

MINUTES OF MEETING OF BOARD OF DIRECTORS  
CYPRESS HILL MUNICIPAL UTILITY DISTRICT NO. 1  
April 17, 2009

THE STATE OF TEXAS  
COUNTY OF HARRIS  
CYPRESS HILL MUNICIPAL UTILITY DISTRICT NO. 1

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The Board of Directors (the "Board") of Cypress Hill Municipal Utility District No. 1 (the "District") met in regular session, open to the public, at the offices of Fulbright & Jaworski L.L.P. at 1301 McKinney, Houston, Texas, on April 17, 2009, at 11:00 a.m.; whereupon the roll was called of the members of the Board, to-wit:

Ronald S. Koehn, President  
Robert Henry, Vice President  
Angell Swedlund, Treasurer  
Tim Halloran, Secretary  
Jerry Bryant, Assistant Secretary

All members of the Board were present, except Director Henry. Also attending all or portions of the meeting were Mr. Alan Hirshman of Dannenbaum Engineering Corp. ("DEC"), engineer for the District; Ms. Donna Bryant of Assessments of the Southwest, tax assessor-collector for the District; Mr. Tracy Riley of Eagle Water Management, Inc. ("Eagle Water"), operator for the District; Ms. Wendy Austin of District Data Services, Inc., bookkeeper for the District; Mr. Bill Hixon of Cymill Partners, developer of land within the District; Mr. Jimmy Pappas of Corinthian Fry Road Investors, developer of land within the District; Sergeant Blackledge, constable for the District; Ms. Shirley White and Mr. Rob Pinckard, District residents; Ms. Jessica Trafton, Cypress Mill Homeowners Association manager; and Ms. Kathleen Ellison, Mr. Stephen Carroll and Ms. Yvette Deitrick of Fulbright & Jaworski L.L.P. ("F&J"), attorneys for the District.

The meeting was called to order in accordance with the notice posted pursuant to law: Chapter 551, Texas Government Code and Section 49.063, Texas Water Code (copies of certificates of posting or mailing are attached hereto as Exhibit "A"); and the following business was transacted:

1. **Minutes of the meeting of March 20, 2009.** The proposed minutes of the meeting of March 20, 2009, previously distributed to the Board, were presented for review and approval. Director Bryant reported that under Public Comments, the private road being discussed was off of Cypress Church Road, not named Cypress Church Road. Upon motion by Director Swedlund, seconded by Director Bryant, after full discussion and the question being put to the Board, the Board voted unanimously to approve the minutes of March 20, 2009, as revised.

2. **Public Comments and letters from residents.** The President recognized Mr. Pinckard, who reported that he lives in Cypress Mill Estates. He stated that he appreciated the Board's decision to halt the removal of the wax myrtles upon hearing complaints. Mr. Pinckard stated that he understands some of the wax myrtles are uprooted from Hurricane Ike and other wax myrtles appear to be in poor condition; however, he and other people who walk along the detention pond request that the wax myrtles in good condition be left in place. He stated that even if new plants are installed, it will take years for the plants to match the size of the existing plants.

Ms. Trafton reported that Harris County stated it would not give clearance to the Cypress Mill Homeowners Association ("HOA") for a new fence in the county right-of-way. She stated that the Harris County right-of-way extends nine and a half feet from the curb and some areas are only three feet from the curb. The President reported that if a new fence is constructed, it would not be in the right-of-way. He stated that in the areas close to the curb, an easement may be obtained from the residents for the fence construction. The President reported that the District is waiting on the HOA to provide a fence or landscape easement to the District to facilitate the fence construction.

Director Bryant reported on emails to the Board. He stated that there were fifteen emails regarding removal of the wax myrtles in the Cypress Mill Estates detention pond area. He stated that emails requesting information on initiating water service, reporting that a water bill payment had been mailed, and reporting a water leak were forwarded to Eagle Water for response. He reported that Mr. Howard emailed regarding the fence construction, which was forwarded to the Board.

3. **Executive Sessions under Section 551.071 of the Texas Government Code to discuss contemplated litigation.** Upon motion by Director Swedlund, seconded by Director Bryant, after full discussion and the question being put to the Board, the Board voted unanimously to go into executive session at 11:20 a.m. to consult with its attorney about pending or contemplated litigation pursuant to Texas Government Code section 551.071. At that time, all persons left the meeting except the Directors, Ms. Ellison, Mr. Carroll, Ms. Deitrick and Mr. Hirshman. Upon motion by Director Halloran, seconded by Director Swedlund, after full discussion and the question being put to the Board, the Board voted unanimously at 11:31 a.m. to reconvene in public session. At that time, those persons attending the meeting, as stated above, reentered the meeting.

Upon motion by Director Koehn, seconded by Director Swedlund, after full discussion and the question being put to the Board, the Board voted unanimously to approve a settlement offer to Mr. Drew to settle his claims concerning property damage arising from construction of District facilities in an easement along the private road off of Cypress Church Road, consisting of \$4,531.09 for damages related to damage to Mr. Drew's own property and \$6,825.00 for damages to the private road off of Cypress Church Road, contingent upon receiving a full release from Mr. Drew for damage to his property and a full release from all owners of the private road for damages to the private road.

4. **Security report and take any necessary action regarding constable workspace.** The President recognized Sergeant Blackledge, who presented to and reviewed with

the Board the Security Report for the month of March, a copy of which is attached hereto as Exhibit "B." Sergeant Blackledge reported that Wal-Mart has a loss prevention officer again.

**5. Award constable workspace build out, lease and any necessary action.**

The President recognized Ms. Ellison, who reported that Mr. Pappas provided a draft lease for the Constable Space ("Lease"), a copy of which is attached hereto as Exhibit "C." She reported that the lease holds the District responsible for damage caused by visitors to the Constable Space. Ms. Ellison stated that the Board will have to revisit insurance coverage before the Constable Space is opened. Ms. Ellison reported that the Lease requires the District to pay a monthly fee for maintenance of the common area. Mr. Pappas reported that he is obtaining an estimate of what that monthly fee will be. Ms. Ellison stated that the Lease is for three years and that Mr. Pappas will provide for an option to renew at market price at that time. Mr. Pappas stated that the parking for the constables will need to be identified and added as an exhibit to the Lease.

Mr. Pappas presented to and reviewed with the Board two proposals for construction of the Constable Space from Rosenberger Construction and Burton Construction, copies of which are attached hereto as Exhibits "D" and "E," respectively. He stated that the architect estimated that the build out cost would be approximately \$50 per square foot for 1,200 square feet. Mr. Pappas reported that the low bid was for \$96,484 for 1,300 square feet, which is significantly above the cost estimate. He stated that the architect is suggesting adjustments to lower the build out cost, such as painting the concrete instead of installing carpet. Sergeant Blackledge stated that any flooring would be preferable to carpeting because the carpet will deteriorate quickly with normal constable traffic. Mr. Hirshman stated that the District may be required to take competitive bids for the project and obtain payment and performance bonds if the project is greater than \$50,000. Mr. Pappas stated that the constable workspace could be constructed in phases to stay below \$50,000. The President stated that he would review the workspace plans and discuss construction with Director Henry and Sergeant Blackledge to determine the optimal construction process.

Upon motion by Director Swedlund, seconded by Director Bryant, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Lease with the appropriate revisions by Ms. Ellison.

**6. Developers' Report, reimbursement issues and any necessary easements.** The President recognized Mr. Pappas, who reported that a lease has been signed for a sports-oriented restaurant and a letter of intent signed for an Italian restaurant at the Shoppes at Fry Road. He reported that a letter of intent has been signed by a fast food restaurant for a pad site. Mr. Pappas reported that the construction of the driveway to the U.S. Highway 290 frontage road will begin next week.

Mr. Hixon reported that there is interest in a ground lease across from Alicia's Mexican Grille. He reported that there is no activity on the 3.7 acre tract. Mr. Hixon reported that Compass Bank reported that the earliest it would open would be at the end of June 2009.

**7. Any Necessary Action Regarding Alicia's Parking Lot.** The President recognized Mr. Hixon, who reported that he spoke with Mr. Herrera, the owner of Alicia's Mexican Grille. He reported that Mr. Herrera reported that he would be receiving the permit

next week and would be forwarding the signed Amended Lease to the District as soon as possible upon receipt of the permit.

**8. Tax Assessor-Collector's Report, payment of bills and any necessary action on delinquent accounts.** The President recognized Ms. Bryant, who presented to and reviewed with the Board the Tax Assessor-Collector's Report, a copy of which is attached hereto as Exhibit "F." Ms. Bryant noted that 95% of the District's 2008 taxes had been collected as of March 31, 2009.

Ms. Bryant presented to and reviewed with the Board a customer request to waive penalty and interest because the tax payment was lost in the mail, a copy of which is attached hereto as Exhibit "G." She reported that the resident claims to have mailed the tax payment in December; however, her office never received it. Ms. Bryant stated that the District is authorized to waive penalty and interest only in the case of District or Appraisal District errors.

Upon motion by Director Swedlund, seconded by Director Bryant, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Tax-Assessor-Collector's Report, to authorize the expenditures listed therein, and to deny the request for waiver of penalty and interest on the late tax payment.

**9. Approve Resolution Authorizing Request for Certificate of Estimated Assessed Valuation.** Ms. Ellison presented to and reviewed with the Board the Resolution Authorizing Request for Certificate of Estimated Assessed Valuation, a copy of which is attached hereto as Exhibit "H." Ms. Ellison stated that this information is needed to prepare the bond application. Upon motion by Director Bryant, seconded by Director Swedlund, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Resolution Authorizing Request for Certificate of Estimated Assessed Valuation.

**10. Bookkeeper's Report, Review Investment Report and payment of bills.** The President recognized Ms. Austin, who presented to and reviewed with the Board the Bookkeeper's Report, a copy of which is attached hereto as Exhibit "I."

Upon motion by Director Swedlund, seconded by Director Halloran, after full discussion and the question being put to the Board, the Board voted unanimously to accept the Bookkeeper's Report and to authorize payment of the checks listed therein.

**11. Recreational Facilities Planning/Harris County Flood Control District Partnership, Report on Homeowners Association matters and mowing proposals.** The President recognized Director Swedlund, who presented to the Board pictures of the overgrown and leaning wax myrtles at the Cypress Mill Estates detention pond. She stated that the intention was never to remove the trees and that the residents have been informed of this. Director Swedlund reported that most of the emails regarding the removal were from Mr. Pinckard's area, where the wax myrtles are in good condition. The President suggested a special meeting in the District to review the wax myrtles on an individual basis to determine which need to be removed. It was the consensus of the Board to meet in the District to review the wax myrtles. Director Swedlund reported that crape myrtles and knock-out roses are possible replacement plants which will enhance the landscape and be easy to maintain. She presented to and reviewed with the

Board a Greenpros proposal to plant four crape myrtle and fifteen knock-out roses where the wax myrtles have already been removed in the amount of \$1,789.00, a copy of which is attached hereto as Exhibit "J." Upon motion by Director Halloran, seconded by Director Bryant, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Greenpros proposal to plant four crape myrtle and fifteen knock-out roses in the amount of \$1,789.00.

12. **Consider Establishing Park Standards.** The President recognized Ms. Ellison, who reported that Academy Development has agreed to a Utility Drainage and Landscaping Easement for the District for the area between Sydney Harbour and Cypress Mill Park; however, Academy Development included the reserve along Cypress-Rosehill in the legal description which will need to be revised.

Ms. Ellison reported that the District will need to establish park standards if it decides to proceed with the Cypress Rosehill Beautification project. The President reported that the District had KGA Deforest prepare a park plan for Cypress Mill in 2003. He stated that the plan could be expanded to include the entire District. The President stated that the park plan will be pursued if the HOA is agreeable to working with the District on the Cypress Rosehill Beautification project.

13. **Engineer's Report and any necessary action regarding construction projects, detention pond maintenance, reimbursement expenses and grant of easements.** The President recognized Mr. Hirshman, who presented to and reviewed with the Board the Engineer's Report, a copy of which is attached hereto as Exhibit "K." Mr. Hirshman reported that DEC is preparing the plans for the wastewater treatment plant generator. He stated that the project may be ready to bid in May.

Mr. Hirshman reported that acceptance of the water, sanitary sewer and drainage facilities at the Shoppes at Fry Road is pending completion of the documents by the developer's engineer.

Mr. Hirshman reported that the developer reimbursement for the water lines and storm sewer at Fry Road is pending receipt of the TCEQ letter approving the purchase of the facilities.

Mr. Hirshman reported that he reviewed the documents for the reimbursement to the developer for Cypress Ridge, Section 4, which demonstrate that the retainage and 14 second stage inlets were not included in the reimbursement. He stated that it will need to be determined whether the funds are escrowed or surplus. Ms. Ellison stated that she can review the necessary documents to determine if the funds are escrowed or surplus.

Ms. Ellison requested clarification on what the Board wishes to tell Cypress Crossings Christian Church. Mr. Hirshman stated that if the District is offering only sewer service, the District would not know how much to charge unless a meter was installed on the water well. Mr. Hirshman reported that the District is currently 100% committed on sanitary sewer treatment capacity at the current permit flow rate; however, he expects the rate to be amended with the next bond application which would allow additional capacity. Mr. Hirshman

stated that the District may require the church to pay a portion of the future wastewater treatment plant expansion costs. Ms. Ellison stated that the wastewater treatment plant expansion costs may be included in the impact fee. She stated that the church first has to be pay a \$10,000 retainer fee to cover engineering and legal fees associated with the project.

Mr. Hirshman reported on the protection for the backflow preventers at the back driveway to Walgreen's. Mr. Hirshman presented to and reviewed with the Board a survey of the Walgreen's location, a copy of which is attached hereto as Exhibit "L." He reported that there are two small backflow preventers located close to the curb which would decrease sight visibility if screened with bushes. Mr. Hirshman reported that it would be optimal if the back flow preventers could be put underground. Mr. Riley stated that what the backflow preventers are serving will determine whether they can be put underground. Mr. Hirshman stated that the large backflow preventer is far enough away from the curb that plants could be planted to screen it from public view. It was the consensus of the Board that putting the backflow preventers underground is optimal and that the sight distance should not be decreased at all. Mr. Hirshman stated that he would work with Mr. Riley on the matter.

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

**14. Operator's Report, authorization of maintenance and hearing on delinquent accounts.** The President recognized Mr. Riley, who presented to and reviewed with the Board the Operations Report, a copy of which is attached hereto as Exhibit "M." Mr. Riley reported that the fence and gate relocation at the wastewater treatment plant is scheduled for next week.

Mr. Riley reported that the diesel engine from the right angle drive may be difficult to sell due to current emission standards.

Mr. Riley reported that the energy audit was requested and is proceeding.

Mr. Riley reported that LDL Services offers an annual service of load bank testing for diesel engines for \$750 per engine. He reported that the trailer mounted thermal tester simulates the load which would occur in a hurricane or disaster situation. Mr. Riley reported that the load bank testing allows the engines to burn off carbon and will reveal any engine problems. He reported that the District has three engines to test, one at each water plant and the portable engine.

Upon motion by Director Bryant, seconded by Director Swedlund, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Operations Report, to terminate the delinquent accounts in accordance with the Rate Order, and to authorize the load bank testing by LDL Services.

**15. Approve Identity Theft Program.** The President recognized Ms. Ellison, who presented to and reviewed with the Board the Order Adopting Identity Theft Prevention Program and Providing for Implementation and Enforcement Thereof ("Order"), a copy of which is attached hereto as Exhibit "N." Ms. Ellison reported that the Federal Trade

Commission has promulgated a new regulation that requires certain businesses, including utilities, to adopt an identity theft prevention program by May 1, 2009. She stated that the Order provides for Eagle Water to implement the District's program. Mr. Riley reported that Eagle Water is training its personnel to follow the program.

Upon motion by Director Bryant, seconded by Director Swedlund, after full discussion and the question being put to the Board, the Board voted unanimously to approve the Order and to authorize Eagle Water to implement the Identity Theft Prevention Program.

16. **Review water rates and take any necessary action.** No action was taken on this item.


17. **Other matters.** No other matters were discussed.

18. **Next Meeting Date.** The Board noted that the next regular monthly Board meeting will be held on May 15, 2009, at 11:00 a.m. at the offices of Fulbright & Jaworski L.L.P., 1301 McKinney, Houston, Texas.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, the meeting was adjourned.

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The attached and foregoing minutes were passed and approved by the Board of Directors on May 15, 2009.

  
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President, Board of Directors

ATTEST:

  
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Secretary, Board of Directors

(DISTRICT SEAL)

