

MINUTES OF AUGUST 21, 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 Monday, August 21, 2023 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, Assistant Chief of EMS Sean Conley, Assistant Chief of Operations Terry Wygal, District Counsel, Mr. Ira Coveler, of Coveler & Peeler, P.C., Melissa Wiggins of Coveler & Peeler, P.C., Ricardo Martinez of Martinez Architects, Mark Christensen of Christensen Builders 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 moved to elect Officer positions. Mr. **RICE** made a Motion, seconded by Mr. **CONE**, to maintain the current officer positions. Mr. Coveler requested that Motion be held, when Mr. **BOLLUM** made a new Motion, seconded by Mr. **CLARKE**, that he (Mr. **BOLLUM**) be allowed to move into the position of Board Treasurer. President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

Mr. **RICE** then made a Motion, seconded by Mr. **CONE**, for Mr. **CLARKE** to move into the position of Board Secretary. President **TRUVER** then called for a vote and the Motion passed by a vote of 5 to 0. Mr. **CLARKE** then made a Motion, seconded by Mr. **CONE**, to accept the positions as follow:

TOM TRUVER	President
BUDDY RICE	Vice-President
JOHN BOLLUM	Treasurer
RON CLARKE	Secretary
JAMES CONE	Asst. Secretary/ Asst. Treasurer

There being no further comments or discussion, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board then discussed matters related to the Station 29 construction project. Mr. Martinez addressed the Board and stated permanent power had been successfully established at Station 29, though it would take time to climatize before interior work including painting, flooring installation, and woodwork could take place. It was anticipated that project completion would take place in October. President **TRUVER** then thanked Jerry Dilliard for his efforts to communicate details of the ongoing process to the social media community who had begun questioning the progress and completion timeline of this drawn-out project.

Mr. Martinez then addressed the ongoing issue of concrete paving at Station 29, stating original parameters had been established which required all concrete for this project to reflect 3500 psi. S&G Engineering conveyed these requirements in specifications which were provided to the Christensen Building Group, and which the owner expected to be installed according to the project contract and specifications. At twenty-eight (28) days, cores were taken and identified to be non-compliant with those standards. Based on the original specifications, and the apparent failure of the product to meet said specifications, neither Martinez Architects nor S&G Engineering recommended accepting the existing concrete.

Mr. Mark Christensen of Christensen Building Group, the project's contractor, then addressed the Board, agreeing with Mr. Martinez that specifications of 3500 psi had been made in the project plans, but that there were also criteria for acceptance of concrete listed in those specifications. Mr. Martinez argued that Mr. Christensen's reliance on ACI 318 as an acceptable requirement for structural concrete was incorrect. He maintained throughout the discussion that the existing product did not meet contract and design specifications in psi strength, and in one area the depth requirements also were not satisfied, and thus the installed concrete could not be recommended for acceptance by the Board. Mr. Christensen disagreed with Mr. Martinez' interpretation of facts, and countered the opinion, stating according to Nino & Moore reports, the concrete was acceptable and should not be replaced.

Commissioner **RICE** noted concern, regardless of testing results, that the agreed to specifications were seemingly being ignored in what appeared to be the next in a series of issues related to this project. Though not wanting to extend the project again, he expressed frustration at the continued difficulties faced on this project, and the necessity of the District to "take the hit." Mr. Christensen acknowledged the Board's frustration, and again stated, "the question we're asking is, is the concrete that's out there right now strong enough to meet the design criteria right now. If someone reads this report, in my opinion, it meets the criteria that ACI 318 would require." He further noted that ACI 318 required the average of three (3) cores to be above eighty-five (85) percent strength, and that the lowest scoring core taken for testing came to ninety-five (95) percent strength. He then requested an independent engineer's report on the concrete, to establish whether or not the concrete was acceptable and provide reasoning for that determination.

When asked, Mr. Martinez explained that based on all testing results, both original and recent, S&G Engineering would not stand behind the long-term durability of the concrete as-is. Commissioner **CLARKE** noted that despite his requests, no such statement had been made in writing by the engineer, to be presented and reviewed by the Board. Commissioner **RICE** then inquired about the memorandum of understanding ("MOU") which had been signed to avoid further confusion regarding the project, and was told by Mr. Coveler that the MOU in question related solely to sampling and testing processes for additional cores, and not to the specifications themselves. It would allow CBG to conduct testing on the cores, and provide results to the Board for review, assuming litigation to settle the matter would be necessary. After continued discussion amongst the Board, Mr. Coveler advised that closed session discussion was necessary to determine acceptance or rejection of the existing concrete.

At this time, the Board convened in Closed Session at 7:26 p.m. to consult with legal counsel. The Board reconvened in Open Session at 7:43 p.m., at which point President **TRUVER** thanked Mr. Martinez and Mr. Christensen for their perspectives, and stated an independent

engineer would be hired to review the Station 29 concrete paving matters and provide a report on the same. Further contact related to the project would be made through legal counsel.

The Board then discussed matters related to the District's maintenance facility. Mr. Martinez advised the Board that contact had been made with the City of Humble regarding the facility's waterline and outfall, and more information would be presented after a meeting with the appropriate parties was held.

The Board then discussed pay applications certified by Martinez Architects, though none were forthcoming, and no action was taken.

The Board next received a sales tax report as prepared by ESD Tax Management Services. Mr. **BOLLOM** presented the report, stating August allocations totaled \$470,122.77, approximately \$6,000 less than the same month in 2022. Year-to-date allocations totaled \$3,660,306.63. Seven (7) entities posted significant allocations during the month of July, and seven (7) other entities had recently been added to the Board's monthly allocation report. Mr. Coveler then addressed Mr. **CONE**'s inquiry from July regarding a new internet provider's lack of sales tax revenue being forwarded to the District. Mr. Coveler announced that under Texas law for an entity that was solely selling internet services, and did not also provide services related to a telecommunications network, the District's telecommunications tax did not apply.

Mr. **CONE** then inquired about new legislation regarding deannexation of LPAs and SPAs from the City of Houston ("COH"), and was told no new information was available at this time, though it appeared that no benefit would be had by the deannexation of territories from COH. At this time, Mr. **CLARKE** made a Motion, seconded by Mr. **CONE**, to approve the report as presented. After discussion, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board next received the District's financial report. Chief Mulligan stated no unexpected events were present, and advised that concerns regarding overtime were being addressed. He lastly stated firefighting positions for 2024 were currently being filled, to accommodate training before the anticipated January start date, and that one (1) EMS position had yet to be filled. After review, Mr. **BOLLOM** made a Motion, seconded by Mr. **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 moved to authorize payment of District bills and Commissioner submittals pursuant to Texas Health and Safety Code §775.038(a-1). Mr. **BOLLOM** then made a Motion, seconded by Mr. **RICE**, to authorize the payment of District bills and submittals as stated. After discussion, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board next reviewed the Minutes of both the regular, and special tax rate proposal meetings which took place on July 17, 2023. After review, Mr. **CONE** made a Motion, seconded by Mr. **CLARKE**, to approve both sets of minutes. After discussion, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board then received the Department reports presented by Chief Mulligan, who stated that forty-six (46) mutual aid calls were made to the City of Houston ("COH") during the month,

with a total call volume of one hundred fifty-two (152) to the City throughout the year. Concerns regarding the constant use of District resources for COH calls had been raised in the past, and were again addressed when Chief Mulligan explained that the COH Chief of Operations had been advised that District resources should not be called upon as a first out service and instead should be utilized under proper mutual standards. Mr. **RICE** expressed his frustration with the current situation, stating it was not fair to the taxpayers for District resources to be abused by the COH.

Chief Mulligan responded, explaining his stance that the District would continue to respond to COH calls when genuinely needed, but that he requested not to be dispatched as part of a general call-out when other units were available elsewhere. He further stated the option to remove EMS services from the existing mutual aid agreement with the City of Houston is possible, but cautioned that ultimately it might not achieve the desired outcome. Limiting EMS response to the COH would also require the same limitations be imposed on all other mutual aid agreements with the District as well.

Mr. **RICE** then reiterated that providing aid when necessary was not in question, but the volume of automatic aid calls seemed excessive and unduly taxed the District's resources, which resources should be available to the residents and citizens of the District.

Chief Mulligan lastly informed the Board that a hazmat spill had occurred behind the headquarters building when a refuse receptacle fire crossed over to a pallet containing class B foam. The appropriate hazmat and environmental control officials were contacted with all necessary action taken thereafter, though results of testing on the location's outfall were still pending. There being no further questions or comments, Mr. **RICE** made a Motion, seconded by Mr. **CLARKE**, to accept the report as presented. After discussion, President **TRUVER** called for a vote and the Motion passed by a vote of 5 to 0.

The Board then reviewed thirty (30) day advance request(s) though none were forthcoming, and no action was taken.

The Board next reviewed any items for sale or disposal pursuant to Texas Health and Safety Code §775.0735, though none were forthcoming, and no action was taken.

The Board then discussed any necessary repairs of equipment, apparatus, or facilities in service to the District. No items were forthcoming for repair, though Mr. Wassell did advise the Board that the District squad vehicle had been repaired and was now back in service after two hundred ninety-five (295) days of being out of service.

The Board did not choose to meet in Closed Session again.

The Board then reviewed District real estate matters and personnel matters, though none were forthcoming, and no action was taken.

The Board next reviewed any new items requiring inclusion on the agenda for the next regular District meeting set for September 18, 2023, though none were forthcoming.

There being no further business brought before the Board, Mr. **CLARKE** made a Motion, seconded by Mr. **CONE**, to adjourn the meeting. Thereafter, President **TRUVER** adjourned the meeting at 8:06 p.m.

The foregoing minutes were passed and approved by the Board of Commissioners on September 18, 2023.



RON CLARKE
District Secretary of the Board