

**DECEMBER 10, 2009 MEETING MINUTES
MEETING OF THE BOARD OF DIRECTORS OF
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**

A meeting of the Board of Directors of Brushy Creek Municipal Utility District was held on the 10th day of December, 2009, beginning at 6:00 p.m. at the Brushy Creek Municipal Utility District Community Center, 16318 Great Oaks Drive, Round Rock, Texas. Notices of the time, place and the subject of the meeting, and the actions to be taken at the meeting, were posted at the places and for the time required by the laws of the State of Texas.

Agenda Item 1: Call to order.

The meeting was called to order at 6:03 p.m. with the following Directors present: Cris Yackle, President, Russ Shermer, Vice-President, Rebecca Tullos, Treasurer, Jeffrey Goldstein, Secretary and Bob Grahl, Assistant Secretary/Treasurer. General Manager Tom Clark, District Attorney Anthony Corbett, and District staff was also in attendance.

Agenda Item 2: Announcements.

No announcements were made.

Agenda Item 3: Citizen Comments.

Stan Bowers of the Cat Hollow Home Owners Association spoke requesting the Board consider putting four street lights along Liberty Walk.

Paul Tisch commended and thanked the Board for their work.

Agenda Item 4: Discussions Regarding Order of Consideration of Agenda Items.

The Board briefly discussed the order of consideration of agenda items.

Agenda Item 5(a): Community Center Advisory Committee Report.

Fred Lord presented the Community Center Advisory Committee report to the Board of Directors. No action was taken by the Board with respect thereto.

Agenda Item 5(b): Water and Wastewater Committee Report.

Paul Tisch presented the Water and Wastewater Committee report to the Board of Directors. No action was taken by the Board with respect thereto.

Agenda Item 6: Staff Reports.

(a) Payment Card Industry (PCI) validation.

Mark Palmer announced that the District has their certification completed until February 14, 2010. Mr. Palmer reported that the review for the next level is already in process.

(b) Parks and Recreation Operation Analysis conducted by Ballard King.

Tim Ishman reported that Mr. Ballard was appreciative of the feedback he received from the Board and that there should be a revised draft available by the end of December. Mr. Ishman stated that he will email the revised draft report to the Board for review and that he expects the report could come before the Board at one of its February meetings.

(c) Emergency Shelter Agreement with Williamson County.

Mr. Ishman reported that the representative from Williamson County had been unable to make this meeting but would attend the January 14 meeting to hear the Board's concerns and finalize the contract. Staff was directed to include the District's requirements in the contract.

(d) Repairs at Intake Structure.

Mike Wheeler reported that the old electrical cable for pump two would be out on December 11 and the new cable in a week after. On December 21, the contractor will check for connection and re-energize pump number two.

(e) Sendero Springs Park Multi-use Field Area.

Mr. Wheeler reported that due to the wet weather the project was delayed. Staff was able to work on the field on December 10 and, weather permitting, were going to complete the field on December 14.

(f) Membrane System and Modifications at Water Treatment Facility.

Mr. Wheeler reported that the compressors are in and that everything is moving along. There still has been no word from the Texas Commission on Environmental Quality regarding the pilot study.

(g) Water Treatment Facility Security System.

Mr. Wheeler reported that the security system is in at 901 Great Oaks and is active.

(h) Demolition of Maintenance Yard.

Mr. Wheeler reported that landscaping is scheduled to begin in the near future. Staff is currently waiting on the locaters to locate the utility lines. Director Tullos inquired about extending the privacy fence along Great Oaks and was informed that it was not in the budget. Staff was directed to add the cost of the privacy fence to the FY2011 budget.

(i) Review of Department Goals for Fiscal Year 2009/10.

Tom Clark discussed the goals for each department. The Board requested that the same reporting format be used for each department. The first evaluation of the quarterly goals is set for January.

(j) General and No Litigation Certificate.

The original certification was signed by then Vice-President Yackle. However, the document reflected that President Tisch signed the document. The Board was informed that the Certification was modified to show the document being signed by Vice-President Yackle. Mr. Clark also explained to the Board why the dates of the signature line and the notary line were different. No Board action was needed.

(7) Consent Agenda.

Director Tullos moved approval of the consent agenda with the exceptions of items a, b(ii), c(ii) e and the November 24 minutes in item f. The motion was seconded by Director Goldstein and approved unanimously (5-0). The following items were thereby approved by the Board of Directors:

(b)(i) The Board approved the 2010 Brushy Creek Woman's Association Special Events Contract for the Spring Egg Hunt.

(c)(i) The Board approved the FY2010 capital purchase of the Sendero Pool Thermal Blanket.

(c)(iii) The Board approved the FY2010 capital purchase of a truck for the Regulatory Compliance Specialist.

(d) The Board approved the contract for Water and Wastewater Service to the 11.4-acre Beck Tract.

(f) The Board approved the November 2 and 9, 2009 Special Board minutes and the November 12, 2009 Board meeting minutes.

Agenda Item 7(a): Adopt Order Declaring Marquees to be Surplus Property and Authorize Disposition Thereof.

Discussion was had about options for declaring the marquee signs as surplus. Direction to staff was given to advertise the marquee signs on Craig's List. Director Tullos moved to approve authorizing and declaring surplus the marquee signs and advertise same on Craig's List. The motion was seconded by Director Grahl, and passed unanimously (5-0).

Agenda Item 7(b)(ii): Approve 2010 Brushy Creek Woman's Association Special Events Contract for 4th July Celebration.

Mr. Clark explained that the date was being changed to July 3rd as the 4th was a Sunday and the name was being changed to Independence Day Celebration. Director Tullos moved to approve the contract as amended. The motion was seconded by Director Grahl, and passed unanimously (5-0).

Agenda Item 7(c)(ii): Approve FY2010 Capital Purchase of Sendero Pump Area Roof.

Simon Molyneux provided a sample of the metal roofing material along with samples of color swatches. The roof will cover seventy-five percent of the maintenance area. The work is to start the first week in January. Director Shermer moved to accept the bid of Keystone Roofing for an amount not to exceed \$14,560 to build the roof over the Sendero pump area. The motion was seconded by Director Tullos. The Board recommended using the burgundy color contingent on approval by the Sendero Springs Home Owners Association and contractor assurance of true color. The motion passed unanimously (5-0).

Agenda Item 7(e): Approve Order for Destruction of District Records.

Staff requested this item be tabled to the January meeting. Mr. Clark explained that some of the records slated for destruction were part of a pending records request. The Board expressed concern regarding the historical value of some of the documents proposed for destruction. The item was tabled until the January 14, 2010 Board meeting to enable Directors and staff to review the documents before any destruction of same. Staff was directed to add the retention schedule to the next agenda and not to destroy certain litigation and grant records.

Agenda Item 7(f): Approval of November 24, 2009 Board Minutes.

Director Tullos requested that the minutes be revised to reflect that she was not present at the November 24, 2009 Board meeting. Director Grahl moved to approve the minutes of the November 24, 2009, Board meeting as amended. The motion was seconded by Director Goldstein and passed unanimously (5-0).

Technology Department Matters.

Agenda Item 8(a): Discussion Concerning Computer Lease Agreement.

Mark Palmer explained that the District currently has eleven different desktop and eight different laptop computer types. Replacing the older computers and moving to only one vendor with the same product will make support and maintenance easier and more efficient and also make it simpler to manage the system and achieve better consistency overall. The newer computers will also help ensure PCI compliance. Mike Petter informed the Board that leasing was a better option than purchasing and that at the end of the lease term, we could purchase the computers for one dollar each. Mr. Palmer stated that this item will be brought back to the Board in January.

Agenda Item 8(b): Discussion Concerning Job Descriptions.

Staff requested that this item be tabled until the January Board meeting.

Recess: The Board recessed at 7:34 PM and reconvened at 7:48 PM with all five Directors present.

Public Works Department Matters:

Agenda Item 9(a): Discussion and Possible Action Concerning Adoption of Order Declaring Compressors Located at Water Treatment Facility to be Surplus Property and Authorizing Disposition Thereof.

Mr. Wheeler explained that his department had looked into the fair market value of the compressors and that the amount being credited for the trade in value by the low bidder to the contract to replace the compressors, Atlas Copco, was in line with what his department had determined the value to be on the open market. Director Shermer moved to approve Order No. 09-1210-01 Declaring Property Surplus and Authorizing Sale thereof. The motion was seconded by Director Grahl, and passed unanimously (5-0). Staff was directed to include bid documents as an attachment to surplus requests if applicable.

Agenda Item 9(b): Declaration and Possible Action Concerning Mowing Contract.

Mr. Wheeler explained that the mowing contract with Sendero Landscaping Services will expire on February 1, 2010. Mr. Wheeler stated that his department is exploring the possibility of bringing this work in-house. Mr. Wheeler explained what is involved with the mowing contract. In response to Director Shermer's inquiry, Mr. Wheeler explained that his department currently does the cuts along the trails. The Board directed Mr. Wheeler submit the in-house pricing as a sealed bid to be compared with the other bids at the bid opening. President Yackle requested that the bid include an estimate of what could be done in-house, what equipment and/or staffing would be needed, the frequency of the mowing to be done and what would not be covered. Staff was directed to ensure that the bid include a price per cut in the advertisement. Director Grahl moved to allow staff to advertise and accept bids for the mowing contract. The motion was seconded by Director Goldstein, and passed unanimously (5-0).

Agenda Item 12(g): Discussion Concerning TCEQ Required Posting of Municipal Utility District Signs to Entryways of District.

Mr. Wheeler explained that the District sign at the Cornerwood location was found to have rotting wood. In reviewing all of the signs at the entryways to the District at Great Oaks and 620, Cornerwood, Great Oaks and Hairy Man Road and Sendero Springs, it was found that some of the signs still had the old logo and outdated information. Some signs were metal signs while others were made of plywood. Current TCEQ regulations only state that signs need to be posted at 2 or more entryways into the District. District Attorney Anthony Corbett explained that the notice requirements were to inform people that they were entering a taxing area. Staff was directed to remove the Cornerwood sign as soon as feasible and to recommend to the Board a plan on the display of the District sign, the Superior Water District, the Water Smart sign and the Keep Texas Beautiful sign.

Parks and Recreation Department Matters:

Agenda Item 10(a): Discussion and Possible Action Concerning Bid for Phase II District Sign Project.

Tim Ishman explained that the all signs will be fully programmable and that user training will ensure their correct use. Discussion was then had regarding the feasibility of also having the sign at 901 Great Oaks also installed at this time. Although there would be some savings, it would not be enough to cover the \$30,000 cost to add the Great Oaks sign. It was pointed out that the cost would increase if the Board waits until Phase III to install the sign at 901 Great Oaks.

Director Tullos asked if it would be necessary to bid the 901 Great Oaks sign if funds are available for allocation of its installation after approval of the Cornerwood and Cat Hollow signs. Mr. Corbett explained that the District could solicit three bids and, as the amount is \$30,000, competitive bidding would not be required. Mr. Ishman reminded the Board that this was a specialized item and the District had only received one bid. Director Tullos asked that the Board keep open the option to build the sign at 901 Great Oaks and that staff look for savings in the budget and prepare a financial plan for the same.

President Yackle moved to approve the construction of the Cornerwood and Cat Hollow signs in an amount not to exceed \$71,000.00. The motion was seconded by Director Shermer and passed unanimously (5-0). Staff was directed to remove all existing letterboard signs.

Recess: The meeting recessed at 8:53 PM and reconvened at 9:01 PM with all Directors Yackle, Shermer, Tullos and Goldstein present. Director Grahl joined the meeting at 9:06.

Agenda Item 10(b): Discussion and Possible Action Concerning Parks and Recreation Rate Order.

Mr. Ishman presented this item to the Board. The Board requested changes be made to include a provision that the proposed order would not impact the existing program fees. Staff was directed to place this item on the January 14, 2009 consent agenda.

Agenda Item 10(c): Discussion and Possible Action Concerning Contract Instructor Insurance Requirements.

Mr. Ishman explained the challenge to vendors to offer small programs for residents when the contractor doesn't have the requisite insurance. There are five programs slated for the current catalogue that would fit into this category. The Board authorized staff to proceed with the following classes: Guitar, Acting, Photography Basics, Texas Youth Tobacco Awareness and So You Think You Can Dance. Staff was directed to continue working with legal on the appropriate language and to bring back a revised contract and policy to the Board.

Agenda Item 10(d): Discussion and Possible Action Concerning Out-of-District Programming.

Mr. Ishman explained that Program Staff have proposed two out-of-District events for the upcoming 2010 Catalogue - a trip to the San Antonio Zoo and a Texas Stars Night. Director Shermer suggested that it would be better to spend time and money on in-District programming. Director Tullos pointed out that out-of-District program benefits include providing family programming for District residents and offering a group rate as well as marketing and promoting the District's programs. President Yackle moved to approve Resolution 09-1210-01 relating to offsite Community Center recreational programs. The motion was seconded by Director Goldstein and passed unanimously (5-0).

Agenda Item 10(e): Discussion and Possible Action Concerning Date Change for Hairy Man Festival.

Mr. Ishman presented the revised contract for the 16th Annual Hairy Man Festival scheduling the event for September 25, 2010. The requested date change from the last weekend in October to the last weekend in September is due to the fact that the first weekend in October is the UT-Oklahoma game and the next weekend is the Austin City Limits Music Festival which would limit the vendors that might be available for the event. This change will result in two Hairy Man Festivals in FY2010 and would require additional funds.

Director Goldstein moved to approve the Agreement regarding the 2010 Hairy Man Festival included in the Board packet and to approve an additional \$5,000 from Board contingency funding to cover the cost of the Festival. The motion was seconded by Director Shermer and passed unanimously (5-0).

Human Resources Department/Financial Matters:

Agenda Item 11(a): Discussion Concerning Amendment to Personnel Policy Article 2.8 Employee Recognition and Incentive Program.

Tom Clark explained that this item is part of the District goals. A pool of merit pay funds would be available for personnel who submit an initiative which would result in cost savings to the District. The incentive award would be \$2,000 or twenty-five percent of the actual savings shown within one year, whichever is less. Director Tullos requested clarification that the policy would only apply to cost savings initiatives that are outside the scope of duty for the employee. Director Tullos recommended

that the language in B(1)(iv) be changed from “after payment” to “before approval.” Staff was directed to place this item on the January 14, 2010 consent agenda.

Agenda Item 11(b): Approval of October Disbursement Report, October Detail and October Cash and Investment Reports.

Mike Petter presented and discussed the October financial reports. Mr. Petter explained that the rate for investment funds is down and that the District needs to be watchful for opportunities to invest in higher rate of return items. At present there is five million dollars in CDs that are coming due and the bank holding the CDs advised the District that they will not be offering the same interest rate. Mr. Petter will have the District’s financial advisor attend the January meeting.

Director Tullos moved to approve the October financial detail, disbursements and the cash and inventory reports attached to the Board packet. The motion was seconded by Director Grahl and passed unanimously (5-0).

Agenda Item 11(c): Approve Fourth Quarter Financials.

Mr. Petter explained that the final shortfall for the year is approximately \$600,000, which was less than budgeted. While investment revenue was down and the drought resulted in less water revenue than projected, the increased wastewater rates and three new contracts for cell tower leases helped reduce the shortfall. Mr. Petter advised the Board that there are very little unrestricted funds available and that capital project reserves should be considered and addressed by the Board.

Director Tullos moved to approve the fourth quarter Variance report, the fourth fiscal quarter Financial Report (FYE 09/30/09), the September 2009 Disbursement Reports and the fourth quarter 2009 Investment report attached to the Board packet. The motion was seconded by Director Grahl and passed unanimously (5-0).

Administrative Department Matters:

Agenda Item 12(a): Discussion Concerning Executive Assistant Job Description.

Mr. Clark explained that the Executive Assistant’s job description was being amended to more accurately reflect the true job duties.

Agenda Item 12(b): Discussion Concerning Security Agreement with Williamson County.

Mr. Clark gave a report on the status of the negotiations with Williamson County concerning a security agreement. Mr. Clark and Directors Grahl and Shermer attended several meetings with Williamson County regarding a new security agreement.

Directors Tullos and Yackle expressed concerns that not all options had been explored and as well as concerns about what the District expectations are from the Sheriff with regard to security. Questions were raised regarding how District rules could be enforced by District employees or others. Another area of concern regarded the potential use of 901 Great Oaks for the detention of juveniles with regard to liability of the District as well as whether District facilities could be properly secured.

District attorney Corbett advised that the Williamson County Attorney may not agree with some of the changes and issues expressed by the Board.

It was requested that the matter of the District's expectations from the Sheriff be placed on a future agenda for discussion.

Agenda Item 12(c): Discussion Concerning Inventory of District Properties.

Mr. Clark explained that one of the Board's goals was to identify and inventory all District owned property. Using information from the County Appraisal District Mr. Clark prepared a list of those properties. It was discovered that some of the greenbelt and drainage easement areas were not in the District's name. Staff is working on correcting these items.

Staff was directed to research and add the omitted properties to the inventory and to develop standards for maintenance.

Agenda Item 12(d): Discussion Concerning Review of Unkempt Properties Within the District and Scheduling Inspections of the Properties.

Mr. Clark explained that he and Directors Yackle and Grahl drove around the District and identified properties that were not being properly maintained. Mr. Clark spoke with David Bodenman concerning those properties owned by Hy-land. Mr. Bodenman assured that he will maintain the properties to the District's standards.

The Board discussed setting minimum standards for District property to maintain the property as well as standards for mowing of the greenbelt areas.

Agenda Item 12(e): Discussion of Proposals Raised at Workshop.

This item is part of Board Goal number 5.

(1) invest 5% of water revenues for park and recreational capital projects.

This item is being examined as part of the Rim Rock rate study being conducted.

(2) maintain flat tax rate if property evaluations are 3% or greater.

District Attorney Corbett advised the Board that he was concerned that this would bind future Boards.

Recess: The meeting recessed at 11:40 PM and reconvened at 11:45 PM with all five Directors present.

The Board then continued discussion on Agenda Item 12(e)2. The Board discussed whether this item should be an in-house policy or a general guideline. Due to the potential for binding future Boards, it was agreed that this should only be a guideline that is evaluated every year when considering the budget and staff was directed to remove it from the District Goals.

Agenda Item 12(f): Discussion and Possible Action Concerning Proposed Reorganization of Departments.

The Board went into Executive Session at 12:00 Midnight to discuss personnel items pursuant to Texas Government Code Chapter 551, Subchapter D. All five directors, General Manager Clark and District Attorney Corbett were present.

At 12:24 AM, the Board re-convened in open session. No final actions or votes were taken in the Executive Session. Mr. Clark gave a brief summary of the items discussed. Mr. Petter noted that the District was ready to make an offer for the vacant Operator I position.

Adjournment.

Director Shermer moved to adjourn the meeting. The motion was seconded by Director Goldstein, and passed unanimously (5-0). The meeting adjourned at 12:29 a.m.



Jeffrey Goldstein, Board Secretary