

# RAYFORD ROAD MUNICIPAL UTILITY DISTRICT

Minutes of Meeting of Board of Directors

September 11, 2006

The Board of Directors ("Board") of Rayford Road Municipal Utility District ("District") met on September 11, 2006, at 230 Spring Hill Drive, Suite 325, Spring, Texas 77386, in accordance with the duly posted notice of the meeting, with a quorum of Directors present, as follows:

- Danny E. Agans, President
- Michael Smith, Vice President
- Jon Vallery, Secretary
- Duane Burrell, Director
- Charles W. Venema, Director

and the following absent:

None

Also present were Vickey Sullivan, Bill Russell, James Light, Mike Williams, Lonnie Wright, Jim Holcomb, Sergeant Jeff Brown, Herman I. Little, Jr. and persons on the attached list.

The President called the meeting to order and declared it open for such business as might regularly come before it.

1. Director Agans welcomed guests to the meeting, and the directors and consultants then introduced themselves.

2. Minutes of the meeting August 14, 2006 were presented and reviewed. Upon motion by Director Smith, seconded by Director Vallery, the Board voted unanimously to approve the minutes as presented.

3. The Chair called for discussion of the contract with the District's attorney. Director Vallery stated that he had nothing to present on the subject and requested that the matter be removed from the agenda.

4. Vickey Sullivan presented a tax assessor/collector's report. 2005 taxes are 98.5% collected. Ms. Sullivan reviewed the report and a series of checks presented for payment of current bills. Upon motion duly made, seconded and unanimously carried, the Board approved the tax assessor/collector's report and authorized payment of bills listed thereon.

5. Director Agans announced that the Board will convene in a public hearing to consider the proposed 2006 tax rate. The public hearing convened at 7:03 p.m. It was mentioned that the Board previously has approved a proposal for a debt service tax of \$0.66 and a maintenance and operations tax of \$0.042, for a total 2006 tax rate of \$0.7020. The proposed tax rate is a reduction of \$0.06 per \$100 assessed valuation. This is a 7.8% tax rate reduction. The financial advisor advised the Board that the proposed tax rate would provide sufficient coverage in the debt service fund and will allow the District to meet its obligations for payments on the District's bonds. Jeff Sorrells addressed the Board and stated that he sees three needs for

the District. First, reduce the tax rate. Second, add \$0.01 or \$0.015 to the tax rate for law enforcement services. Third, add \$0.01 or \$0.015 for drainage improvements. Director Venema inquired as to the consequences of the District's not lowering the tax rate. What could the District do? It was mentioned that the tax rate reduction is proposed only in the debt service fund, and this account is available only for payment of District bonds. These funds could not be used for law enforcement or drainage improvements. In response to a question, Vickey Sullivan noted that the District's roll back tax rate would be \$0.043 for maintenance and operations, and a tax rate at that level would add only \$5,000 of additional revenue. There was discussion of the proposed tax rate. Director Agans stated that construction of the Kroger center will constitute part of the improvements that will justify a tax rate reduction in the future. There was further discussion, and the public hearing was closed at 7:11 p.m.

6. The Board considered an Order Accepting Appraisal Roll and Levying Debt Service Tax and Maintenance Tax for 2006. After discussion, upon motion by Director Burrell, seconded by Director Venema, the Board voted unanimously to adopt the Order Accepting Appraisal Roll and Levying Tax, which Order is attached to the minutes.

7. The Board reviewed and approved an Amendment of Statement of Directors that reflects the District's current tax rate. The amendment will be filed in the real property records and with the TCEQ as required by law.

8. Mike Williams presented an operator's report. Water and wastewater revenues were \$156,642.66 for the month. Total revenues were \$188,985.14. The District accounted for 95% of water produced. Ten bacteriological samples were taken, and all were satisfactory. 15 water leaks were repaired. The wastewater treatment plant operated properly without permit violations at 62% of permitted flow. 31 taps were made, bringing the total to 242 for the year-to-date. There are 3,486 connections in the District.

9. The Chair called for reports on the Imperial Oaks Park. Wendy Jackson, a representative of the Kaufman Elementary School PTO, advised the Board that the PTO is holding a crafts fair at the Imperial Oaks Park pavilion. The POA has approved use of the parking facilities, and Ms. Jackson requested Board approval for use of the remaining parking facilities for the crafts fair. Upon motion by Director Burrell, seconded by Director Smith, the Board voted unanimously to approve use of the District's park and parking lot for the crafts fair.

Mike Williams presented a report on maintenance of the Imperial Oaks Park. There were ten calls for use of the pavilion and one for use of the ball fields. Regular mowing was accomplished during the month. The operator contacted three contractors concerning repairs of the water fountains. A bid was received for \$1,300 for the cost of repairs of all five water fountains. The fountains are difficult to repair because of their concrete construction. After discussion, upon motion by Director Venema, seconded by Director Smith, the Board voted unanimously to authorize repairs of the water fountains according to the low bid received by the operator. Mike Williams reported that grounds maintenance was performed on the ball fields last week. The work was performed by GreenPros, but that will be the last time GreenPros provides such service.

10. The Chair called for customer inquiries. Jeff Sorrells advised the Board that in a recent heavy rainfall, the street in his neighborhood was impassable because of water in the streets. Mr. Sorrells expressed his belief that the backup could have been caused by runoff from the school site, and Mr. Sorrells suggested that the District check storm sewers in the area

to determine whether there is a build up of silt or other obstructions. A low spot was identified on the sidewalk, also. Mike Williams addressed the Board and stated that a review of the storm sewers in the past determined the presence of two to two and half feet of sand at other locations. The storm sewers were cleaned at that time. In response to a question by Mr. Sorrells, Mr. Williams stated that there is no routine inspection of storm sewers. It was noted that residents regularly put grass clippings in the storm sewers. This has been observed on Stoney Plain and Pincher Creek. It was mentioned that the county street sweeper may be requested, but this request would be made through the Precinct 3 office.

11. Director Vallery stated that the District had received a request from the constable for an increase of approximately 3% in compensation for District law enforcement personnel. In response to a question by the Board, Bill Russell noted that the District expects a shortfall of approximately \$33,000 for the year in the general fund associated with law enforcement services at the current rates. Director Agans stated that the District has a contract for law enforcement, and the request should be considered in view of the contract terms.

Sergeant Jeff Brown entered the meeting and advised the Board that the Commissioners Court had adopted an across-the-board increase in compensation for law enforcement of 3%. There was discussion, and Herman Little advised the Board that the increase could be the subject of a possible contract amendment. Director Burrell stated that the proposal should be made in a more formal manner than just by an e-mail to a board member. Director Smith suggested that Constable Holifield be invited to attend the board meeting. There was further discussion, and it was suggested that the compensation issue should be considered based upon a formal request from the county. Upon motion by Director Venema, seconded by Director Smith, the Board voted unanimously to table consideration of the request until the next meeting.

12. Sergeant Jeff Brown presented a law enforcement report. There were two family violence calls, three burglaries of vehicles, six criminal mischief calls, fourteen disturbances, four traffic accidents and a total of 306 traffic contacts. There were five DWI arrests and a total of 313 calls. There were 18 arrests and 31 reports filed. The program report is being updated to reflect citations versus warnings, but additional computer work will be needed to make the change. Sergeant Brown reported that there is one vacancy to be filled among the officers who patrol in the District. A new officer is expected to be in place by the end of the month. All paperwork has gone in now for the additional equipment that was approved by the Board. Constable Holifield is looking into facilities that could be used for an office location in the area. Director Agans stated that he had observed more of the officers in the community during the month. After discussion, upon motion duly made, seconded and unanimously carried, the Board approved the law enforcement report as presented.

13. Noel Barfoot presented an audit report for the fiscal year ended May 31, 2006. The auditor is presenting an unqualified opinion. Mr. Barfoot reviewed tables and schedules contained in the report, including the management discussion and analysis prepared on behalf of the board of directors and schedules showing fund balances before and after adjustments. There was a net change in the overall fund balance of \$290,047. There was discussion, and Mr. Barfoot described the notes to the financial statement and activities of the auditor in preparing the report. Mr. Barfoot presented a representation letter for the board of directors and consultants to assure that all books and documents have been presented for review by the auditors. In response to a question by the attorney, Mr. Barfoot noted that the auditors had no problems with the District's investments, and the report is very clean. After discussion,

upon motion by Director Burrell, seconded by Director Venema, the Board voted unanimously to approve the audit report as presented and authorized filing the report at the TCEQ as required by law.

14. The Board reviewed a Resolution Affirming Review of Investment Policy, Strategies and Objectives. After discussion, upon motion by Director Burrell, seconded by Director Venema, the Board voted unanimously to approve the Resolution attached to the minutes.

15. Bill Russell presented a bookkeeper's report, a copy of which is attached to the minutes. After payment of bills at this meeting, the debt service fund balance will stand at \$1,495,899.52. The capital projects fund balance is \$2,423,167.06. The general fund balance is \$579,381.11, and with addition of the transfer check, the fund balance will stand at \$769,032.61. Mr. Russell noted that certain information on the written report is incorrect, and the report will be corrected, and revised copies will be distributed to the Board. After discussion, upon motion by Director Vallery, seconded by Director Smith, the Board voted unanimously to approve the bookkeeper's report and authorized payment of bills listed thereon.

16. James Light presented an engineer's report. Pump No. 2 at Water Plant No. 2 was pulled for reworking. The work should be complete within two weeks. Plans for the Rayford Road improvements are 90% complete. Robinson Road will be another four to six months before work begins, although the county is clearing underbrush in the area. Plans for the Sections One and Two drainage project are 90% complete. A drainage easement was sent to Faith United Methodist Church for the District's proposed storm sewer.

The engineer contacted two property owners on Nanton Drive concerning the need for a drainage easement along side lot lines between the homes. The easement is needed for a storm sewer extension that will provide additional drainage for Sections One and Two. Property owners expressed concern about losing trees. The engineer talked to Mr. Escher and Ms. Bilski, who are present at the meeting, and they were negative to the proposal. In looking at the plans, it appeared that eight large trees would be lost. The engineer is considering an alternative that would involve tunneling rather than open excavation. Concern has been expressed about possible damage to the property, and the owners inquired concerning compensation. There is a dog in the back yard that would have to be protected. Mr. Light discussed another possible location for the drainage, but without authority to negotiate, he has not pursued the matter any further.

The owners explained that they had just purchased the home, and the previous owners did not mention any drainage problems, although the previous owners were the ones who brought up drainage concerns to the District. A nineteen-foot wide easement is needed. If tunneling is used, the construction would require an excavation of pits on each end of the tunnel, but excavation would not be required between the homes. The District could contract with structural engineers to make an investigation before, during and after the work to ensure that no damage is done to the homes.

Herman Little advised the Board that the District may address all reasonable concerns of the property owners with regard to damage to improvements, landscape, trees, fences and even to the homes resulting from the work. The engineer's proposal for use of a structural engineer is very wise, and the engineer would be able to identify possible problem areas that could be addressed prior to construction of the improvements. The attorney stated that the

District can provide reasonable accommodations to all property owner concerns and can take responsibility for any damage caused by the construction. Initially, the District would need information about the property, trees and other improvements, and a proposal would be needed from the foundation engineer. In response to a question by the attorney, Mr. Escher and Ms. Bilski expressed their willingness to discuss the matters further with the District when additional information is available. Upon motion by Director Venema, seconded by Director Smith, the Board voted unanimously to authorize the engineer to arrange for surveys of the property, to contact the tunneling contractor and foundation engineer for proposals, and to identify trees and other improvements that would be potentially affected by the work. The engineer will take photographs of the area for further review.

James Light reported that plans for the storm sewer improvements for the Kroger center are underway. Because of possible delays of easement issues in the upstream portion of the project, it is desirable to consider the project in two parts, one being the work for the Kroger center downstream, and the second being the upstream areas in Sections One and Six. After discussion, upon motion by Director Venema, seconded by Director Smith, the Board voted unanimously to authorize the engineer to prepare plans and bid documents for the drainage project in two parts in the event the District experiences delays in acquiring necessary easements from property owners. There was a discussion of drainage in Imperial Oaks Park, Section Ten, and a property owner at 31007 Still Oak has requested that the storm sewer be checked adjacent to that residence. Upon motion duly made, seconded and unanimously carried, the Board authorized an investigation into the storm sewer in Imperial Oaks Park, Section Ten.

17. Jim Holcomb presented a developer's report. The Board's approval of a tax rate reduction is very good news. There are 220 builder homes in the District, and there have been 260 sales in the year-to-date. The developer is assisting the property owners association with landscaping improvements, and a new fence will be constructed along Imperial Oaks Boulevard. In connection with the Kroger center, the access road to the wastewater treatment plant will be rebuilt. The District will be given unlimited rights to cross the property for access to the wastewater treatment plant. Previously, the access road easement was granted by the developer, and a rock surface was installed. The developer will rebuild the road and will provide paving. Kroger will utilize part of it to provide access to rear of the center. After title information is obtained, the District will be provided information for preparation of permanent access easement and right-of-way to the wastewater treatment plant.

18. The Chair called for discussion of a request for reimbursement of impact fees. Jim Holcomb addressed the Board and stated that he had sent a letter dated August 18, 2006 requesting reimbursement for impact fees paid in connection with development of Imperial Lake, Section One. The development of Imperial Lake, Section One required payment of impact fees to Montgomery County Drainage District No. 6 for approximately one-half of the section that lies within the Drainage District 6 area. \$115,238 was paid to Drainage District 6. The payment was appropriate for the developer reimbursement in the bond issue, but the engineers omitted this item from the bond application. The developer is requesting that the District obtain TCEQ approval to make the reimbursement using surplus funds from the Series 2006A Bonds. James Light addressed the Board and stated that the engineer had intended to include the impact fee payment in the bond application, but it slipped through the cracks. Mr. Light stated that it would have been included in the bond application but for the engineer's omission. There was discussion, and it was mentioned that in the Series 2006A Bonds, surplus funds resulted of \$220,000, and this amount is sufficient to cover the reimbursement requested by the developer and will leave \$100,000 surplus funds remaining.

Director Vallery inquired as to why the District should pay the amount requested. Herman Little advised the Board that the expenditure of impact fees by the developer is a standard cost of developing drainage facilities in certain district developments. A portion of the land in Imperial Lake, Section One is within the boundaries of Drainage District 6. Several years ago, Drainage District 6 adopted a requirement for impact fees to finance capital improvement needed to provide drainage capacity for new development within the district. The amount charged by Drainage District 6 was related only to the area of Imperial Lake, Section One that lies within Drainage District 6. The balance of the new section is in Drainage District No. 10, and Drainage District No. 10 has no requirement for impact fees.

Herman Little stated that the developer's expenditure of impact fees was a cost of water, sewer and drainage facilities, and under the developer's financing agreement with the District, the payment is subject to reimbursement. The attorney stated that rules of Texas Commission on Environmental Quality specifically allow districts to reimburse developers for payments of impact fees required by government entities having regional drainage responsibility. The attorney stated that he had provided copies of several documents about this matter to the Board at the beginning of the meeting, and reference can be made to the TCEQ rule that is included within the documents.

Director Smith stated that he understood that the developer had requested reimbursement from Drainage District 6 and that it had been denied by Drainage District 6. Herman Little stated that the developer had made a request about a different subject matter. The request to Drainage District 6 involved reimbursement related to development of the Enclave of Imperial Oaks. Herman Little referred to an aerial photograph of the District and indicated the location of the Enclave section as compared to the Imperial Lake section. Herman Little explained that when the Enclave section was developed, the developer's engineer designed the drainage system to flow through Drainage District No. 10, including a small area of the section that lies within Drainage District 6. As a result, a portion of the developer's expenditures for facilities in Drainage District 10 actually provided drainage to a portion of Drainage District 6. When the Drainage District 10 bond application was prepared, a portion of the funds related to Drainage District 6 was omitted because TCEQ rules would not allow Drainage District 10 to finance improvements made within another district. The developer approached Drainage District 6 and requested reimbursement for the amount omitted from the Drainage District 10 project, and the developer based the request upon the fact that no Drainage District 6 funds were used to provide drainage, Drainage District 6 would not receive drainage from the section in its system, and taxable value for development of the section would benefit Drainage District 6 without any expenditures. After consideration by Drainage District 6, the Board was advised by its attorneys that the payment would not be allowed by law.

Herman Little referred to the area of Imperial Lake, Section One and noted that the payment of impact fees was made to Drainage District 6 as a requirement of Drainage District 6. TCEQ rules specifically allow the District to reimburse the developer for such payment, provided there is an agreement between the District and Drainage District 6 to confirm that the fees were required. A draft of an agreement for that purpose is included in the materials provided at the beginning of the meeting. There was further discussion, and Director Agans stated that he is very disappointed at this request because he specifically had asked whether there were any further obligations due to the developer, and he had been told no. Herman Little stated that when the question was posed by Director Agans, the developer had not yet presented the request for reimbursement. There was discussion of tabling the motion until the directors have an opportunity to familiarize themselves with the request.

Director Vallery stated his desire to have other attorneys review the request and advise the Board about the legality. Director Venema stated that he saw no need to have other attorneys review the request and that the District's attorney had presented information that should be reviewed by the directors. Jim Holcomb addressed the Board and stated his recommendation that the Board engage outside attorneys to review the matter, so the directors could be assured that the request is lawful and that the payment could be made properly. Mr. Holcomb suggested that the Board contact experienced water district lawyers who would be familiar with rules and laws applicable to districts and such matters. There was further discussion of the need to review the matter.

Lorene Roy addressed the Board and stated that as a taxpayer, she is opposed to the District spending thousands of dollars to review this matter. The directors do not appear to have trust in the system by which the District is regulated. Drainage District 6 set up a system of impact fees to protect homes in Imperial Oaks from flooding, and the payment of impact fees is required to protect all property from flooding related to the development. There was discussion, and upon motion by Director Venema, seconded by Director Smith, the Board voted unanimously to table consideration of the issue until the next month's meeting to allow the directors to take the initiative to investigate the matter and talk to people and educate themselves, as necessary.

19. The Chair called for Director comments, and there were no further comments.

There being no further business to come before the Board, the meeting was adjourned.

  
Secretary