

MINUTES OF JULY 17, 2023 MEETING
HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 46

A meeting was duly called of **HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 46**, which was held on July 17, 2023 at the Offices of the District at the Atascocita Fire Department, Headquarters Building, located at 18425 Timber Forest Drive, Humble, Texas 77346.

The Meeting was called to order at 7:00 p.m., by **TOM TRUVER**, President. Those Commissioners present were **TOM TRUVER, JOHN BOLLUM, JAMES CONE, RON CLARKE**, and **BUDDY RICE**. Chief of Department Mike Mulligan, Director of ITC & Operations Support Mike Wassell, Director of Human Resources and Finance Mary Anne Sokol, District Counsel, Mr. Ira Coveler of Coveler & Peeler, P.C., Melissa Wiggins of Coveler & Peeler, P.C., Alberta Balderas of Tax Management Services, Joseph Ellis of McCall Gibson Swedlund Barfoot PLLC, Ricardo Martinez of Martinez Architects LP, Mark Christensen of Christensen Building Group, and members of the public and Department were also in attendance.

The Board opened the floor to receive public comment, though none was forthcoming.

The Board next received a report from Mr. Joseph Ellis of McCall Gibson Swedlund Barfoot, PLLC, on the District's 2022 financial audit. Mr. Ellis reported the District had received a clean report with no outstanding notes of concern. After reviewing the District's financial information in the audit, Mr. Ellis advised the Board that some assets had been converted to "right of use assets" according to the law, but that no substantial difference was made in that conversion. Mr. Coveler questioned that designation as assets which were held as capital leases were titled to the District and not eligible to be reclaimed by the lessor without formal judicial proceedings. This was left as a discussion point, but no modification to the audit was formalized or requested by the Board. After review, Commissioner **CLARKE** made a Motion, seconded by Commissioner **CONE** to accept the audit report as presented. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

Before moving on, Commissioner **CONE** questioned information in the audit related to appointed and elected Commissioner positions. Mr. Coveler stated he would provide documentation to clarify that information for Mr. Ellis before publishing the final audit document.

The Board then received a report on the Station 29 project from Mr. Martinez of Martinez Architects LP ("MA"). Mr. Martinez stated efforts were continuing to establish permanent power to the station, and that permanent power would hopefully be approved by next week. Mr. Christensen of Christensen Building Group ("CBG") addressed the issue, adding that once clarification was reached with Harris County regarding conflicting addresses on permitting paperwork, the process was restarted and would hopefully be approved within the next few days. He advised the Board that once approval was obtained and an inspection completed, permanent power would be established at the station, and other necessary work could continue.

Regarding the Station's paving and concrete concerns, Mr. Martinez stated a third party Geotech engineer had been approved by MA, CBG, and the design team, with his recommendation for engagement to coordinate with the general contractor regarding additional concrete testing for the station apron. Additional concrete samples would be taken and evaluated in a proper lab setting

to determine final strength levels and suitability for the needs of the District. Mr. Christensen then stated that any lab would be acceptable, provided all parties agreed to avoid future challenges.

Regarding the request for additional testing, Mr. Christensen advised that questions had arisen from the CBG perspective based on the testing process related to concrete samples and cores taken for the original tests. "Our objective is to follow what we see the specs leading into the ACI standards. There were a few discrepancies with how the testing was taking place, how many cylinders per section that tested below the strength requirement. The main purpose is for us, because we have a subcontractor and they have a supplier, to have no doubt that whatever the results come back with we've followed the procedure and processes to the letter of the code. If it comes back low strength, I have a better argument to go back and say you were part of the process, and if we have to take it out then we do it." Mr. Christensen noted examples of questionable samples during the first test, including one cylinder which contained rebar, and other areas where lower numbers of cores were taken than were called for.

Commissioner **RICE** then requested a formal agreement or MOU be drafted, including all financially interested parties, to cover the testing process and assure a final result which would not be challenged or extended after the fact. Mr. Coveler stated the issue would be continued in closed session, but that an agreement could be drafted with input from Mr. Martinez to attempt to simplify the issue and avoid litigation proceedings. He further stated that under contract, the engineer of record had the right to call for additional testing, though the District's engineer had already declared the current product unacceptable. Mr. Martinez then added that samples taken from the truck at the pour had come in below specifications. Further samples from the 28-day and 56-day tests also tested below specifications.

Mr. Christensen addressed this, stating that after initial cylinders were evaluated, if the breaks came in under strength, the next step was to follow certain procedures determined by an ACI standard, referenced in the project specs, to determine the true strength and suitability of the product, before going to the expense and effort of tearing out the entire apron which would delay the project even further. "I'm not trying to make it more of a mess, we don't want to be in this situation either, but if it comes down to tearing it all out, I want to make sure we're following the processes and specs because that question is going to come up. That's all I'm trying to do. I agree let's do an MOU and go with what we find."

At this time, Commissioner **CLARKE** reiterated his interest in reviewing the design status that was supplied to the architect by the District's engineer. "I want it in writing: how and why he came up with it, what the sub-core looks like, what test was done on the substrate - I want to see it all. I'm not disputing, but he may have over/under "spec'd" it. I want to see it." There being no further questions or comments, Commissioner **CLARKE** made a Motion, seconded by Commissioner **CONE** to approve the reports as presented. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board next discussed matters related to the District's maintenance facility. Mr. Martinez advised the Board that agreements related to a waterline easement were still being completed by the City of Humble. When those agreements were completed and executed, final work could begin on the water and storm lines which would ultimately finish the project.

The Board then discussed the certified pay applications received from Martinez Architects. Mr. Martinez presented two (2) pay applications to the Board. Pay Application No. 21 was

presented for a total of \$24,486. Pay Application No. 22 was presented for a total of \$11,590. After review, Commissioner **CLARKE** made a Motion, seconded by Commissioner **CONE** to approve payment of both pay applications as presented. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board next received a sales tax report from Ms. Alberta Balderas of ESD Tax Management Services. Ms. Balderas reported that July allocations totaled \$393,871.75, with a year-to-date total of \$3,190,183.86. Eight (8) taxpayers reported significant allocations of over \$7,000, for a total contribution of \$132,991.47 compared to \$124,668.07 in 2022 by the same entities. She then noted some entities who failed to post allocations for the last two (2) months and which were being researched and questioned with the state Comptroller's office. Allocations from two (2) other entities who had previously failed to post, were successfully recovered by the District. Ms. Balderas also noted that one (1) retail business was no longer listed on the allocation reports as it was no longer operational, and one (1) other entity posted a negative allocation due to misallocation in 2018.

Comparing year-to-date totals for 2022 and 2023 resulted in a \$82,349.51 variance, despite totals for the month of June 2023 decreasing when compared to 2022. At this time Commissioner **CONE** questioned a possible lack of allocation from a local service provider, which Mr. Coveler stated he would investigate. Commissioner **CLARKE** questioned the likelihood of the District's allocations becoming stagnant, and was told though new businesses were still coming to the area, no solid figures could be presented to that effect. After review, Commissioner **RICE** made a Motion, seconded by Commissioner **BOLLOM**, to accept the report as presented. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board then received a financial report from Mary Anne Sokol who stated that District accounts were healthy, and no unforeseen complications had arisen during the previous month. At the conclusion of the period ending June 30, 2023, District bank account balances totaled \$14,756,394.83. After review, Commissioner **CONE** made a Motion, seconded by Commissioner **RICE**, to accept the report as presented. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board then reviewed District bills and commissioner submittals. After review, Commissioner **RICE** made a Motion, seconded by Commissioner **CONE** to approve payment of the District's bills and Commissioner submittals. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board next reviewed the Minutes of prior meetings, including the May and June regular Board meetings. After review, Commissioner **CLARKE** made a Motion, seconded by Commissioner **BOLLOM**, to approve the minutes of both meetings. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board then discussed the Department reports provided by Chief Mulligan. Regarding mutual aid calls, Chief Mulligan announces the District would no longer post for Harris County, though they would respond to calls if directed to a specific event. He noted calls for City of Houston were slightly lower than average, though the calls reported were requests for service and did not only reflect completed calls. He also stated his intent to request a limitation to service calls from the City of Houston so that District resources would only be deployed when necessary, rather than for any and all calls.

Commissioner **BOLLOM** then questioned one (1) line in the budget report, provided prior to the meeting, and was told the overage percentage shown reflected expenses which would not show as being reconciled until next month's report, but that were in fact in line with the District's budget figures. After review, Commissioner **BOLLOM** made a Motion, seconded by Commissioner **CLARKE**, to accept the report as provided. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board then reviewed any 30-day advance submittals from the Department, though none were forthcoming, and no action was taken.

The Board next reviewed the sale or disposal of any obsolete surplus and/or salvage District property, though none was forthcoming, and no action was taken.

The Board then reviewed any necessary repairs of equipment, apparatus or District facilities, though none were presented, and no action was taken.

Before moving to enter Closed Session, President **TRUVER** recessed the meeting at 7:45 p.m., at which time the Board convened a special meeting regarding tax rate and budget setting for the upcoming year.

Upon adjourning the meeting recess, the Board then convened in Closed Session at 7:51 p.m., to consult with legal counsel regarding legal matters which require confidentiality.

The Board reconvened in Open Session at 8:45 p.m.

The Board took no action related to personnel or real estate matters.

The Board then reviewed any items which needed adding to the agenda for next month's meeting set for August 21, 2023. No items were forthcoming, and no action was taken.

There being no further business brought before the Board, Mr. **CONE** made a Motion, seconded by Mr. **BOLLOM** to adjourn the meeting at 8:47 p.m. Thereafter, President **TRUVER** called for a vote and the Motion passed 5 to 0.

The foregoing minutes were passed and approved by the Board of Commissioners on August 21, 2023.



JOHN BOLLOM

District Secretary of the Board