

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 §

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 March 6, 2015 at 2:30 p.m.; whereupon the roll was called of the directors, to-wit:

Jane O. McKenzie, President
Ronald Ray Holley, Vice President
Arnold J. Cross, Jr., Secretary
Michael L. Andries, Treasurer
Mac DeLaup, Assistant Secretary

All members of the Board were present, except for Director Holley and Director DeLaup. 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. Cindy Grimes of Municipal Accounts & Consulting, LP, bookkeepers for the District; Mr. Hunter Fendley of Legend Communities, Inc. ("Legends"), developer for the District; Mr. Mark McGrath of McGrath & Co., PLLC, auditor for the District; Ms. Marian Cross, Ms. Cheryl Steller, Mr. Toby Gidney, and Ms. Audrey Gidney, District residents; and Ms. Kathleen Ellison of Norton Rose Fulbright US LLP ("NRF"), attorneys for 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 1:04 p.m. and the following business was transacted.

1. **Discussion regarding public comments from prior meetings.** The President addressed the issue previously raised regarding the procedure for changing the meeting date which had been agreed upon at the prior meeting. The President said that she had changed the date to accommodate the request of a Board member and there was a quorum of directors who could attend the meeting. She said she thought NRF had polled the Board members. Ms. Ellison said that NRF had not polled the Board members regarding the change in date and apologized for the miscommunication. The President said in the future a meeting date would be changed upon a reasonable request of a director and after polling all Board members.

2. **Public Comments.** Ms. Cross stated that during public comments at the February special meeting, Director DeLaup interrupted her and hollered at her. She stated that the President cut her off and would not allow her to continue with her comments. A copy of the written comments are attached hereto as Exhibit "B."

3. **Approval of Minutes of December 9, 2014.** Proposed minutes of the meeting of December 9, 2014, previously distributed to the Board, were presented for review and approval. Upon motion by Director Cross, 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. The Board deferred action on the minutes of the special meeting of February 13, 2015 until the next meeting.

4. **Engage auditor for fiscal year ending March 31, 2015.** The President recognized Mr. McGrath, who asked to be engaged as the District's auditor for the fiscal year ended March 31, 2015. Mr. McGrath stated that there are no new accounting standards this year and that the estimated auditing fees will be \$9,100, the same as the previous five years. Upon motion by Director Andries, seconded by Director Cross, after full discussion and the question being put to the Board, the Board voted unanimously to retain McGrath & Co., PLLC to prepare the District's audit for fiscal year ending March 31, 2015 and to authorize the President to execute the auditor's engagement letter, a copy of which is attached hereto as Exhibit "C."

5. **Developer's Report.** The President recognized Mr. Fendley, who reviewed the status of development in the District with the Board. He reported that Legends is working on a refinancing of Haborwalk. He estimated that the plans for the bungalow lots will be ready for review in the next three months, and that construction will begin early next year. Mr. Fendley reported that Trendmaker is continuing with construction of homes in Section 6.

6. **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 "D." Ms. Bryant noted that the District had collected 74.87% of its 2014 taxes as of February 28, 2015. Ms. Grimes reported to the Board a taxpayer request for waiver of penalty and interest. Ms. Grimes explained that the Board is legally authorized to waive penalty and interest only if the tax assessor or the appraisal district erred in their handling of the account, which was not the case here. Upon inquiry, Mr. Fendley said that taxes owed by HD Flamingo Isles Holdings LP and Flamingo Isles Marina LP would be paid as part of the refinancing.

Upon motion by Director Cross, 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, to authorize payment of the checks identified therein, and to deny the request for a waiver of penalty and interest.

7. **Review delinquent tax attorney's report and take necessary action in connection with same.** Ms. Bryant reviewed the delinquent tax attorney report included in Exhibit "D." She noted that there are no recommendations from the delinquent tax attorney at this time.

8. **Adopt Resolution Authorizing Additional Penalty on Taxes, Penalty & Interest remaining delinquent on April 1st (personal property), and on July 1st (other property).** Upon motion by Director Andries, seconded by Director Cross, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Resolution

Authorizing Additional Penalty on Delinquent Taxes, a copy of which is attached hereto as Exhibit "E."

9. **Adopt Order Authorizing Exemptions from Taxation.** Ms. Ellison said she had talked to John Howell, the District's financial advisor, and he does not recommend that the District adopt any exemptions at this time. Ms. Bryant noted that the District currently has 29 homestead residences, of which 11 qualify for the over 65 and/or disabled exemption. The Board took no action on this item.

10. **Discuss 2015 property value challenges and Adopt Resolution Challenging Values.** Director Andries reported that the Board previously wished to challenge values only to find out the deadline had passed prior to the time it received the values. He said that the Board should adopt a resolution challenging 2015 property values, which can be used as appropriate once the tax assessor reviews the 2015 property data. Upon motion by Director Cross, seconded by Director Andries, after full discussion and the question being put to the Board, the Board voted unanimously to approve a Resolution Challenging Values.

11. **Bookkeeper's report and payment of bills.** The President recognized Ms. Grimes, who reviewed with the Board the Bookkeeper's report dated March 6, 2015, including the budget comparison, a copy of which is attached hereto as Exhibit "F." She noted that the District's cash flow forecast was revised due to duplicate entries for dredging. She asked the Board to approve two resolutions renewing certificates of deposit. Upon motion by Director Cross, 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 authorize payment of the checks identified therein.

12. **Adopt budget for fiscal year ending March 31, 2016.** The President opened discussion to the budget for fiscal year ending March 31, 2016. Director Cross noted that dredging should not be treated as a capital outlay. Discussion ensued dredging projects and maintenance dredging. The Board tabled this discussion pending review of the Engineer's Report.

13. **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 "G."

a. **Dredging Project.** Mr. Michna reported that he opened three bids on March 6 for dredging of the Harborwalk Main Channel, and the low bidder was Rodriguez Brothers Dredging at a price of \$114,800. He reminded the Board that the channel would be dredged to a -8 foot depth with a 40 foot bottom and 4 to 1 side slopes. He explained the hydraulic process Rodriguez Brothers Dredging planned to use. Mr. Michna said the contractor would reutilize the dredge sites for Section 6. The President said that the contractor needs to use silt fencing.

Mr. Michna said the project would include straightening the channel markers and should take one month to complete. He estimated the life of the project as five years.

Upon motion by Director Andries, seconded by Director Cross, after full discussion and the question being put to the Board, the Board voted unanimously to accept the bid of Rodriguez Brothers Dredging for dredging the main channel.

b. **Bulkhead Repairs and Maintenance Dredging.** Mr. Michna noted that the Board had approved payment to Marine, Inc. for bulkhead repairs in the amount of \$15,144.08, leaving a balance of \$7,855.92 authorized for additional bulkhead repairs. Mr. Michna said there were six repairs he felt were critical and he would try to get them done with the remaining \$7,855.92. Discussion ensued regarding bulkhead repairs. Upon motion by Director Cross, seconded by Director Andries, after full discussion and the question being put to the Board, the Board voted unanimously to authorize the engineer to use the remaining \$7,855.92 plus an additional \$5,000 on bulkhead repairs to take advantage of Marine, Inc. being on site. The Board asked Mr. Michna to encourage Marine, Inc. to finish the repairs promptly.

Mr. Michna noted that the Board had approved payment to Marine, Inc. for maintenance dredging in the amount of \$5,773.80. He estimated that he would use \$15,000 of the \$25,000 authorized for maintenance dredging. Discussion ensued regarding the equipment used for bulkhead repairs. Upon motion by Director Andries, seconded by Director Cross, after full discussion and the question being put to the Board, the Board voted unanimously to authorize Rodriguez Brothers Dredging to do maintenance dredging, as well as Marine, Inc., within the previously authorized amount of \$25,000.

c. **Marina Bulkhead Repairs.** Mr. Michna discussed options for repair of a portion of the marina bulkhead and for repair of the bulkhead caps throughout the community. The Board discussed a temporary repair at the marina. It was the consensus of the Board to consider the matter in more detail at the Board meeting in May. Director Andries requested additional information on the bulkhead cap repairs.

Upon motion by Director Cross, 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.

14. **Adopt budget for fiscal year ending March 31, 2016.** The President opened discussion to the adoption of the budget, which had been deferred until after the engineer's report. The Board decided to add an expense item for maintenance dredging in the amount of \$25,000, to change the expense item entitled "dredging and channel markers" to "channel markers" and decrease it to \$4,000, and to delete the expense item entitled "capital outlay" and to add an item below the line for "dredging projects" in the amount of \$115,000. Upon motion by Director Andries, seconded by Director Cross, after full discussion and the question being put to the Board, the Board voted unanimously to adopt the budget for fiscal year ending March 31, 2016, as revised.

15. **Consider consent to encroach.** The President recognized Mr. Michna, who reported on his review of the Guidrys' swimming pool plans. Mr. Michna said he had met with the pool designer and that he needs to see cross sections to determine if alternate dead men are needed. Mr. Michna said he had given a "consent to encroach" prepared by the District's attorney to Mr. Guidry.

Mr. Guidry addressed the Board. He said that contrary to the information previously reported, his pool was not in the District's maintenance easement. Director Cross said that he did not believe a consent to encroach was warranted if the pool was not in the easement. Ms. Ellison asked to see the Guidrys' survey and title report to determine if there are any restrictions on the property.

The Board asked Mr. Guidry to provide structural drawings to Mr. Michna and title information to Ms. Ellison. The President asked Mr. Michna and Ms. Ellison to report to her so that she could advise the Design Review Committee of any District requirements.

16. **Acknowledge attorney name change (Norton Rose Fulbright US LLP).** Ms. Ellison stated that as of January 21, 2015, the legal name of Fulbright & Jaworski LLP was changed to Norton Rose Fulbright US LLP. She presented to and reviewed with the Board an Acknowledgement Letter for the name change, a copy of which is attached hereto as Exhibit "H." Upon motion by Director Andries, seconded by Director Cross, after full discussion and the question being put to the Board, the Board voted unanimously to authorize the President to execute the Acknowledgement Letter on behalf of the Board.

17. **Discuss and take necessary action in connection with receipt of website correspondence and emails.** Ms. Ellison reviewed with the Board the website summary report, a copy of which is attached hereto as Exhibit "I." The President said she would provide business cards for the District which include website information.

18. **Confirm next meeting date.** It was the consensus of the Board to tentatively schedule the next regular meeting for Friday, May 8, 2015 at 1:00 p.m.

19. **Document Public Comments for next Board meeting discussion.** The Board documented the comments from Ms. Cross for consideration at the next meeting.

20. **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 May 8, 2015.



President, Board of Directors

ATTEST:



Secretary, Board of Directors

