

RAYFORD ROAD MUNICIPAL UTILITY DISTRICT

Minutes of Meeting of Board of Directors

July 9, 2018

The Board of Directors ("Board") of Rayford Road Municipal Utility District ("District") met at 27316 Spectrum Way, Oak Ridge, Texas, on July 9, 2018, in accordance with the duly posted notice of the meeting, with a quorum of directors present, as follows:

Jon Vallery, President
Frank Moore, Vice President
Brendon Keith, Secretary
James Ridgway, Director
James Nichols, Director

and the following absent:

None.

Also present were Bill Russell, Mike Williams, Jason Hajduk, Mary Dubois, Kathryn Nichols, Sergeant Washington, Glenn Kourik, Clayton Harry, Paul Green, George Defenbaugh, and Lori G. Aylett.

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

1. The chair deviated from the order of the agenda to discuss online message boards and social media communications. Director Nichols stated that it had come to his attention that Director Ridgway had live streamed last month's meeting to his personal Facebook page without informing any of the Board members, consultants, or residents present at the meeting. Mr. Nichols stated that he took offense at this action, and he asked the attorney for guidance on whether this practice was illegal. Director Ridgway expressed concern about discussing this item, since "livestreaming" was not on the agenda. "Social media communications" was on the agenda, and in response to a factual inquiry from the Board, Mr. Ridgway confirmed that he was currently recording and livestreaming the meeting to his Facebook page and that he had made the post public. The attorney advised that she had not done in-depth research on the matter, but she was aware that pursuant to Texas Government Code Section 551.023, persons in attendance at a meeting can record the meeting. A separate statute found at Texas Government Code Section 551.128 regulates the broadcast of district's meetings over the internet. The District can broadcast its meetings over the internet only if the District has an internet site, such as a website, and access to the broadcast must be from that site. In addition, the District must put its meeting notice on the website in a timely manner. These procedures have not been done because the Board has not discussed or authorized broadcasting of its meetings. Director Ridgway indicated that he was acting in his personal capacity in recording the meeting in progress and in live streaming audio of the meeting to his personal Facebook page. The attorney again clarified that the District had to follow particular procedures for broadcasting the meeting, and the Board has not yet put those procedures in place. If Director Ridgway persisted in live streaming audio of the meeting to his Facebook page, he was acting in his individual capacity and not in the capacity of the Board. Director Ridgway took the matter under advisement and stated that he intended to continue acting in his individual capacity

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and would record tonight's meeting and would live stream it to his Facebook page. Considerable discussion on the matter ensued. The Board authorized the attorney to perform additional legal research on recording and broadcasting District meetings.

2. Minutes of the meeting held June 11, 2018 were presented for the Board's review and approval. Upon unanimous vote, the minutes were approved as presented.

3. Sergeant Washington presented a law enforcement report and reported the following statistics: there were 37 District calls; 415 contract calls; 256 traffic contacts; 21 reports taken; two felony arrests; four misdemeanor arrests; nine crashes; and seven charges filed. Sergeant Washington reported the District has one corporal, one sergeant and six deputies. Director Vallery noted that several residents have expressed their support of the District's supplemental law enforcement program.

4. The Board reviewed the Interlocal Agreement with Montgomery County Municipal Utility District No. 99 for Law Enforcement. The attorney reminded the Board that the contract renews automatically unless a termination notice is given before the end of the term. The next term expires in October 2018. The Board elected to allow the contract to renew automatically for another year.

5. The Board considered citizen comments. A customer addressed the Board and stated there have been a number of concerns with solicitors, and some of them may be associated with the POA. The Board advised the customer to contact the constable's office if he sees a suspicious person.

6. Bill Russell presented the bookkeeper's report, a copy of which is attached. After this meeting, the debt service fund balance will stand at \$1,409,082.82. The capital projects fund will stand at \$91,975.84. The general fund will stand at \$3,183,761.23. Revenues exceeded expenses for one month of the fiscal year by \$53,356.82. In response to a question from the Board, the bookkeeper reported that expenses and per diems paid for Director Ridgway's attendance at the AWBD summer conference totaled \$1,412.59. Upon unanimous vote, the Board approved the bookkeeper's report as presented and authorized payment of the District's bills.

7. Mike Williams presented an operator's report. The District billed \$282,552.07 to customers for services rendered. The operator took 10 bacteriological samples, all of which were acceptable. The District served 3,820 customers, and 3,593 customers received all services including garbage. The sewage treatment plant operated at 69% of capacity with no permit violations.

The operator requested write-off of five accounts in the total amount of \$820.08. After discussion, upon unanimous vote, the Board authorized the operator to write-off the accounts as uncollectable.

After discussion, upon unanimous vote, the Board approved the operator's report as presented.

8. Mike Williams presented a parks and recreational facilities report. There were 19 calls regarding issues in the parks. Six calls were for the pavilion, 11 calls were for the ball fields, and two calls were received for information.

Mr. Williams reported that he removed a three dead trees in the wetland area. Mr. Williams reported there was one party at the pavilion for the month of June. With regard to the District's parks, the operator replaced the basketball nets, put out fertilizer and ant bait at all parks, and installed a new fountain in the pocket park. With regard to the ball fields, the operator reported he put out ant bait and fertilizer, edged outline of ball fields, sprayed backstops and outlines on fields with weed killer, added red dirt to ball fields and around soccer goals.

After discussion, upon unanimous vote, the Board approved the parks report as presented.

9. Jason Hajduk presented an engineer's report. The engineer is working on plans for the commercial water line loop and has received a new lay out from Kadiwal. The engineer reported he will update the feasibility study. The engineer will be submitting the waste discharge permit renewal application within the month.

After discussion, upon unanimous vote, the Board approved the engineer's report as presented.

10. The Board discussed the District's electricity contract. The District's current contract with Frontier Utilities expires June 30, 2020. Mary Dubois of Acclaim Energy Advisors presented indicative pricing for a new electricity contract. It appeared that the District could save up to \$9,921 per year and obtain budget certainty by entering into a 60-month electricity contract. Director Ridgway asked if the District was likely to exceed its 25% swing allocation if it was required to pump more groundwater during the next year. The engineer stated that he did not think that increasing the groundwater produced would cause the District to exceed the swing allocation. Mary Dubois recommended that the Board execute a contract for electricity for the longest term possible, because rates are at historic lows. She noted that rates would change from day to day so if the District is interested in a new contract, the authorization to complete the contract should include a range of price for kilowatt hours. The Board first discussed the contract term. Several of the Board members indicated that they would be comfortable with a 48-month electricity term to secure budget certainty. Director Ridgway opposed this stating that since natural gas is the primary source of energy production in Texas, and since natural gas supply is increasing due to developments in West Texas, including pipeline projects directing those resources to refineries nearby on the coast, prices may be even better in the not-too-distant future. After discussion, upon a vote of 4-1, with Director Ridgway opposing, the Board voted unanimously to authorize the execution of a contract for a 48-month term.

The Board next discussed the price to be paid per kilowatt hour. Upon motion duly made, seconded, and carried with a vote of 4-0, with Director Ridgway abstaining, the Board voted to authorize the execution of a contract provided that electricity costs do not exceed \$0.04 per kilowatt hour.

The Board next discussed who would execute the contract. In prior years, the District's bookkeeper has executed the contract on behalf of the District. Upon unanimous vote, the Board authorized Bill Russell to execute the contract on the District's behalf. In response to a question from Director Ridgway, Acclaim Energy representative Mary Dubois noted that she was paid a flat fee of \$0.003 per kilowatt hour for securing contract pricing.

11. The Board briefly discussed the SJRA Conveyance of Facilities and Easements. The attorney noted that the SJRA had recently contacted her, and they still need to prepare metes and bounds descriptions of the various facilities to be conveyed, so the ball is in SJRA's court.

12. The Board discussed the status of an amicus brief regarding the rate dispute between the SJRA and the City of Conroe. Lori Aylett reported on the status of the ongoing litigation. Pursuant to the Board's previous authorization, litigation counsel Paul Radich had performed preliminary legal research on the status of the dispute. The parties are still arguing over venue of the case. There are competing legal theories regarding the GRP contract and the rates assessed, and it was Mr. Radich's position that the District did not have to take a side between the two parties to give input to the court. In fact, the District's rates should be lower whichever party wins the litigation. The attorney suggested that if the District wishes to participate in the litigation by filing an amicus brief, the District should take the position that it is a rate payer, along with many other similarly situation large volume groundwater users, and the court's decision will affect the District and should be timely made. After discussion, the Board authorized the attorney to proceed with preparation of an amicus brief and further requested that the attorney approach Southern Montgomery County MUD to see if they are willing to participate in the cost of preparation and filing of such a brief.

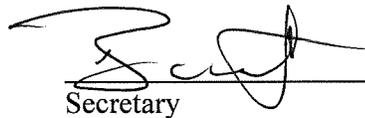
13. The Board returned to the discussion of the online message board and social media communications. The attorney presented a memoranda of law regarding online activity and the Texas Open Meetings Act, a copy of which is attached. The Board had authorized the attorney to research the use of online message boards. Such message boards are authorized by the Open Meetings Act, provided that specific rules are followed. The message board must be viewable and searchable by the public and no more than one click away from the District's primary internet web page. Certain communications made on the message board must be maintained for a period of six years. The attorney noted that the District should consider the potential benefits and pitfalls of using such a message board. While the law requires the communications to be publicly viewable and preserved, there's no guarantee that interested members of the public will review or be made aware of such communications that occur outside of the open meetings. Therefore, unless every communication posted to the message board is discussed in the meeting, use of the message board may place residents who only attend the meetings to be informed in a worse position than before. In addition, there would be expense associated with the message board. The attorney would need to monitor the communications on the message board to assure compliance with the Open Meetings Act and other applicable law. The conclusion of the memorandum is that the online message board usage would be permissible, but there would be drawbacks. The Board briefly discussed whether they wanted to proceed with development of an online message board. Director Ridgway made a motion to begin development of an online message board. The motion failed for lack of second.

Discussion returned to the subject of social media communication and the fact that Director Ridgway was continuing to live-stream the meeting to his Facebook page. Director Vallery stated his opinion that the Board should not be broadcasting and that he did not want the District to be considered in violation of the Open Meetings Act as a result of one director's actions. Director Keith stated that he would be willing to consider broadcasts of the meetings, so long as it was done from the District's website and in compliance with the applicable statute. The attorney will place an item on the next agenda for more discussion of broadcasting meetings.

14. Under pending business, Mike Williams and Lori Aylett reported briefly on the status of a pending insurance claim. A resident had claimed that the District's operator had repaired a water line in their front yard and the resident complained that a sinkhole had formed and some damage to their foundation had occurred. The District contacted its insurance agent, and the District's insurance company initially asserted a statute of limitations defense. Lori Aylett encouraged the District's insurance carrier to conduct a more thorough investigation, which is ongoing.

Also under pending business, Director Ridgway presented information regarding growth in Montgomery County that he had received as a result of his attendance at the AWBD convention. He stated that he believed the AWBD was a good resource for the Board members. The Board briefly discussed the conference.

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


Secretary