

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 May 5, 2011, at 12:00 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 except Director Couch. Also attending all or portions of the meeting were Mr. William Neumann and Mr. Steve Pierce of the Midway Companies; Mr. Lars Hagen, consulting engineer for BBVA Compass Bank; Mr. Bob Ideus of Municipal Business Services, bookkeeper for the District; Mr. Tommy Lee of Assessments of the Southwest, tax assessor and collector for the District; Mr. Marcus Michna and Ms. Rhonda Gregg of Shelmark Engineering, LLC (“Shelmark”), engineer for the District; Ms. Kathleen Ellison and Ms. Carla Christensen of Fulbright & Jaworski L.L.P. (“F&J”), attorneys for the District; and members of the public. A sign in sheet is attached hereto as Exhibit “A.”

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

1. **Workshop for Directors to discuss dredging and disposal sites with engineer.** Mr. Michna and Ms. Gregg presented a workshop for the Directors and answered questions regarding possible disposal sites for dredging material. A copy of the materials they distributed to the Directors analyzing disposal site options and costs is attached hereto as Exhibit “C.” The workshop was concluded and the President thanked Mr. Michna and Ms. Gregg for an excellent workshop. He opened the regular meeting at 1:30 p.m.

2. **Approval of Minutes of March 24, 2011.** Upon motion by Director Tarpey, seconded by Director Andries, after full discussion and the question being put to the Board, the Board voted unanimously to approve the minutes as presented.

3. **Discussion regarding Public Comments from prior meetings.** Director Cross noted that there was one public comment from the previous meeting, which will be addressed under a separate agenda item.

4. **Public Comments.** There were no comments from the public at this time.

5. **Discuss District authority regarding traffic rules and regulations and security.** The President recognized Ms. Ellison, who reviewed with the Board a memorandum regarding the District's ability to regulate golf carts and traffic on the roads within the District, a copy of which is attached hereto as Exhibit "D." Ms. Ellison noted that the District does not have the authority to implement regulations pertaining to golf cart or other traffic on the roads within the District since the District does not own or control the roads. Extensive discussion ensued regarding the ongoing problems with 1) children driving golf carts on the streets, and 2) nighttime activity in the canals and at vacant houses. It was noted that the golf cart and excessive speeding matters have been brought before the Harborwalk Property Owner's Association ("POA") previously, but no action has been taken. Director Holley stated that, as liaison to the POA, he will make another request that the POA address the ongoing problems regarding golf carts and traffic regulations within the District.

6. **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 "E." Mr. Lee noted that 75.4% of the District's 2010 taxes had been collected as of April 30, 2011.

Mr. Lee stated that he anticipates receipt of the 2010 preliminary values from the Galveston County Appraisal District by the end of next week.

Upon motion by Director Holley, seconded by Director Andries, 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.

7. **Bookkeeper's report and payment of bills.** The President recognized Mr. Ideus, who presented to and reviewed with the Board the Bookkeeper's Report, a copy of which is attached hereto as Exhibit "F."

Director Andries noted that in 2015, the District will need to make its first principal debt service payment in the amount of \$500,000 in addition to the interest payment in the amount of \$250,000. Director Andries stated that he will coordinate with the District's financial advisor and bookkeeper to look at financial needs over a five year horizon.

The President noted that bulkhead damages during house construction was now showing up and the District needs to ensure that the bulkhead is not damaged in future home construction. Director Andries said that the District needs a reserve for the disposal site costs.

Upon motion by Director Holley, seconded by Director Andries, 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.

8. **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 "G."

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

Mr. Michna reported that Shirley and Sons Construction Company has completed 92.5% of the work included in the bulkhead system repair contract the Board awarded at the previous meeting. He said 23 of 24 locations have been addressed. Mr. Michna reviewed with the Board Pay Estimate No. One in the amount of \$40,869.31, a copy of which is attached to the Engineer's Report. Mr. Michna reported that all completed work has been inspected and approved. He recommended payment of the pay estimate.

Mr. Michna reported that Shirley and Sons Construction Company would begin work on the dredging contract the Board awarded at the previous meeting in the near future. Mr. Michna reported that the contract amount is \$137,412.00 and construction staking, channel marker placement and surveying is an additional \$7,500. Mr. Michna reviewed with the Board the schedule of values for the proposed work, a copy of which is attached to the Engineer's Report. Mr. Michna recommended payment of Invoice No. 11-0134 from Dale Hardy/GeoSurv, LLC in the amount of \$3,317.39 for construction staking and channel markings in connection with the project.

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 Engineer's Report and to approve and authorize payment of Pay Estimate No. One in the amount of \$40,869.31 in connection with phase two of the bulkhead system repairs.

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 and authorize payment of Invoice No. 11-0134 in the amount of \$3,317.39 in connection with the construction staking and channel markings for the maintenance dredging.

Mr. Michna reported that he had discussed with Mr. Shirley the District's letter notifying him of the apparently defective material used on the bulkhead nuts in Harborwalk, Section 6. Mr. Michna noted that recent tests performed on the nuts indicate that they are made of the stainless steel specified. Mr. Michna reported that he is coordinating with the contractor to determine the cause of the deterioration of the nuts. In response to a question from Director Cross, Ms. Ellison stated that there has been no response from the District's letter to the developer and the contractor regarding the deterioration in the nuts in Harborwalk, Section 6. It was the consensus of the Board that F&J prepare another letter seeking reimbursement for the \$12,000 spent on bulkhead repairs in Section 6.

The Board discussed ongoing expenses for bulkhead repairs. The President noted that residents have felt free to change their bulkhead caps and to attach items to the bulkhead. He said that if bulkhead caps are damaged the District should only restore them to their original condition. He indicated that the District should notify the residents of the policy by letter and on the website.

Director Tarpey moved that the District establish a policy stating that: the caps, sheet piling and canals are District property; no person is authorized to change them or encumber them with attachments. Director Holley seconded the motion.

The President opened the floor to discussion. The President expressed his reluctance to require residents to restore District facilities that have been changed in the past and said he would support the policy if it applied after the Board establishes a policy and gives notice to District residents. Director Andries agreed. The President reviewed the Grant of Bulkhead Installation, Maintenance & Operation Easement to determine what authority the District had to require restoration of facilities. Director Andries asked if he could amend the motion and the President said he could not. The President called for a vote and the motion failed.

It was the consensus of the Board that F&J draft a Policy Regarding Maintenance of District Property and Facilities based upon the consensus at the meeting and circulate the draft to the Board. Mr. Pierce suggested that any policy be recorded in the property records so that future owners are put on notice.

9. **Discuss annual maintenance program and take necessary action in connection with same, including review of five-year plan prepared by District engineer.** Mr. Michna reviewed with the Board the revised five-year maintenance plan and budget, a copy of which is attached to the Engineers' Report. Mr. Michna stated that 20-year maintenance plan budget was revised to increase the 2011 maintenance budget from \$7,500 to \$50,000 and decrease the 2012 maintenance budget to \$7,500. Director Andries recommended that costs be included in 2012 for repainting or restoring bulkhead caps. The Board then discussed repairs needed at the marina. Mr. Michna stated that he will obtain cost estimates for the the coating of the bulkhead caps and the marina repairs and will revise the proposed five-year budget.

10. **Report on easement with General Land Office.** Mr. Michna reported that Shelmark previously submitted the application to the General Land Office (GLO) for approval of an assignment of the Coastal Easements from Harborwalk, L.P. to the District. Mr. Michna reported that he was unable to contact the GLO before the meeting for an update but he expected the approval any day.

11. **Discuss and take necessary action in connection with development of District website.** Ms. Christensen stated that she has nothing to report on the website at this time.

12. **Attorney's report.** Ms. Ellison stated that she did not have any further to report to the Board, unless there were questions. In response to a question, Ms. Ellison discussed the District's easements for the maintenance and dredging of canals. In response to another question, Ms. Ellison stated that she has not received a response to the letter sent to the City of Hitchcock regarding the status of necessary repairs and maintenance to Harbor Drive.

13. **Developer's Report.** The President recognized Mr. Pierce, who stated that he did not have anything to report at this time.

14. **Set next meeting date.** It was the consensus of the Board to tentatively schedule the next Board meeting for Thursday, July 7, 2011 at 1:00 p.m. at 1301 Harborwalk Boulevard (Yacht Club).

The Board then discussed authorizing the final pay estimate to Shirley & Sons Construction in connection with the maintenance dredging before the next meeting. Upon

motion by Director Holley, seconded by Director Andries, after full discussion and the question being put to the Board, the Board voted unanimously to approve and authorize payment of Pay Estimate No. One in an amount not to exceed \$125,000 in connection with the maintenance dredging project and Pay Estimate No. Two in an amount not to exceed \$9,000 in connection with the bulkhead repairs, subject to inspection and approval of the work by the District engineer.

15. **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.

16. **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. The Board discussed various consultant contracts and whether to seek other proposals.

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 July 7, 2011.

President, Board of Directors

ATTEST:

Secretary, Board of Directors

(DISTRICT SEAL)