

RAYFORD ROAD MUNICIPAL UTILITY DISTRICT

Minutes of Meeting of Board of Directors

August 13, 2018

The Board of Directors (“Board”) of Rayford Road Municipal Utility District (“District”) met at 27316 Spectrum Way, Oak Ridge, Texas, on August 13, 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, Drew Masterson, Corporal Richard Vogel, Kathryn Nichols, Paul Green, George Gorenflo, Ken Brauer, Ray T. Wiggins, Robert A. Miller, Clayton L. Harry, Christie Leighton, Paul Radich, 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. Minutes of the meeting held July 9, 2018 were presented for the Board’s review and approval. After discussion, upon a vote of 4-1, with Director Ridgway opposing, the Board voted to approve the minutes as presented.

2. The Board discussed recording and broadcasting of District meetings and social media communications. The attorney presented a memorandum regarding the subject of recording and broadcasting of District meetings in compliance with the Texas Open Meetings Act. A copy of the memorandum is attached to the minutes. The attorney advised that pursuant to Texas Government Code Section 551.023(a), a person in attendance can record all or any part of an open meeting with a recorder, a video camera, or other means of aural or visual reproduction. Pursuant to the same section of the Government Code, the District has the authority to adopt reasonable rules to maintain order at its meetings, but the rules may not prevent or impair a person from exercising the right to record. There is a separate statute at Texas Government Code Section 551.128 that governs broadcasting District meetings. This section provides that if the District broadcasts its meetings, it must establish an internet site and provide access to the broadcast from that site. In addition, the District must provide notice on its agenda of its intent to broadcast. The attorney’s conclusion is that Texas law does not provide for broadcasting of a District meeting to be a spontaneous event by the District, which would necessarily seem to include the individual members of the District’s Board of Directors. If the District chooses to broadcast its meetings, the District must modify its website to include a link to the broadcast and must include the required information regarding the broadcast on a timely-posted meeting notice.

Director Ridgway responded to the attorney's legal recommendations. He provided a memorandum from Kelly Shannon, the Executive Director of the Freedom of Information Foundation of Texas, regarding their opinion and interpretation of Texas Government Code Section 551.023. A copy of the correspondence is attached to these minutes. Director Ridgway stated that he was relying on the opinion of the Freedom of Information Foundation and their conclusion that there is no limitation on recording and that he has the right to record the meetings as a individual. The attorney reiterated that there are separate statutes governing the recording of the meeting by a person and the broadcasting of a meeting by the District. The attorney noted that, rightly or wrongly, an individual director's action in broadcasting or livestreaming a meeting could possibly be attributed to the District. If so, the District would not be in compliance with Texas Government Code Section 551.128 unless the District modifies its website and provides the required notice. The attorney noted that her advice was conservative and stemmed from her interest in securing the District's compliance with all sections of the Open Meetings Act. Director Ridgway stated his opinion that it was darkly ironic that the District spent money obtaining a legal memorandum from its attorney when the conclusion of that memorandum effectively placed restrictions on public access to the meetings.

There was considerable discussion regarding the matter among the Board members and residents present at the meeting.

The chair recognized Shannon Waugh of Off Cinco, the District's website coordinator. The Board asked her if she could assist the District in complying with Texas Government Code Section 551.128 by providing access to broadcast or live stream information from the District's website. She noted that she had not been asked to provide this service to any of her clients in the past, but she stated that it would be simple to put a link on the District's website for broadcast of the meetings. She stated that she could probably economically purchase a device that would allow for recording and streaming. After discussion, the Board requested that Off Cinco present a proposal at the next meeting for making revisions to the District's website and purchasing equipment for audio livestreaming.

3. Corporal Richard Vogel presented a law enforcement report and reported the following statistics: there were 30 District calls; 394 contract calls; 247 traffic contacts; 27 reports taken; one felony arrest; five misdemeanor arrests; seven crashes; and three charges filed. Corporal Vogel commented that sometimes social media makes law enforcement more difficult because residents post complaints about solicitors, and those complaints frequently get referred to law enforcement. While it is against the deed restrictions to solicit in Imperial Oaks, it is not against the law. A District resident addressed the Board and made a complaint about dog attacks. Corporal Vogel instructed the resident to call animal control.

4. Christie Leighton of Best Trash addressed the Board regarding her company's services and asked if there were any issues. Director Vallery stated that he saw some comments on social media about broken trash can lids and asked Best Trash to be attentive to this issue. Residents present at the meeting commended Best Trash on their service. One resident addressed the Board and asked how to dispose of a trash can. Ms. Leighton took the customer's address and information and stated that she would make sure it was picked up on the next trash day. The Board thanked her for her attendance.

5. The Board discussed the status of the District's amicus brief to be filed in the litigation between the San Jacinto River Authority (SJRA) and the City of Conroe. Paul Radich of Smith, Murdaugh, Little & Bonham, L.L.P. introduced himself and stated that he was at the meeting on behalf of the firm to update the District on the status of the amicus brief. Southern Montgomery County MUD has elected to join with the District in filing the brief. Mr. Radich stated that the goal of the districts is to make a concise statement to the court urging them to take action on the pending litigation. He briefly recited the circumstances regarding the litigation. In 2016, the SJRA enacted a rate increase. The City of Conroe disputed the rate increase and has refused to pay the increased amount. The City has asserted that the rates were not assessed properly and has asserted other claims. The City of Conroe, Splendora, Magnolia, and five investor owned utilities joined in a lawsuit to overturn the rules enacted by the Lone Star Groundwater Conservation District. In response, the SJRA filed a declaratory judgment suit for a bond validation in Travis County. If successful, that lawsuit would bind all groundwater reduction contract participants, including the districts. There are two ongoing appeals in Austin. The attorney recommended that the districts not take sides in the litigation and noted that with either legal theory, the districts have been overcharged. If the SJRA has not set its rates properly, the districts have paid too much. If the SJRA is assessing the correct rate, the districts are subsidizing those cities and investor owned utilities that are not paying their increased share. The litigation is still in the early stages, and the District should ask the court for a timely and expansive resolution to the matter. Mr. Radich stated that he hoped to have the brief filed by the end of the week. The Board thanked Mr. Radich for the presentation and the update.

6. The Board considered customer service inquiries. A resident addressed the Board and stated that he received his bill for usage from June 6, 2018 to July 7, 2018, and the total was a 132,000 gallons and \$1,059. The meter was tested and calibrated by the operator and was confirmed to be reading correctly. The customer noted that he was gone for 12 days during the month. The operator confirmed that AT&T had been installing fiber optic lines in the area. There was silt on the street so it may be possible that AT&T's contractor hit the customer's line and repaired the leak without the customer's knowledge. Upon unanimous vote, the Board authorized an adjustment of \$900 to the customer's bill.

7. Bill Russell presented the bookkeeper's report, a copy of which is attached. After this meeting, the debt service fund balance will stand at \$1,489,661.04. The capital projects fund will stand at \$91,976.22. The general fund will stand at \$2,971,496.79. Revenues exceeded expenses for two month of the fiscal year by \$89,842.10. Upon unanimous vote, the Board approved the bookkeeper's report as presented and authorized payment of the District's bills.

8. The Board reviewed the tax assessor/collector's report. The report reflected that the District's 2017 taxes are 99.4% collected. Upon unanimous vote, the Board approved the tax assessor/collector's report as presented.

9. Drew Masterson addressed the Board and provided a 2018 tax rate recommendation. He noted that the assessed valuation of the District was essentially flat, down by 0.4%. He reviewed with the Board the District's fund balances, tax collection percentage, and future debt service requirements. He stated that his firm was recommending the same debt service tax rate as the previous year of \$0.36 per \$100 assessed valuation. Discussion then turned

to the District's maintenance and operations fund needs. The District has a maximum maintenance and operations tax authorization of \$0.15, and last year, the District levied that amount. The District currently has about eight months of operating reserve, and the financial advisor would like to see the District build this reserve to 12 months. He recommended that the District maintain the same maintenance and operations rate as 2017, \$0.15 per \$100 assessed valuation. The attorney noted that setting the tax rate was a two step process. The first step would be to authorized publication of the proposed tax rate. The District will then conduct a public hearing on the proposed tax rate at its September meeting and at the conclusion of the hearing the rate can be set. Upon unanimous vote, the Board authorized publication of the 2018 proposed tax rate of \$0.51 per \$100 assessed valuation, with \$0.36 attributable to debt service and \$0.15 attributable to maintenance and operations.

10. Mike Williams presented an operator's report. The District billed \$382,962.71 to customers for services rendered. The operator took 10 bacteriological samples, all of which were acceptable. The District accounted for 99% of the water produced. The District served 3,820 customers, and 3,593 customers received all services including garbage. The sewage treatment plant operated at 70% of capacity with no permit violations. Director Vallery noted that the District is a "superior" water system as identified by Texas Commission on Environmental Quality, and he asked the operator to make sure that all the necessary signage was in place to reflect this designation. After discussion, upon unanimous vote, the Board approved the operator's report as presented.

11. Mike Williams presented a parks and recreational facilities report. There were 16 calls regarding issues in the parks. Nine calls were for the pavilion, five calls were for the ball fields, and two calls were received for information.

Mr. Williams reported that he trimmed bushes, replaced signs that were old or destroyed, and performed regular maintenance. After discussion, upon unanimous vote, the Board approved the parks report as presented.

12. Jason Hajduk presented an engineer's report. The engineer reported the plans for the commercial water line loop are 90% complete. The engineer noted that he had updated the feasibility study for the Kadiwal Car Wash. Since the previously approved feasibility study, Kadiwal purchased four more homes, which they intend to tear down as part of their development. However, the projected development plan and water use was the same as the previous request. The attorney reminded the Board that previously the District had approved a contract with Kadiwal for out-of-district services. The contract contained a legal description of all of the land to be served and the maximum number of connections to be allocated. The attorney noted that she had not yet had an opportunity to review the feasibility study, but it appeared that the District's contract with Kadiwal could be easily amended to reflect the new land descriptions. Upon motion made by Director Moore, seconded by Director Keith, the Board voted with a vote of three in favor, Director Nichols opposing, and Director Ridgway abstaining, to authorize the attorney to update the out-of-district service agreement.

The engineer submitted the waste discharge permit renewal to the TCEQ last Thursday. Upon unanimous vote, the Board approved the engineer's report as presented.

13. The Board considered partial abandonment of the Woodson's Gully maintenance easement and acceptance of conveyance of a new easement. Jason Hajduk noted that the developer of The Falls owns two portions of property that are subject to an easement in favor of the District and Drainage District No. 10. The easements were granted in 2003 before computerized hydraulic models were available. The engineer has studied the drainage easements and it appears that two portions of the property in question are no longer necessary for the District's drainage needs. It will not affect the District's interests to abandon the easement area to the property owner. Upon motion made by Director Keith, seconded by Director Moore, the Board voted with a vote of 4-0, with Director Ridgway abstaining, to authorize the partial abandonment of the two easements and a rededication of easements that are necessary for the District's drainage interests.

14. There was no action to take on the subject of the San Jacinto River Authority conveyance of facilities.

15. There was no developer presented, so no developer's report was presented.

16. The Board discussed the agreement for operation of street lights. The attorney reminded the Board that they executed a new electricity contract at a previous meeting. The District pays for the electricity for the street lights and bills the Imperial Oaks Park Property Owners Association. The agreement with the property owners association must be amended to coincide with the expiration of the new electricity contract extension. Upon unanimous vote, the Board approved the agreement for operation of street lights with the Imperial Oaks Park POA.

17. The attorney briefly discussed the tax assessor/collector contract with Montgomery County. If the Board is satisfied with the services of the tax assessor/collector, no action is necessary. However, if the Board wants to seek proposals from other tax assessor/collectors, now would be time to terminate the tax assessor/collector contract to avoid imposition of the any charges for the coming tax year. The Board noted that they were very satisfied with the services of the tax assessor/collector and no action needed to be taken.

18. The Board briefly discussed pending business. Director Ridgway asked about the status of the insurance claim filed by a homeowner who has asserted that the District damaged their driveway and home with a water line repair. The operator noted that they have been responding to the insurance company's request for documentation.

19. Director Ridgway requested that the attorney place the subject of a winter averaging of bills on the next agenda.

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


Secretary
Vice President