

EMERALD BAY MUNICIPAL UTILITY DISTRICT
FINAL AND APPROVED
MINUTES OF SPECIAL MEETING
FEBRUARY 17, 2009

The Board of Directors of the Emerald Bay Municipal Utility District met in special session on Tuesday, February 17, 2009, at 4:00 p.m., at the District's office, 155 LaSalle Drive, Bullard, TX 75757. Present were Directors Bill Harris, Ray Hartley, Deena Johnson, Paul Randolph, and Jo Sharp. Also present were directors of the Emerald Bay Club/HOA board--J. B. Featherston, Bob Breedlove, Doyle Brooks, Tom Coleman, Walter Donalson, Larry Henness, Dale Leath, Bob Worsham, and Russ Zartler. (Club directors Jeanie Barkley, Les Bonner, and Louise Williamson did not attend.) Twelve other Emerald Bay residents attended.

President Harris called the meeting to order at 4:00 p.m. The purpose of this joint meeting with the Club/HOA board is to discuss the advantages and disadvantages of the District (1) assuming responsibility for the repair and/or replacement of the community's South Bay traffic bridge and (2) taking effective control of streets and drainage through some type of lease/contract for a specified time period. J. B. Featherston, chairman of Club/HOA Board, thanked the MUD board for meeting to answer questions on the aforementioned issues.

Brooks stated there have been several studies and engineering reports regarding the repair or replacement of the South Bay traffic bridge. Brooks queried the MUD as to what it can do to solve the problems cited by engineering firms. Can the MUD bring the bridge up to TXDOT standards?

Harris stated anything the MUD did would have to meet TXDOT standards as the MUD is required to have an engineering firm to design and oversee major projects. C. T. Brannon Corporation (a well-known engineering company) has designed hundreds of TXDOT facilities. Brannon would have to devise a functional design to determine whether it would be better to repair or replace the bridge. Harris pointed out the objective is to come up with a high quality bridge (whether it is decided to repair or replace the old bridge) that will last a long time at the lowest possible cost.

To clarify the District's objectives, Harris gave a brief overview on the creation of municipal utility districts. The size of the MUD board is set by the state legislature at five members. To serve on MUD board you must be a resident and/or property owner within the District (developers cannot serve—its a conflict of interest); no resident can work for this District for profit (conflict of interest rule). MUD directors serve four year terms and elections are ordered every two years (even numbered years). Harris added that any board vacancy created by resignation or death must be filled by appointment of a resident of the District by the remaining directors as there are no provisions for special elections.

Furthermore, MUD districts were created so developers would have a vehicle whereby they could build developments and supply infrastructure using tax-deductible ad valorem taxes, special assessments, or revenue bonds to finance the projects. Developers are prohibited from serving on MUD boards for this reason.

Harris also noted that the MUD is a “political subdivision” — it is not a utility. He explained the MUD is empowered to enter into contracts, both private and public. He cited the example of the city of Whitehouse contracting to purchase water from the city of Tyler. It was noted that the District is responsible to the same voters as the HOA.

Ray Hartley added that two advantages the MUD offers are—(1) its ability to borrow money at very favorable rates and (2) it does **not** pay sales tax (thus a 6-1/2 percent savings on all materials).

Harris, Ray Hartley, Les Bonner, and Jim Stafford had met with District’s general counsel to explore the possibility of the MUD contracting with the HOA to manage and maintain the infrastructure (streets, bridges, and drainage) and the community’s ability to retain the privacy of its gated entrance. It was also noted that the District’s local attorney (a former city attorney for Lindale) has a great deal of experience with municipal governments and political subdivisions.

Discussion ensued regarding the possibility of conveying the maintenance of the streets and bridges to the MUD through a long-term lease. Harris stated the MUD wanted to find a vehicle that allowed the community to take advantage of the powers inherent to the MUD without having to open entrance to the public. In reality, maintenance of the streets and bridges does not run out in 5, 10, or 20 years—it is a continuous project that lasts forever. The idea is to move the responsibility to the District to use its authority effectively for the betterment of the community for the long term.

Harris reaffirmed that this District cannot levy any type of ad valorem tax or special assessment upon its residents without their approval. The District can do revenue bonds, but the District has to have the revenue to support it. The water system was built with a revenue bond--not a tax bond.

Stafford commented on reasons the MUD should assume responsibility for bridge project and long term maintenance of infrastructure. One, the MUD has a proven track record of completing projects on time and on budget. The bridge is going to be a big project requiring a lot of attention to engineering studies, contractors, etc. MUD is better equipped, judging what they have done with the sewer and water systems, than the Club board. The other advantage is the MUD can handle the long-term maintenance of our infrastructure (including streets, drainage, water and sewer lines). For instance, new larger water lines need to be installed on the west side of the community to correct the low water pressure problem. This project will involve the streets so there is the advantage to having the MUD responsible for the infrastructure.

Featherston recommended a joint meeting of a few members of both boards and their attorneys to discuss and work out details related to the bridge project and any lease/contract terms for infrastructure maintenance. The results of this meeting would then be discussed separately within the full boards of HOA and MUD.

Brooks stated the goal is to determine whether the MUD can and will do the project to meet standards, obtain financing for the project, and get it done in a timely manner. Harris stated the MUD has more options available than the Club/HOA regarding financing the project--banks have no problem lending money to MUD districts. Jerry Ball stated it would be more economical to use the MUD as it pays no sales tax--an instant savings of 8 percent on the project cost. Also the project can be financed with tax-free municipal bonds. Harris noted there are several types of taxes—the sprinkler system was financed through ad valorem taxes

In regard to liability issues, the District insures all its facilities through the Texas Municipal League at much better rates than can be obtained by the Club/HOA. The MUD could probably insure the bridge against liability for one-half the cost of insurance through the Club/HOA. Harris added that in order to sue the District, you have to get permission from the attorney-general.

Leath stated the importance of both boards meeting to answer all the issues raised today. Then a presentation would be made to the membership to outline the advantages and disadvantages of the MUD taking over maintenance of the community's infrastructure (streets, bridges, and drainage).

There being no further business, the meeting was adjourned at 5:10 p.m.

Respectfully submitted,

Deena M. Johnson
Secretary

William F. Harris
President