

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 Floyd’s on the Water, formerly Harborwalk Yacht Club, 1301 Harborwalk Boulevard, Hitchcock, Texas, on June 24, 2014 at 2:30 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
Jane O. McKenzie, Assistant Secretary

All members of the Board were present, except Director Holley. Also attending all or portions of the meeting were Ms. Donna Bryant of Assessments of the Southwest (“ASW”), tax assessor and collector for the District; Mr. Marcus Michna of Shelmark Engineering, LLC (“Shelmark”), engineer for the District; Ms. Sissy McCoy of Municipal Accounts & Consulting, LP, bookkeepers for the District; Mr. Hunter Fendley of Legend Communities, Inc. (“Legends”), developer for the District; Ms. Emerald Lagow, paralegal, and Ms. Pam Lewis, secretary, of Fulbright & Jaworski LLP (“F&J”), a member of Norton Rose Fulbright, attorneys for the District; Ms. Marian Cross, Mr. Matthew Chiara, Ms. Cheryl Steller, and Ms. Beverly Holmes, District residents; and Mr. Lynn Watkins, resident and builder in the District.

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 at 2:32 p.m. and the following business was transacted:

1. **Approval of Minutes of March 21, 2014.** Proposed minutes of the meeting of March 21, 2014, previously distributed to the Board, were presented for review and approval. Director Andries noted that the last sentence of the third paragraph on page three should be revised to reflect “The Board decided the payment should go to the engineer rather than through the District.” Upon motion by Director Andries, seconded by Director McKenzie, after full discussion and the question being put to the Board, the Board voted unanimously to approve the minutes, as revised.

2. **Adopt Order Calling Directors Election.** The Board reviewed the draft of the Order Calling Director’s Election, a copy of which is attached hereto as Exhibit “B.” It was noted that there are three Director positions up for election this year, currently held by Directors Cross, Andries, and Couch. 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 Order Calling Directors Election.

3. **Adopt Order Approving Joint Election.** The Board reviewed a Contract for Election Services from Galveston County, a copy of which is attached hereto as Exhibit "C." The President noted that, in the event the Director positions remain uncontested and the election is cancelled, the Board may also cancel this contract to avoid the costs associated with such election. Upon motion by Director Andries, seconded by Director McKenzie, after full discussion and the question being put to the Board, the Board voted unanimously to approve and authorize the President to execute the Contract for Election Services for the November 4, 2014 Directors Election.

4. **Public Comments.** The President recognized Mr. Watkins, resident and builder in the District, who noted his objections regarding the notice period, fee structure, and uniform application of the construction inspections stipulated in the District's Policy on Construction of Improvements. Mr. Watkins noted that he tendered his fee under protest, and that as a tax paying homeowner in the District, he does not feel he should be responsible for paying for the inspections by the District engineer. The President noted that the concerns voiced by Mr. Watkins will be recorded under public comments to address at the next meeting.

5. **Approve audit for fiscal year ended March 31, 2014.** The President recognized Mr. McGrath, who presented to and reviewed with the Board a draft of the audit for fiscal year ending March 31, 2014 and corresponding management representation and material weakness letters, copies of which are attached hereto as Exhibit "D."

Mr. McGrath reported that the District's general fund is in good standing, and noted that the debt service fund balance equates to over two years' worth of debt service payments. Discussion ensued regarding the distribution of tax revenue between the District's bond and operating funds. It was the consensus of the Board to consider the redistribution of funds next year.

Upon motion by Director Couch, seconded by Director McKenzie, 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, 2014.

6. **Authorize Continuing Disclosure filing.** The President reviewed with the Board a draft Annual Report on Financial Information and Operating Data for fiscal year ending March 31, 2014, a copy of which is attached hereto as Exhibit "E." Ms. Lagow 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. Upon motion by Director Couch, seconded by Director McKenzie, after full discussion and the question being put to the Board, the Board voted unanimously to authorize the filing of the Annual Report on Financial Information and Operating Data for fiscal year ending March 31, 2014.

7. **Tax Assessor and Collector report and payment of bills.** The President recognized Ms. Bryant, who reviewed with the Board the Tax Assessor and Collector's Report, a

copy of which is attached hereto as Exhibit "F." Ms. Bryant noted that the District had collected 98.12% of its 2013 taxes as of May 31, 2014.

Ms. Bryant presented to and reviewed with the Board a report on the preliminary 2014 taxable values, a copy of which is attached to the Tax Assessor and Collector's Report. Ms. Bryant stated that the preliminary 2014 taxable value increased by 13.85%, to \$78,315,927.

In response to a question from Director Andries, Ms. Bryant reported that there was no unclaimed property for the reporting period of March 1, 2012 to February 28, 2013.

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 Tax Assessor and Collector's Report and to authorize payment of the checks identified therein.

8. Review delinquent tax attorney's report and take necessary action in connection with same. Ms. Bryant noted there are no recommendations at this time.

9. Bookkeeper's report and payment of bills. The President recognized Ms. McCoy, who reviewed with the Board the Bookkeeper's Report dated June 24, 2014, the budget comparison, and the investment report, copies of which are attached hereto as Exhibit "G."

Ms. McCoy reported that the \$30,000 transfer from District's money market account is on hold due to changes in the transaction requirements of the District's depository bank, and presented a form from the bank for execution. Ms. McCoy noted that she will confirm money is in place prior to releasing the checks authorized today.

In response to a question from the President, Ms. McCoy stated that the \$600 inspection fee is included in the Shelmark Engineering payment. The President requested that the inspection fees be shown as a separate line item to ensure the District is not accumulating revenue from such fees. Director McKenzie stated that engineering fees are left to the engineer's discretion for this reason, noting that should the engineer find that a property does not require detailed inspection, the balance of the deposit is refunded to the builder.

In response to a question from Ms. Holmes, the President stated that while an inspection is required for every lot, the tie backs for the bulkhead may not enter the buildable space of certain properties, such as the lots in section 6, and as such are not at risk to be damaged by a pile driver. The President noted that in these cases, the engineer would review the plan and find no inspection is needed, and refund the builder's deposit.

Ms. Cross noted that she and her husband were held liable for the costs of repairing the bulkhead on their property when, during construction of their house, the pile driver hit a tie-back in what was presumed to be buildable space. She noted that with the policy and corresponding inspections in place, liability for repairing the bulkhead falls to the District rather than the resident.

Director Andries noted Mr. Watkins had inquired as to the procedure for refunding overages, and noted that no reference is made to this in the letter to builders. The President noted that the Board will discuss refunding overages accumulated from the inspection fees at the next meeting under public comments.

Ms. McCoy noted that at the request of the attorney, she reviewed the minutes and record of Director expense payments and found two meetings for which Director Holley was not reimbursed, payment for which is included in this month's report.

In response to a question from the President, Ms. McCoy stated that the legal and engineering invoices cover nearly three months, and that election preparation caused higher legal fees than normal. Director McKenzie noted that we can anticipate this increase every two years.

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 approve the Bookkeeper's Report, to authorize payment of the checks identified therein, and to approve the Investment Report.

10. Engineer's report and authorization of capital improvement and maintenance actions. 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 "H."

a. Review and discuss results of inspections.

1. Annual Bulkhead Inspection. Mr. Michna stated there were no actions at this time.

2. Pre-development Lot Inspection. Mr. Michna stated there were no pre-development lot inspections at this time.

3. New Construction Inspection. Mr. Michna reported that he inspected the new construction at 10 Happy Jack, and did not find any issues. Mr. Michna noted that no actions are needed at this time. In response to a question from the President, Mr. Michna reported that he coordinates with members of the DRC to ensure that new construction is documented.

4. Dredging. Discussion ensued regarding the budget for dredging. Director Andries noted there is no sense in funding anything other than spot dredging in the main channel until the bulkhead is in place, as there will be continual erosion. Mr. Fendley noted concern regarding section 6, and recommended that the Board move this area to a higher priority for repairs. Discussion ensued regarding what area and channel depth the District should maintain. The engineer noted that the problem areas are on the sides of the channel, and noted areas in which the bulkhead is not in place are sloughing into the canal. Director Couch stated that the District will not take responsibility to dredge before the property's bulkhead is installed.

Discussion ensued regarding spot dredging at properties. In response to a question from the President, Mr. Michna stated that he recommends using a barge contractor that can easily transfer dredge spoils, as use of long arm excavators has done damage to the bulkhead. Mr. Michna noted that the last barge took three months to reach the location. Director Couch noted that 60 days' notice may not provide enough time for the District to mobilize if dredging is needed.

In response to a question from Director Andries, Mr. Michna stated that the budgeted amount is adequate for regular spot dredging and maintenance each year, and that \$5,000 should cover the cost of any one incidental repair. Director Andries noted that the Board could authorize discretionary spot dredging to be used by the engineer to respond to incidental dredging needs that arise between meetings. The President directed the bookkeeper to draft a budget for such expenses. Mr. Michna noted he will itemize the repairs for authorization at each meeting, as is done with repairs to the bulkhead.

In response to a question from Director Couch, Mr. Fendley stated that Trendmaker Homes is providing a notice of intent to build for the entirety of section 6. The Board directed Mr. Fendley to tell Trendmaker Homes to provide a list of the lots in order of their construction, and noted that the Board is committed to address necessary repairs following receipt of the notification of intent to build.

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 establishment of a budget line item for dredging maintenance, and to authorize the District's engineer to perform spot dredging as needed, in an amount not to exceed \$5,000.

- b. **Request authorization for repairs.** Mr. Michna stated there were no repairs needed.
- c. **Review proposals/bids and award contracts.** No action was taken on this item.
- d. **Approve pay estimates, change orders, and final acceptance as appropriate.** Mr. Michna presented to and reviewed with the Board an invoice from Marine Inc. dated June 4, 2014 in the amount of \$5,011.46, a copy of which is attached to the Engineer's Report as Exhibit "C." Mr. Michna noted that the invoice was approved on June 23, 2014. In response to question from the President, Mr. Michna stated the repair was for a leaning bulkhead. Upon motion by Director Couch, seconded by Director McKenzie, after full discussion and the question being put to the Board, the Board voted unanimously to accept and authorize payment of the invoice from Marine Inc. in the amount of \$5,011.46 for bulkhead repairs performed at Section 6 at Hawkeye, Lot 12 Sugarloaf, Lot 13 Sugarloaf, Lot 10 Little Torch, and Long Key Landscape Reserve; and to authorize bulkhead repairs, at the discretion of the engineer, in an amount not to exceed \$5,000.

Mr. Michna presented to and reviewed with the Board an update on Barge Incident of June 6, 2014, a copy of which is attached to the Engineer's Report as Exhibit "B." Mr. Michna noted that a buoy was lost in the incident, and that the marine contractor for the barge company will manage payment for the repair. Mr. Chiara noted that many tugboat propelled barges end up breaching District channels one their way out of Galveston. Mr. Michna noted that the barge in question is particularly light, and was unable to maneuver itself out of the windy channel after unloading.

e. **Hydra Flow damage update with the City of Hitchcock.** Mr. Michna reported that the City has reprogrammed the hydra flow meter and is inspecting it daily. Mr. Michna noted that the City plans to install a catch basin, and stated the contractor will contact him prior to construction.

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

11. **Developer's Report.** The President recognized Mr. Fendley, who reported on the status of development in the District. Mr. Fendley reported that the contracts for the 27 bungalow lots are currently in escrow, and noted the contractor for the development is Mr. Cass Brewer of Legacy Builders. Discussion ensued regarding valuation in the District. In response to a question from Director Andries, Mr. Dawlett estimated the value of the bungalow homes to be approximately \$300,000 each.

12. **Procedures for Builders in the District and any necessary action regarding Policy on Construction of Improvements.** The President noted that the Board will discuss the fee structure for builder inspections under the discussion of public comments at the next meeting.

13. **Discuss and take necessary action in connection with receipt of website correspondence and emails.** There was nothing to report in connection with the District's website.

14. **Confirm next meeting date.** Discussion ensued. It was the consensus of the Board to schedule the next meeting for Tuesday, August 26, 2014 at 2:30 p.m. at 1301 Harborwalk Boulevard (Floyd's on the Water).

15. **Document Public Comments for next Board meeting discussion.** The President noted that Board will address Mr. Watkins' comments at the next meeting.

16. **Other Matters.** There were no other matters to come before the Board 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 August 26, 2014.



President, Board of Directors

ATTEST:



Secretary, Board of Directors

(DISTRICT SEAL)

