

MINUTES OF MEETING OF BOARD OF DIRECTORS  
FLAMINGO ISLES MUNICIPAL UTILITY DISTRICT  
OF GALVESTON COUNTY, TEXAS

THE STATE OF TEXAS §  
COUNTY OF GALVESTON §  
FLAMINGO ISLES MUNICIPAL UTILITY DISTRICT OF §  
GALVESTON COUNTY, TEXAS §

The board of directors (the “Board”) of Flamingo Isles Municipal Utility District of Galveston County, Texas (the “District”) met in special session, open to the public, at Harborwalk Yacht Club, 1301 Harborwalk Boulevard, Hitchcock, Texas, on August 11, 2011, at 1:00 p.m.; whereupon the roll was called of the directors, to-wit:

Arnold J. Cross, Jr., President  
Ronald Ray Holley, Vice President  
Richard Couch, Secretary  
Michael L. Andries, Treasurer  
Donald P. Tarpey, Assistant Secretary

All members of the Board were present. Also attending all or portions of the meeting were Mr. William Neumann of the Midway Companies; Mr. Cory Burton and Ms. Sissie McCoy of Municipal Accounts & Consulting, L.P. (“Municipal Accounts”), bookkeeper for the District; Mr. Tommy Lee of Assessments of the Southwest, tax assessor and collector for the District; Mr. Marcus Michna of Shelmark Engineering, LLC (“Shelmark”), engineer for the District; Mr. Mark McGrath of McGrath & Co., PLLC, auditor for the District; Mr. John Howell of The GMS Group, financial advisor for the District; Ms. Kathleen Ellison and Ms. Carla Christensen of Fulbright & Jaworski L.L.P. (“F&J”), attorneys for the District; and Mr. Sam Zapletal, Mr. Rodney Heisch, Mr. James Hornsby and Mr. Wes French of Brown & Gay Engineers.

Notice of the meeting was posted in accordance with law at the locations and at the times shown on Exhibit “A” attached hereto. The meeting was called to order and the following business was transacted:

1. **Approval of Minutes of July 7, 2011.** Upon motion by Director Couch, seconded by Director Tarpey, after full discussion and the question being put to the Board, the Board voted unanimously to approve the minutes as presented.
2. **Discussion regarding Public Comments from prior meetings.** The President noted that there were no public comments from the previous meeting.
3. **Public Comments.** There were no comments from the public at this time.
4. **Discuss 2011 tax rate and adopt Order Designating Officer to Calculate and Publish Tax Rate for 2011.** The President recognized Mr. Howell, who presented to and reviewed with the Board the financial advisor’s debt service cash flow analysis and recommendation for setting the tax rate, copies of which are attached hereto as Exhibit “B.”

Mr. Howell reported that the 2011 taxable value is approximately \$62,000,000, which is down from \$88,000,000 two years ago and down from \$71,000,000 last year. The financial advisor recommended that the District retain its tax rate in the amount of \$0.5875 per \$100 assessed valuation (\$0.40 to debt service and \$0.1875 to operating and maintenance) for the 2011 tax year. He noted that a tax rate of \$0.5875 would keep the average homeowner's tax bill constant with last year. The Board discussed the District's ongoing operational expenses and the fact that its 2011 taxable value had decreased significantly. Upon inquiry from the President, Mr. Howell said he couldn't recommend lowering the tax rate even slightly.

Ms. Ellison presented to and reviewed with the Board a draft of the Order Designating Officer to Calculate and Publish Tax Rate and Taking Other Actions in Connection with the Levy of a Tax for 2011 (the "Order"), a copy of which is attached hereto as Exhibit "C." Ms. Ellison noted that the District is required to hold a public hearing on a proposed tax rate before it may set the tax rate and that the notice of the hearing, along with the proposed tax rate, must be published in the newspaper. She said that the Order authorizes Tommy Lee's office to arrange for publication of the required information. Upon motion by Director Holley, seconded by Director Couch, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Order and to propose a tax rate of \$0.5875 per \$100 assessed valuation.

5. **Approve audit for fiscal year ended March 31, 2011.** The President recognized Mr. McGrath, who presented to and reviewed with the Board a draft of the audit for fiscal year ending March 31, 2011 and the letters to management, copies of which are attached hereto as Exhibit "D." Mr. McGrath confirmed that he reviewed the District's records and documents concerning the transition to the current Board and everything seemed to be in order. Upon motion by Director Andries, seconded by Director Holley, after full discussion and the question being put to the Board, the Board voted unanimously to approve the audit for fiscal year ending March 31, 2011.

6. **Bookkeeper's report and payment of bills.** Director Andries reviewed with the Board the Bookkeeper's Report that was submitted by the District's previous bookkeeper, a copy of which is attached hereto as Exhibit "E."

Mr. Michna stated that he believes the engineering for construction administration expenditures shown in the bookkeeper's report is incorrect. Mr. Michna stated that he will provide the correct amount to Mr. Burton for inclusion on the new bookkeeper's report.

In response to a question, Mr. Burton stated that Municipal Accounts will show the District's budgeted to actual revenue and expense comparison in a different format. Director Andries asked that it indicate when the bookkeepers changed.

The Board discussed the investment of District funds. Director Tarpey requested that additional funds be invested in a local bank such as Texas First Bank in Hitchcock and that the District withdraw its funds from TexPool. Director Holley noted that Moody Bank is interested in obtaining the District's business. Upon motion by Director Couch, seconded by Director Holley, after full discussion and the question being put to the Board, the Board voted unanimously to place the funds from the certificate of deposit ("CD") with Vista Bank which

matures on August 19, 2011 in a new CD at Texas First Bank in Hitchcock, with Municipal Accounts keeping such funds in the District's checking account until the paperwork for the new CD has been completed. It was the consensus of the Board that Director Andries coordinate with Municipal Accounts regarding the investment of District funds and that the District review and revise its Investment Policy and qualified broker list, as necessary, at the next meeting.

Upon motion by Director Couch, seconded by Director Holley, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Bookkeeper's Report and to authorize payment of the checks identified therein.

**7. Approval of Contract with Municipal Accounts & Consulting.** Director Andries said he had reviewed the proposed contract with Municipal Accounts, a copy of which is attached hereto as Exhibit "F," and it appeared to be consistent with the discussion the Board had had with Mr. Mark Burton. Mr. Cory Burton explained that Ms. McCoy will be doing the day-to-day bookkeeping work for the District under his guidance but Mr. Mark Burton will attend the meetings. The President explained to Mr. Burton that the Board is passionate about the District and expects those working on District business to be prepared and willing to work with the Board. He also asked that the report be provided one week before the meeting. Upon motion by Director Couch, seconded by Director Holley, after full discussion and the question being put to the Board, the Board voted unanimously to approve and authorize execution of the contract with Municipal Accounts for bookkeeping services.

**8. Tax Assessor and Collector report and payment of bills.** The President recognized Mr. Lee, who reviewed with the Board the Tax Assessor and Collector's Report, a copy of which is attached hereto as Exhibit "G." Mr. Lee noted that 78.89% of the District's 2010 taxes had been collected as of July 31, 2011.

In response to a question from Director Tarpey, Mr. Lee stated that he will ensure that the Galveston Central Appraisal District ("CAD") is aware of the change in ownership of the Harborwalk properties so that the appropriate owner name is listed on the tax roll.

The Board reviewed the delinquent taxpayers and noted that BBVA Compass or its holding company still has not paid its outstanding taxes, which is the major reason the collection rate is 78.89%. Mr. Lee said the delinquent accounts have been turned over to the District's delinquent tax attorney for collection. Mr. Lee stated that he will invite a representative from the delinquent tax attorney's office to attend the next meeting. Mr. Neumann reported that the potential purchaser of the Harborwalk properties entered into a management agreement with the bank and will be taking over management of Harborwalk from The Midway Companies on August 16, 2011. It was noted that the new purchaser is scheduled to close on the property in November 2011.

Upon motion by Director Tarpey, seconded by Director Couch, after full discussion and the question being put to the Board, the Board voted unanimously to approve the tax assessor and collector's report and to authorize payment of the checks identified therein.

**9. Discuss and take necessary action to challenge the taxable value for Harborwalk property, including adopting Resolution Challenging Value.** Mr. Lee stated

that the Board previously questioned the taxable values for Harborwalk, Section 6 lots. Mr. Lee stated that he previously informed the Board that the District can challenge the values with the CAD, but the 2011 values could not be challenged after May 31, 2011. Mr. Lee stated that, since that time he has learned that Harborwalk, L.P. and the District had entered into an agreement by which Harborwalk, L.P. had agreed that it would not claim inventory valuation for certain land, homes or buildings located on District property, and such agreement was binding on future owners of Harborwalk. Mr. Lee stated he will contact the CAD and show them the agreement and ask that taxable values for the District be revised to reflect full market value. In response to a question, Mr. Lee stated that he will inform BBVA Compass and the purchaser of the Harborwalk property of such agreement and will provide status updates to the Board members on the matter.

**10. Adopt 5-year maintenance program and budget and take necessary action regarding same.** Mr. Michna reviewed with the Board the revised five-year maintenance plan and budget, a copy of which is attached to the Engineer's Report. Mr. Michna stated that the five-year maintenance plan budget was previously revised to include future capital improvement and maintenance projects (i.e. marina bulkhead repairs, bulkhead cap repairs, and maintenance dredging). Upon motion by Director Couch, seconded by Director Andries, after full discussion and the question being put to the Board, the Board voted unanimously to adopt the 5-year maintenance program and budget, as presented.

**11. Discuss District Regulations on Bulkheads and Canals and any necessary action regarding same.** Ms. Ellison reviewed with the Board the letter sent to residents and the proposed District Regulations on Bulkheads and Canals, copies of which are attached hereto as Exhibit "H." Ms. Ellison reported that the letter was sent to residents on July 22, 2011. Upon motion by Director Tarpey, seconded by Director Couch, after full discussion and the question being put to the Board, the Board voted unanimously to adopt the Regulations on Bulkheads and Canals.

The Board noted that the Regulations should be posted on the District's website and included in the closing documents to inform new homeowners of the District's Regulations.

**12. Engineer's report and any necessary action regarding bulkhead system repairs, bulkhead cap work and fill, and maintenance dredging project.** The President recognized Mr. Michna, who presented to and reviewed with the Board the Engineer's Report, a copy of which is attached hereto as Exhibit "I."

Mr. Michna reported that he has no design activities to report on this month.

Mr. Michna stated that he previously reported that Shirley and Sons Construction Company had substantially completed the maintenance dredging contract (original contract amount of \$137,142). Mr. Michna noted that Pay Estimate No. One in the amount of \$116,000 and Pay Estimate No. Two in the amount of \$21,042 had been previously paid in full. Mr. Michna reported that at the last Board meeting he presented to and reviewed with the Board Change Order No. One for a proposed increase in the quantity excavated of 1,800 cubic yards. Mr. Michna stated that he previously reported to the Board that the increase was due to one area of the channel which had to be excavated three times because it kept silting in. Mr. Michna

stated that he made such statement in error. Mr. Michna stated that he discussed the matter with the contractor and determined that the plans and specifications for the project called for dredging the channel to a width of 160 feet, whereas he had estimated the cost and presented to the Board a project for dredging to a width of 100 feet. Mr. Michna stated that Change Order No. One reflects the cost differential for the difference in excavated material from the 100-foot width to the 160-foot width. The President said that both Shelmark and the contractor needed to accept responsibility for the cost overrun and come back to the Board with a reasonable charge for the additional excavated material.

Mr. Michna reported that Harborwalk, L.P., the previous owner of the private aids to navigation, has signed an application to the U.S. Coast Guard to transfer the private aids to navigation to the District. Ms. Ellison said that BBVA Compass must consent to the assignment and that she will ask the bank to do so.

Upon motion by Director Andries, seconded by Director Couch, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Engineer's Report.

13. **Report on change order for dredging contract and take any necessary action.** Mr. Michna stated that he has nothing further to report on this matter.

14. **Authorize Continuing Disclosure.** Ms. Ellison stated that the District is required to make an annual filing of its audit and certain other information with the Municipal Securities Rulemaking Board's data base so that bondholders can view current information on the District. Ms. Ellison stated that the filing must be made by September 30<sup>th</sup>. Ms. Ellison stated that F&J is requesting updated information from the bank to finalize the report.

15. **Discuss and take necessary action in connection with District website.** Ms. Christensen provided the Board with a copy of the website traffic report, a copy of which is attached hereto as Exhibit "J." The President asked to get quarterly traffic reports.

16. **Attorney's report.** Ms. Ellison stated that the Board previously discussed bulkhead repairs needed at the marina and the substantial cost differential between the residential bulkhead repairs and the marina (commercial) bulkhead repairs and asked if there was any way to tax the commercial owners at a higher rate than the residential owners of property due to the cost differential. Ms. Ellison reported that she and Mr. Howell discussed the matter and concluded that there may be a way to charge the commercial property owners a higher maintenance and operations tax rate than residential property owners, but the District would need to obtain voter consent to change the method of taxation. She asked the Board if it wanted her to do further research. Upon motion by Director Andries, seconded by Director Couch, after full discussion and the question being put to the Board, the Board voted unanimously to further pursue the necessary actions required to tax commercial property owners at a tax rate that more closely reflects the property owners' share of repairs.

Mr. Michna reviewed with the Board a copy of the City of Hitchcock's Water Safety and Boating Regulations, a copy of which is attached to the Engineer's Report. Discussion ensued regarding the need for additional signage to better alert boaters to the

regulation regarding excessive speeds and hazardous wakes. It was noted that the wakes contribute to the deterioration of the bulkheads, which increases the District's repair and maintenance costs. The Board discussed enforcement of the regulation. Upon motion by Director Couch, seconded by Director Holley, after full discussion and the question being put to the Board, the Board voted unanimously to authorize F&J to prepare a letter to the City of Hitchcock 1) requesting that it install additional signage in the District in an effort to better alert boaters to the City's boating regulations and 2) requesting information regarding how the boating regulations are enforced.

17. **Set next meeting date.** It was the consensus of the Board to tentatively schedule the next Board meeting for Thursday, September 29, 2011 at 1:00 p.m. at 1301 Harborwalk Boulevard (Yacht Club).

18. **Document Public Comments for next Board meeting discussion.** The President noted that there were no public comments from this meeting to further discuss at the next meeting.

19. **Review of Consultant Contracts.** The President noted that the Board would remain to review the consultant contracts and excused the consultants from the meeting. The consultants left the meeting at this time and representatives of Brown & Gay engineering firm entered the meeting.

20. **Consider engineering proposal from Brown & Gay and any necessary action.** The President asked the Brown & Gay representatives to address the Board concerning their engineering services. The representatives of Brown & Gay then presented to the Board information concerning their firm's services and qualifications. At the end of the presentation, the President thanked the representatives of Brown & Gay, who then left the meeting. The Board then discussed the Brown & Gay proposal and the best way to provide engineering services for the District. It was the consensus of the Board not to take any action concerning the Brown & Gay proposal at this time.

THERE BEING NO FURTHER BUSINESS to come before the Board, the meeting was adjourned.

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The foregoing minutes were passed and approved by the Board of Directors on September 29, 2011.

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President, Board of Directors

ATTEST:

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Secretary, Board of Directors

(DISTRICT SEAL)