

## BROOKSHIRE MUNICIPAL WATER DISTRICT

### MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

May 3, 2021

The Board of Directors (the "Board" or "Directors") of Brookshire Municipal Water District (the "District") met in regular session on the 3<sup>rd</sup> day of May, 2021, at 6:00 p.m., in the meeting room of the District, 4004 6<sup>th</sup> Street, Brookshire, Texas and via telephone conference call pursuant to Texas Government Code, Section 551.125, as amended, and as modified by the temporary suspension of various provisions thereof effective March 16, 2020, by the Governor of Texas (the "Governor") in accordance with the Texas Disaster Act of 1975, all as related to the Governor's proclamation on March 13, 2020, certifying that the COVID-19 pandemic ("COVID-19") poses an imminent threat of disaster and declaring a state of disaster for all counties in Texas; whereupon the roll was called of the members of the Board, to-wit:

Stephanie Green	President/Investment Officer
LaKethia Connor	Vice President
Shirley Williams	Secretary
Havanaugh Glover	Assistant Secretary
Michael Whitaker, Jr.	Director

All members of the Board were present, with Directors Green and Glover attending via telephone conference call, thus constituting a quorum. Also attending were Tonya Pierre ("General Manager"); Linda Guevara, employee of the District; Steve Haskins of Protocol Bookkeeping, Inc. ("Bookkeeper"); Elliot M. Barner, attorney, of Radcliffe Bobbitt Adams Polley PLLC ("Attorney" or "RBAP"); and all persons on the attached Attendance Roster. Also attending via telephone conference call were John Taylor of Municipal Operations and Consulting, Inc. ("Operator" or "MOC"); Dr. Herman Clay, PhD ("Engineer"); James Weishuhn of Weishuhn Engineering, Inc. ("Weishuhn"); Sylvia Patton of the Brookwood Community ("Brookwood"); and Tammy Gee and Ledai Nguyen, representatives for J & K Beauty Supply, LLC ("J & K Beauty");

The President, after finding that 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 at 6:07 p.m. and declared it open for such business as may regularly come before it.

#### 1. Public Comment.

The President first opened the meeting to public comment. There being no further public comments, the President directed the Board to proceed with the agenda.

#### 2. Approve Minutes of Prior Meetings.

The Board then considered approval of the minutes from the special meeting of March 29, 2021 and the regular meeting of April 5, 2021. Upon a **motion** by Director Connor, seconded by Director Williams, after full discussion and with all Directors present voting aye, the Board approved the minutes from the special meeting of March 29, 2021 and the regular meeting of April 5, 2021.

**3. Discuss Juan Chavez's Unauthorized Connection/Violation/Fees.**

Mrs. Pierre reminded the Board that Ms. Mary Hernandez was present at the April 19, 2021 Board meeting and explained that three (3) separate residential structures were constructed on Ms. Hernandez's lot. Mrs. Pierre added that all such structures had been connected through one (1) water line to a single water meter in an account under the name of Juan Chavez. Mrs. Pierre explained that such unauthorized connection constitutes a violation of the District's Rate Order, which requires a separate meter for each single family residence. Mrs. Pierre stated that she had received an email from Ms. Hernandez regarding funds that Ms. Hernandez would be receiving from the Federal Emergency Management Agency ("FEMA") for damage to her property caused by Hurricane Harvey. Ms. Hernandez indicated that she would pay to have the structures connected to the District's system properly once such funds were received. It was the consensus of the Board to table further discussion on such matter so that the Board may review such email.

**4. Bookkeeper's Report.**

Mr. Haskins then presented the Bookkeeper's Report, a copy of which is available upon request. Mr. Haskins reviewed the District's budget and the year-to-date budget items related to maintenance and repairs. In response to a question, Messrs. Haskins and Barner explained the status of the current financial market and the availability of low interest rates. Messrs. Haskins and Barner further explained the preservation of capital as a defined objective of the Public Funds Investment Act and the District's Investment Policy.

Mr. Haskins next reported that he sent the Quarterly Investment Report to the Board via email last week.

Upon a **motion** by Director Connor, seconded by Director Whitaker, after full discussion and with all Directors present voting aye, the Board: 1) approved the Bookkeeper's Report; and 2) approved the Quarterly Investment Report.

**5. Texas Water Development Board Projects.**

Mr. Weishuhn next updated the Board on the water line replacement project that will replace asbestos clay water lines along Texas Farm-to-Market ("FM") 1489 and in a residential area north of U.S. Highway 90 and east of FM 362 (Project Information Form No. 62829) (the "Water Line Project"). Mr. Weishuhn reported that Texas Pride Utilities, LLC ("Texas Pride"), the contractor for such project, received all necessary permits, including the flood plain permit from Waller County. Mr. Weishuhn further reported that shop drawings and material quantities are being reviewed so that Texas Pride is able to mobilize by May 16, 2021.

Mr. Weishuhn exited the meeting at this time.

**6. Update on Matters Related to Compliance with the Sanitary Sewer Overflow ("SSO") Initiative Program.**

Mr. Weishuhn re-entered the meeting at this time.

In response to a question from Director Green regarding the status of the contract with Magna Flow Environmental ("Magna Flow") for the smoke testing of the District's sanitary sewer lines (the "Smoke Testing Project"), Mr. Barner reminded the Board that it approved such contract subject to identifying a funding source; however, the District had not yet identified such source, whether it be funds from the District's General Operating Fund or the loan from Government Capital Corporation ("Gov Cap"). Discussion then ensued regarding the timeframe for completing the smoke testing work. In response to a question, Mr. Barner explained that if the District proceeds with execution of such contract with Magna Flow and knows that the loan with Gov Cap has been approved, work on such project can commence prior to closing the loan with Gov Cap. In response to a question from Director Green regarding the anticipated timeline for closing such loan, Mr. Barner explained that the Board previously approved a resolution authorizing submittal of an application to Gov Cap on behalf of the District for a loan in an amount not to exceed \$510,000.00 in order to fund various projects within the District. Mr. Barner reported that Mrs. Pierre submitted such application and supporting documentation to Gov Cap, and added that while he has not been involved in the loan process thus far, he understood from an email received from Gov Cap, that the loan documents are being prepared. Mr. Barner then explained that in order to close on a loan with Gov Cap, the District must have a CPA perform what is known as the Additional Obligations Test to determine whether the District's revenue exceeds its expenses by 1.25 times. Mr. Barner explained that such test is required by the Texas Water Development Board ("TWDB") for issuing additional debt obligations that are in parity with the bonds previously issued by the District to the TWDB. Extensive discussion then ensued. Mr. Barner explained that the Board needs to determine the specific projects other than the Smoke Testing Project to be funded by Gov Cap in order for RBAP to issue the required opinion that such loan from Gov Cap is considered a tax-exempt financing.

7. **Engineer's Report.**

Dr. Clay presented the Engineer's Report, a copy of which is available upon request.

Next, Dr. Clay presented a Capacity Report for a proposed single-story 13,000 square-foot building consisting of office space, manufacturing space, and a warehouse to be constructed at 4669 Fifth Street. Dr. Clay reported that the entire building will be occupied by J & K Beauty and will require one (1) water meter. Dr. Clay further reported that, based on the information submitted by the applicant, he calculated the capital recovery fee for such project to be \$9,810.90. Dr. Clay reported that he provided comments to the applicant regarding the drawings submitted to the District, and stated that such applicant needs to provide him with revised drawings. Mrs. Pierre suggested that Dr. Clay provide the applicant with a checklist containing the various items that need to be addressed in accordance with Dr. Clay's revisions to such drawings. Discussion then ensued regarding the process for inspecting items required by the Capacity Report that are not operational in nature in order to verify compliance with such Capacity Report. Ms. Gee then explained that she will review the Capacity Report with her engineer in order to address Dr. Clay's revisions to her application for service.

Upon a **motion** by Director Whitaker, seconded by Director Williams, after full discussion and all Directors present voting aye, the Board approved the Capacity Report for the proposed 13,000 square-foot building as presented by Dr. Clay, subject to the applicant providing evidence of compliance with such Capacity Report and confirmation of same by Dr. Clay.

Ms. Gee exited the meeting at this time.

Dr. Clay then reported that the Brookwood Community Project will consist of two (2) separate construction contracts, one (1) for construction of the force main and lift station upgrades and a second (2<sup>nd</sup>) contract for the pipe bursting work. Dr. Clay explained that Brookwood is responsible for funding 84% of such project, and the District will fund the remaining 16%. Dr. Clay next reported that the District received three (3) bids upon advertising for the force main and lift station upgrades. Dr. Clay further reported that T Construction, LLC ("T Construction") submitted the lowest bid of \$330,040.00 for such project and recommended that the Board award such project to T Construction. Dr. Clay then reported that the District received four (4) bids upon advertising for the pipe bursting work. Dr. Clay went on to report that T Construction submitted the lowest bid in the amount of \$167,935.00 for such project and recommended that the Board award such project to T Construction.

Ms. Nguyen exited the meeting at this time.

Dr. Clay stated that he expects that the Brookwood Community Project will take approximately five (5) months to complete. Upon a **motion** by Director Connor, seconded by Director Williams, after full discussion and with all Directors present voting aye, the Board: 1) approved issuance of the Notice of Award to T Construction in the amount of \$330,040.00 for the force main and lift station upgrades; 2) approved issuance of the Notice of Award to T Construction in the amount of \$167,935.00 for the pipe bursting work; 3) authorized execution of the construction contracts for the force main and lift station upgrades and the pipe bursting, subject to the Attorney's review of bonds and insurance and receipt of a Form 1295 Certificate of Interested Parties; and 4) authorized issuance of the Notice to Proceed, subject to execution of the construction contracts and subject to Brookwood's concurrence with the same.

Ms. Patton exited the meeting at this time.

Mr. Barner then explained that the District's share of the cost of the contracts for the Brookwood Community Project is 16% of the total, or \$79,676.00, which is less than the \$100,000.00 that the District had budgeted for such project.

**8. Update on Capital Improvement Plan ("CIP").**

Director Green then reported that she met with Mr. Taylor and Dr. Clay to revise the District's long-term CIP and that an updated draft of such CIP is included in the Directors' meeting packets.

**9. Status of Conversion to a Municipal Utility District ("MUD").**

Director Green requested to table discussion regarding conversion of the District from a water control and improvement district to a MUD until she had time to prepare written questions regarding such conversion.

**10. Operator's Report.**

Mr. Taylor then presented the Operator's Report, a copy of which is available upon request.

Mr. Taylor next reminded the Board that the American Water Infrastructure Act requires that water systems serving more than 3,300 customers must develop a Risk and Resilience Assessment ("RRA") and Emergency Response Plan. Mr. Taylor further reminded the Board that the District must certify completion of the RRA by June 30, 2021. Mr. Taylor reported that such RRA is complete. Mr. Barner explained that such RRA will be presented to the Board in closed session.

Dr. Clay exited the meeting at this time.

Upon a **motion** by Director Whitaker, seconded by Director Williams, after full discussion and all Directors present voting aye, the Board approved the Operator's Report, as presented.

Mr. Weishuhn exited the meeting at this time.

**11. Update on Status of Street Repairs.**

Mr. Taylor next discussed the status of repairs to portions of the road that are barricaded with barrels at or near Otto Street and 4<sup>th</sup> Street. Mr. Taylor further discussed the status of sinkholes that developed in roads following repairs made by the District to water or sewer lines located beneath such roads.

In response to a question from Director Connor regarding streets that are currently being repaired, Mrs. Pierre stated that a portion of Gassner Road is under repair due to the development of a sinkhole. Mr. Barner then requested that Mr. Taylor provide an update to the Board following tonight's meeting, regarding the exact locations of the road repairs that MOC is performing throughout the District. The Board instructed Mr. Taylor to include information in future Operator's Reports regarding the location of ongoing street repairs and the status of such repairs. Director Whitaker noted that such Gassner Road location has required repair multiple times. Mr. Taylor explained that leaks in the District's water lines necessitate road repairs as such lines must be excavated in order to complete such repairs.

**12. Review Matters Involving Administration/Personnel, Including Status of Payment to Employees during COVID-19.**

Next, discussion ensued regarding extension of the previously authorized additional compensation of \$2.00 per hour to the District's full-time employees. Director Whitaker stated that if the District's office staff is going to continue receiving such additional compensation, the District's office should be reopened to the public. An extensive discussion then ensued regarding extending the additional compensation of \$2.00 per hour to the District's full-time employees and the timeline for reopening the District's office. Director Whitaker stated that the additional compensation paid to the District's office staff should be discontinued until such time that the District's office is reopened to the public.

Director Connor then recommended that the District post signage regarding COVID-19 safety procedures and install sanitizing stations at the District's office prior to opening such office to the public. Director Connor further noted that Royal Independent School District is offering COVID-19 vaccinations to the public next weekend.

Upon a **motion** by Director Williams, second by Director Whitaker, after full discussion and all Directors present voting aye, the Board authorized Mrs. Pierre to take the safety measures necessary to prevent exposure to COVID-19 in the District's office, including ordering appropriate signage for posting at the District's office and installing a plexiglass barrier in front of the receptionist desk.

**13. Update on Purchase of Land for Potential Facilities Expansion.**

Mr. Barner reported that he continues working on preparation of an offer letter for the purchase of land to be used for a future expansion of the District's wastewater treatment plant.


Regarding the unauthorized connections on Juan Chavez's property, as discussed earlier in the meeting, Mrs. Pierre discussed the email that she received from Ms. Hernandez. Mrs. Pierre explained that Ms. Hernandez is in the process of repairing the secondary and tertiary structures located on such property, pending the receipt of funding from FEMA. Director Connor then recommended that the District cap the private water lines serving such structures because such structures are illegally connected to the District's water line. It was the consensus of the Board that because Ms. Hernandez was unable to provide a timeframe by which such unauthorized connections would be resolved, Mrs. Pierre will notify Ms. Hernandez that such private lines will be capped off.

Discussion next ensued regarding the Gov Cap loan application and clarification of the term "Infrastructure Improvements" contained therein.

**14. Adjournment.**

There being no further business to come before the Board, the Board meeting was adjourned at 8:25 p.m.

PASSED, APPROVED and ADOPTED this the 7 day of JUNE, 2021.

  
Secretary, Board of Directors

(DISTRICT SEAL)

