to address tampering with meters, cut-off valves and/or any damage caused to District equipment or facilities. This matter was tabled until the next regular meeting so Director Johnson could study TCEQ regulations and consult with the District's attorney on the proper language to address the issues.

President Harris advised the District's directors had voted (see Minutes of March 16, 2009) to proceed with the drilling of a third water well. Brannon Corporation, the District's engineering firm, has presented its preliminary opinion of project cost (\$650,000) and a proposal for engineering services (\$45,500) for this project. Mr. Harris read an email from the project manager, Kirk Bynum, evidencing their willingness to negotiate their proposed engineering fees as well as credit fees already paid (\$3,700) toward the lump sum fee for the project. **Director Randolph made a motion to accept Brannon's engineering fee proposal for the third water well project. Upon second (Hartley), the motion was approved by unanimous consent.** President Harris will execute the June 10, 2009, engineering fee proposal and return to Brannon Corporation so they may proceed with this project.

President Harris introduced District member, Synphia Adams, who had requested time to address the Board regarding its negotiations with the Emerald Bay Club/Homeowners Association to take responsibility for construction and maintenance of the community's roads and traffic bridge.

Ms. Adams gave a brief overview of the fiscal, functional and legal responsibilities of a municipal utility district. She reiterated the fact that the EBMUD is a political unit with the same boundaries as the EBHOA. The MUD was designed to construct, maintain and manage infrastructure. The MUD has more revenue and cost-saving advantages; such as, tax-free revenue bonds, liability insurance, and resident tax advantages (deductibility). In conclusion, Ms. Adams asked, "Will the MUD board make a presentation to the members on maintaining our streets and bridge?" If you vote NO, the members have no alternative to the HOA board of directors' plan to build a new bridge.

President Harris advised the Board could take no action on this matter due to the 72-hour posting provision required by Open Meetings Act. President Harris stated the MUD board had submitted a fairly comprehensive (detailed) financial plan to the HOA as negotiating points for the MUD assuming responsibility for repairing or reconstructing the South Bay traffic bridge and maintaining the community's streets. The plan was met with a great deal of adversity within the HOA board.

Director Hartley noted that the MUD could handle the task, but the HOA wanted to micro-manage the project. Harris noted the negotiating terms included transferring the \$2,500 new resident fee to the MUD to be used for road maintenance, and transferring the collection of construction and building permit fees to MUD to repair

damage to roads by trucks loaded with heavy materials (concrete, dirt, equipment, etc.) traveling over community streets. Due to the heated debate over such terms, the MUD board voted to withdraw their proposal.

Jerry Calhoun praised the District board for constructing a quality water system in record time. Mr. Calhoun strongly encouraged the district to take their proposal to the people. Calhoun recommended the membership circulate a petition calling for an election to be binding upon both MUD and HOA boards. Jim Stafford noted the HOA/MUD needed to work together to continue negotiations. Director Harris advised that he and Jim Stafford had met with the District's attorney who reaffirmed that the MUD could do nothing without voter approval. Mr. Harris stated the Board would take the matter under advisement.

Dale Leath pointed out the importance of concentrating on the community's roads and maintenance thereof. Club/HOA president, J. B. Featherston, stated it would take two-thirds of the people voting to change the bylaws regarding responsibility for roads and bridge. Featherston also stated they could not go to the voters until the cost to build a new bridge was known. Henness asked whether the MUD would reconsider taking over responsibility for the roads and bridge. Mr. Harris affirmed that, if the HOA board votes to reconsider, the MUD will consider re-opening negotiations on taking responsibility for the community's roads and traffic bridge. Any further action will depend on the Club/HOA reaction to Ms. Adams' presentation to them on June 17. Resoundingly, the members present wanted the opportunity to hear both the MUD and HOA proposals and to decide by membership vote which entity should be responsible for the roads and bridge.

Assuming that the HOA will continue on the bridge project, President Harris asked Director Johnson to read into the record the June 15, 2009, letter from the MUD to the HOA board requiring that the District be notified prior to any proposed changes to the bridge that would affect the effluent dispersal pipeline. The District and its engineer must review and approve any modification, change, demolition, or the creation of any impediment to the flow of the effluent dispersal pipeline suspended beneath the South Bay bridge.

Director Harris recommended postponing scheduling of a town hall meeting to discuss the third water well project until after the June 17 Club/HOA board meeting.

There being no further business, the meeting was adjourned at 7:05 p.m. upon motion duly made (Hartley) and seconded (Randolph) with unanimous consent.

Respectfully submitted,

Deena M. Johnson
Secretary

Bill Harris
President

Attachments:

Check Detail 5/09

Financial Summary 5/31/09

Letter to Club/HOA Board 6/15/09

Norman L. White/CPA Audit Proposal

Brannon Engineering Proposal 6/10/09