

**MINUTES OF REGULAR MEETING
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 23
NOVEMBER 12, 2020**

**STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

The Board of Directors of Harris County Municipal Utility District No. 23 of Harris County, Texas, met in regular session, open to the public, beginning at 6:30 P.M. at the regular meeting place inside the District on the 12th day of November, 2020, and the roll was called of the duly constituted officers and members of the Board, to-wit:

Jeffrey Blackwell	President
Jim Haney	Vice President
Christy Shepard	Secretary
Will Ross	Treasurer
Oscar Dominguez	Assistant Secretary/Treasurer

and all of said directors were present, excepting Director Haney thus constituting a quorum.

Persons also present in the meeting or via Zoom included:

Essa Ibrahim, Officer Romaine and another officer of the Sheriff’s Department;
Wally Byers of Courtyard Glen;
Jeanelle Walker of Courtyard Glen;
Daniel Hayden, Engineer for District 220;
Pete Pederson of the HCMUD No 220 Board’
Kandy Pfeffer of ETI Bookkeeping and Pat High of Equi-Tax, Inc (remotely).;
John Sherrington, P.E. of Sherrington-Humble, LLC (remotely);
Doug Jeffrey of TNG Utility Corp (remotely); and
Michael A. Cole of Michael A. Cole, P.C.

DISTRICT RESIDENT COMMENTS

Ms. Walker and Mr. Byers addressed the Board. Ms. Walker reported that a number of trees that had been planted at the expense of the District were leaning. Director Blackwell observed that such trees needed to be braced. She noted that one of the trees donated by the District needed to be replanted or replaced since it had actually come out of the ground. Director Blackwell made a motion to replace the tree but in a place where it’s growth would not be impaired by a tree above it. The motion was withdrawn or abandoned when Director Ross said he wanted pricing on this before authorizing it. Ms. Walker said she would bring pricing to the next meeting. Mr. Byers offered no comments.

SECURITY REPORT

Officer Romaine reported 3 armed robberies in the general area and various other offenses including car burglaries some of which were in the District. Officer Ibrahim reported that there had been a single burglary of a home within the District, two car burglaries in the District, some stolen rims stolen off a big rig, and some graffiti. The officers were invited to the two HOA meetings in the two subdivisions. Officer Romaine reported that his last scan is clean and that he is feeling good. The officers also noted that the highest times for car burglaries was between the hours of 11 and 4 in the morning. The three officers were thanked for their input and services.

AUDIT

Director Shepard moved the approval of the Audit for the fiscal year ended May 31, 2020, which motion was seconded by Director Ross and carried unanimously.

MINUTES

Director Blackwell moved the approval of the October 6 and 8 minutes which motion was seconded by Director Haney and carried unanimously.

CONSENT AGENDA

BOOKKEEPER, INVESTMENT OFFICER AND TAX-ASSESSOR COLLECTOR REPORT

In presenting her report, Ms. Pfeffer observed that election official checks would be signed and paid out tomorrow. Doug Jeffrey reported the CCR had paid its tap fees and he thought the \$100 owed, but would check on that. Ms. Pfeffer said that the District was \$538 short on income projections for the month. Ms. Hall told the Board that the 43.83 cent tax levy had been billed to taxpayers and that the existing rolls reflected approximately \$200,000,000 in AV with another \$10,000,000 remaining to be certified. Bills for both functions were reviewed by the Board.

ENGINEER REPORT

Mr. Sherrington presented his report stating that the sewage treatment plant was complete excepting demolition of the building onsite which was beginning and that the contract would be completed shortly he hoped, although he had given up predicting a completion date. He projected that there would be \$190,000 remaining in surplus funds at completion of the project. He noted that there had been evidence of inflow and infiltration during recent heavy rains and to find sources which are often evidenced at manholes he had prepared a map showing those locations for which he was recommending "plastic dishes" be installed, which would be put in place just under the manhole lids and would collect storm water until full and then very gradually drip the contents of the parabolic dish into the system. It was later made clear that the operator was in the process of acquiring a sufficient number of the dishes for installation if the Board approves. On other matters he reported that Water Plant #1 would be taken down after Thanksgiving and Christmas for inspection for any necessary rehabilitation; that he would announce the capital projects needed after

the first of the year; and that drawings for the project off of Fairbanks-North Houston and north of most of the District had been approved with tap fees to be paid. Director Ross raised a question about work in or near a house on Bondale Street. The District 220 representatives were asked if they had any questions of the Engineer. He addressed questions posed by the 220 Engineer representative.

UTILITY OPERATOR

The utility operator report was submitted. It reflected connections of 1210 for the District with a water accountability ratio of 97.23%, much improved from the prior month. He noted that though there are many accounts on the termination list most would be clear before any terminations may occur. It was noted that the meter at 8319 Battle Oak on the corner south of the bridge needs to be turned off. A query was made by Director Blackwell, and the Operator said he would investigate. It was noted that the City of Houston meter that had been an issue had been replaced and the water connection somehow improved such that normal water flows were again being experienced. A question was raised concerning fencing which needed repairing and the operator responded that he would get prices for adding fencing down Haney Road, though Directors and the Operator noted that there was complete fencing around the wastewater treatment plant. The operator reported a water meter at the wastewater treatment plant had been repaired and that a hydrant on Country View needed replacement, and that the process might entail an interruption of service so the operator would try schedule it so it would not create any problems. The question was raised as to whether the District could recover the costs of repairs or replacement of a flush valve, and the Operator said it could if it could identify the driver who committed the act and if the driver had insurance. Finding the accident report filed with the police would also be helpful.

ORDER CANVASSING RETURNS AND DECLARING RESULTS OF DIRECTOR ELECTION

The Attorney told the Board that candidates Dominguez and Ross had been elected and that their bonds and oaths of office and sworn statement had been duly executed. **Director Shepard moved the adoption of the order described which Order reflected the votes each candidate received, which motion was seconded by Director Dominguez and approved unanimously.** The documents executed were approved and the named persons declared to be duly elected and qualified Directors of the District on the motion and second of the same Directors and vote.

Director Dominguez queried when the minutes had been sent out and was told that it was done on October 14th.

ATTORNEY REPORT

The attorney presented his report some of which had already been considered. He reviewed with the Board the letter which he had prepared as directed by the Board to Harris County Judge Hidalgo which had been reviewed and modified by Susan Bickley whose firm he recommended be engaged in this matter as needed, as is the case for the letter. He said that she had filed the required form 1295. At the end of the extensive discussion **Director Dominguez moved the approval and transmission of the letter with the inclusion of a request for a response within 30 days and the**

attachment of the two exhibits described in the letter to be sent by the Engineer. The motion was seconded by Director Ross and carried unanimously.

The other item in the report regarded the letter received from the District 220 Attorney essentially requesting reconsideration of the District's position regarding the cost sharing on capital improvements for the STP and its operational costs as provided in the Agreement with District 220. The Attorney said that he had not made any response because he was not aware of any change in facts that would warrant a different response. Harris County MUD #23 Directors agreed. Questions were asked and answered with regard to the history on the matter. The Attorney explained the history of events leading to the modification to the wastewater discharge permit and the design and downsizing of the plant. The Engineer explained that since the construction of the original plant the standards for the design of a plant had substantially changed making it impossible to build the same 750,000 gpd plant because it would have to have two separate and identical clarifiers rather than the single one which would have made the plant much more expensive (an increase of at least 2 million dollars), but even if it could have done that Harris County Flood Control District would never have allowed it to be built because the foot print of the plant would be too large given its proximity to White Oak Bayou and the increased displacement of water that such a foot print would create. Even at that he explained that he had to get a variance to build a 600,000 gpd plant which could fully accommodate both Districts, saving a large amount of costs for both Districts. The Attorney admitted that the agreement which was negotiated by his former law partner did not contain typical provisions which he would have included like what happens in the event that the plant had to be rehabilitated or rebuilt, provisions which should have been in the agreement but were not. He admitted that this was clearly a mistake, but that under the circumstances the reasonable response was to maintain the same obligation to treat a certain quantity of waste from District 220 and meet the needs of 23 to its customers, and then have each pay their pro rata share of costs for the capital cost and then for the operational costs as provided in the Agreement. He said that no one even realized that the percentages would slightly change since the plant was not the same size, because it was saving both Districts a lot of money and was equitable and fair and consistent with the principles of the original agreement, though clearly District 220 was not agreeing with this position. The Attorney reaffirmed that District 220 was free to file suit in District Court or to appeal to the TCEQ if it felt this outcome was unjust or unfair to it. The Attorney also explained that in a good hearted spirit agreed that the operational costs would not be changed during the more or less two years of construction on the same basis as if the plant were at 750,000 gpd capacity though it clearly was not. The Attorney also pointed out that in the past each District had been mistaken in billings and payments such that one time 23 and one time 220 paid back the other District something on the order of \$100,000 which to him had evidenced that the Districts had a good history of cooperation and fairness, which he admitted is why he was very surprised that suddenly District 220 thought 23 was being unfair and was flat wrong. The Attorney for his part said he was much more concerned with finding out on the news that the Plant had failed with one of its chamber walls in the aerator having collapsed. He explained that for months before the plant could be rehabilitated it had to be operated at a lower level to relieve pressure on the walls and avert a failure or failures where leaks had been discovered.

Daniel Hayden then asked a series of questions to get a clearer understanding of the history and suggested that perhaps the minutes could be reviewed to build a time line as to exactly what happened when, which the Attorney said he thought could be done. It was noted that 220 did have Jennifer Elms attending meetings and often Peter Pederson was also present so it thought they were

full in the loop as to what was happening. It was noted that Daniel had begun attending meetings in March of the present year. The attorney indicated he would work to create a time line.

Mention was made of the Lock Box forms and agreement which needed execution. **Authorization was moved by Directors Shepard and Blackwell, respectively, and carried unanimously.**

BUILDING COORDINATOR REPORT

The written report was provided to Directors.

MISCELLANEOUS

It was noted that the tree across from 8318 Battle Oak needs to be replaced. **Authorization was moved and seconded by Directors Shepard and Blackwell, respectively, and carried by unanimous vote. Election of Officers was had on the motion of Directors Shepard and Ross, respectively, to maintain the same officers until the following May.**

CONSENT AGENDA

Approval of the consent agenda was had on the motions of Directors Shepard and Dominguez and the unanimous vote of the Board.

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

(SEAL)

Secretary, Board of Directors

**COMMITMENTS FOR ACTION
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 23
MEETING OF NOVEMBER 12, 2020**

BOOKKEEPER

Nada

ATTORNEY

Send out Hidalgo letter with attachments; get Lock Box Agreement out to Debra Hall; and review minutes for a time line on dispute with 220.

ENGINEER

Meet with City representatives regarding service to areas south of the Bayou; prepare projections for GWR program when the pandemic restrictions are relaxed; send Mr. Hayden, the Engineer for District 220, the latest capital improvements plan, and follow-up with County re drainage construction plans and house buy-outs; and principally make sure that wastewater treatment plant construction completes satisfactorily. Oversee inspection of Water Plant No. 1; prepare review of capital improvements program report; and overview completion of STP.

BUILDING COORDINATOR

Check on the light outside the building and install the two thermostats, if not already done and work with Engineer to consult with County on future plans for flood control; and purchase I-pad or similar device at not to exceed \$1,000 and television and moving table.

OPERATOR

Hook-up Solanos; trim trees on fence line; and take down Water Plant No. 1. Turn off water at 8319 Battle Oak; get estimate for fencing on Haney Road and for repair of certain fences; check on Country View hydrant replacement including bad valve; install dishes on manholes; and attempt to get name of driver who damaged hydrant and confer with officers re same for police report; and check on payment of \$100 by CCR.