

LUMBERTON MUNICIPAL UTILITY DISTRICT

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LUMBERTON, TEXAS 77657

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February 17, 2017 #4 – R

Chapter 551, Subchapter D, of the Texas Government Code

Notice of a Regular Meeting of the Board of Directors of the Lumberton Municipal Utility District, Lumberton, Texas.

Notice is hereby given that a Regular Meeting of the Board of the Lumberton Municipal Utility District of Lumberton, Texas will be held in the Lumberton Municipal Utility District's office at 625 FM 421, MONDAY, THE 20TH DAY OF FEBRUARY AT 6:30 P.M., at which time the following items of business will be considered:

1. Prayer and Pledge to the Flag
2. Public Comments of Agenda Items
3. Approval of Minutes of January 16, 2017 and February 7, 2017
4. Consideration and Possible Final approval – Tranquility Forest Estates, 8 lots, Clint Baxley, Baxxlee Developments, Inc.
5. Consideration and Possible Action of Manager's Report
 - A. Presentation of Financial Statement and Accounts Payable
 - B. Presentation of Production Report and Operations Report
 - C. Presentation of Important Dates
6. Public Comments
7. Consideration and Possible Approval – reimbursement of District Managers expenses (TCEQ license renewal)
8. Payment of Bills
9. Executive Session
 - A. District Manager Evaluation
10. Consideration and Possible Action on Deliberation of Executive Session
11. Adjournment

If, during the course of the meeting covered by this Notice, the Board should determine that a closed or executive session of the Board should be held or is required in relation to any agenda item included in this Notice, then such closed or executive meeting or session, as authorized by the Texas Open Meetings Act, will be held by the Board at the date, hour, and place given in this Notice concerning any and all subjects for any and all purposes permitted by §551.071-551.084 of the Texas Government Code and the Texas Open Meetings Act, including, but not limited to, §551.071—for the purpose of a private consultation with the Board's attorney on any or all subjects or matters authorized by law.

Roger Fussell

POSTED: February 17, 2017

District Manager
Lumberton Municipal Utility District

2017 FEB 17 PM -4:00

By: _____

Anna Saldana

**REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
LUMBERTON MUNICIPAL UTILITY DISTRICT**

The regular meeting of the Board of Directors of the Lumberton Municipal Utility District was held on Monday, January 16, 2017, at 6:30 p.m. at the offices of the District pursuant to notice duly posted in accordance with the law. The following members of the Board were present:

David Desormeaux

Roger Smith

David Pitchford

Nick Carter

Jimmy Burk

Also present were Roger Fussell, Carla Belt and Robb Starr as employees of the District, Jeff Leavins of LJA Engineering, Debbie Cowart, residents of the District, and Guy N. Goodson of Germer PLLC as legal counsel for the District.

Agenda Item No. 1: Prayer and Pledge. A quorum being present, the meeting was called to order and the prayer was led by Director Smith and pledge was led by President Carter.

Agenda Item No. 2: Public Comments of Agenda Items. None.

Agenda Item No. 3: Minutes. The Minutes of December 19, 2016 were approved as presented.

Agenda Item No. 4: Construction Approval – Floor Care & Interior, 2995 Hwy 69 South, Kelly Klodzinski, owner. The Board recognized Jeff Leavins who presented the Engineering Study. Mr. Leavins indicated that there was adequate capacity in the District's water and wastewater system to provide for the requested capacity. After discussion and upon motion duly made by Director Desormeaux and seconded by Director Pitchford, the Board unanimously

provided capacity and construction approval for Floor Care & Interior, 2995 Hwy 69 South, Kelly Klodzinski, owner.

Agenda Item No. 5: Construction approval – Leslie’s Swimming Pool Supply, 133 S. LHS, Joanna Orlando, ArcVision, Inc. The Board recognized Mr. Leavins who provided the Engineering Study for the proposed commercial business at 133 S. LHS Drive, Joanna Orlando, ArcVision, Inc. and indicated there was adequate capacity in the District’s water and wastewater system to provide for the commercial connection. After discussion and upon motion duly made by Director Pitchford and seconded by Director Desormeaux, the Board provided capacity and construction approval for Leslie’s Swimming Pool Supply.

Agenda Item No. 6: Final approval – Copper Point, Phase I, 49 lots, John Boykin, developer. The Board recognized Mr. Fussell who indicated that the District had received all of the required documentation to finalize and close out the approval of the Copper Point, Phase I, 49 lot addition. After discussion and upon motion duly made by Director Smith and seconded by Director Pitchford, the Board provided final approval to Copper Point, Phase I, 49 lots. The developer’s representative was asked what the total number of homes were in Copper Point, and the Board was advised that there were approximately 256 homes to be developed in Copper Point.

Agenda Item No. 7: Appointment of District Committees:

- A. Investment Policy Committee**
- B. Audit Policy Committee**
- C. Sexual Harassment Policy Committee**
- D. Fraud Policy Committee**

President Carter provided a report showing the current membership of the Board’s Investment Policy, Audit Policy, Sexual Harassment Policy and Fraud Policy Committees. Director Pitchford recommended that each of the committees be reconstituted with the same membership as

stated by the Board President. The motion was seconded by Director Desormeaux and was approved unanimously.

Agenda Item No. 8: Water and sewer service rate and/or fee increase. The Board recognized legal counsel who advised that this agenda item was to follow the information provided to the Board in December following the approval in November of the Board's audit and the determination as set forth in the audit and as confirmed by the District's financial advisors that the District had failed to meet its rate revenue covenant as to both its 2007 and 2012 Revenue Bonds. Legal counsel also described the rate revenue covenants in each of the District's revenue bond issues and noted that it was a 1.0 covenant for the 2007 Bonds and a 1.2 covenant for the 2012 Bonds. Legal counsel then stated that the rate covenant effectively required the District to set rates and charges sufficient to produce revenues that after the payment of maintenance and operating expenses resulted in net revenues of 1.0 for the 2007 Bonds and 1.2 for the 2012 Bonds. Legal counsel advised the Board that it would need to take action to correct the noted rate deficiencies. It was also noted that based upon a review of the annual financial report for the period ended June 30, 2015, the Board had met its rate revenue covenants for the 2007 Bonds, but was approximately \$43,000 below the 1.2 rate covenant for the 2012 Bonds. Legal counsel further noted that the revenue coverage shortfall had been reported in financial data placed on the MSRB EMMA System by the District's financial advisors, but that the District would need to provide a Notice of Event filing in addition to the presentation of the financial data.

Legal counsel then reviewed with the Board notes to the District's annual financial statements for the period ended June 30, 2015 and 2016, which identified some of the reasons for the revenue shortfall derived primarily from budget overruns for personnel, purchase and contract services and other expenses and repair costs related to unbudgeted extraordinary requirements in the

District's water and wastewater system. Legal counsel noted that these accumulated to approximately \$228,000 of unbudgeted cost in the 2016 audit, and that year was coupled with an apparent bond issue expense in the debt service fund of \$196,268 that was also not budgeted. Legal counsel further advised that based upon information provided by District personnel and as stated in the audit, the District's accumulated depreciation also had declined in that budget year due to the final write off of a prior wastewater treatment plant project. Legal counsel suggested and the Board concurred that a special meeting of the Board should be set for January 30, 2016 to review the unaudited financials of the District for the period ended December 31, 2016, to determine if the District was in compliance with its rate covenants for the current fiscal year or if a rate increase would be necessary to offset any possibility of a continuing rate covenant shortfall.

Agenda Item No. 9: Authorize filing disclosure Notice as to District Net Revenue and Reserve Fund Bond Covenants. Legal counsel stated that he would request the District's financial advisors and legal counsel be authorized to file a disclosure notice for both the net revenue covenant and a Reserve fund covenant issue. Legal counsel stated that the Reserve Fund issue was a matter where one of the District's accounts held in the form of a Certificate of Deposit had failed to be properly coded as part of the Reserve Fund of the District, therefore, giving rise to a noted shortfall by the Texas Water Development Board in the District's Reserve Fund. Legal counsel advised that this matter had been taken care of by the Board by actions in the November meeting to properly recode the account as a Reserve Fund. Legal counsel noted that prior to the special Board meeting; these accounts would be reviewed as it appeared that with the recoding of this account to its proper category as a restricted fund, the District was overfunded in its reserve requirement. After discussion and upon motion duly made by Director Burk and seconded by Director Pitchford, the

District's financial advisors and legal counsel were authorized to file disclosure notices as necessary as to the District's rate revenue covenant and Reserve Fund covenants.

Agenda Item No. 11: Executive Session. The Board moved into executive session at 7:27 p.m. The Board returned from executive session at 7:43 p.m.

Agenda Item No. 12: Action on Deliberation of Executive Session. President Carter noted that no action would be taken, but the Board had authorized its General Manager to proceed with discussions for the possible sale of District property at 55 West Chance, which had previously been deemed surplus property of the District.

Agenda Item No. 10: Manager's Report.

- A. **Presentation of Financial Statement and Accounts Payable.** The Board recognized Carla Belt who presented the BBVA account balances and noted that Wells Fargo accounts were not available due to the national holiday. Ms. Belt also presented the accounts payable for the month. The Board then moved to a review of the budget year-to-date and also reviewed the capital budget along with the monthly presented charges and graphs of District revenue, expenses and overtime costs.
- B. **Presentation of Production Report and Operations Report.** The Board then recognized Robb Starr who provided his Production Report. Mr. Starr indicated there had been no injuries for the month and also presented the facility summary showing all good samples and no operating issues. Mr. Starr noted that the overtime was up due to this being a five (5) week reporting period. The Board was presented with the Production Report, the charts and graphs of customer usage, water pumpage, along with the vehicle report, which Mr. Starr reviewed with the Board. The Board was presented with the complaint log and chart of complaints. Mr. Starr noted there was a higher number of water quality complaints and

advised of certain issues that had arisen due to the necessary repair to one of the motors at the District water well. After the presentation of the Production Report, the Board recognized Mr. Fussell.

C. Presentation of Important Dates. None.


Agenda Item No. 13: Public Comments. None.

Agenda Item No. 14: Payment of Bills. After discussion and upon motion duly made by Director Pitchford and seconded by Director Burk, the payments of bills were approved as presented.

Agenda Item No. 15: Adjournment. There being no further business, the meeting was adjourned at 7:58 p.m.

ATTEST


Secretary of the Board


President of the Board

**SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF THE
LUMBERTON MUNICIPAL UTILITY DISTRICT**

The special meeting of the Board of Directors of the Lumberton Municipal Utility District was held on Tuesday, February 7, 2017, at 6:30 p.m. at the offices of the District pursuant to notice duly posted in accordance with the law. The following members of the Board were present:

Roger Smith

David Pitchford

Nick Carter

David Desormeaux

Absent: Jimmy Burk

Also present were Roger Fussell, Carla Belt and Robb Starr as employees of the District, Harold Graves of Wathen, Deshong & Junker, LLP, and Guy N. Goodson of Germer PLLC as legal counsel for the District.

Agenda Item No. 1: Prayer and Pledge. A quorum being present, the meeting was called to order, and the prayer and pledge were led by President Carter. President Carter noted that he requested for the Board to move to Agenda Item No. 6.

Agenda Item No. 6: Executive Session.

Executive or Closed Session to Discuss Deliberation regarding Real Property as permitted by §551.072 of the Texas Government Code

A. Consideration and Review of Commercial Contracts - Improved Property and related documents for the sale of Property located at 55 West Chance, Lumberton, Texas.

The Board moved into executive session at 6:35 p.m. to discuss Commercial Contract-Improved Property for the District's property at 55 W. Chance, Lumberton, Texas. The Board reconvened from executive session at 7:12 p.m. The Board moved back to the consideration and action on the Commercial Contract-Improved Property.

Agenda Item No. 7: Action on Deliberation of Executive Session. The Board indicated it had reviewed purchase offers for the property at 55 W. Chance, Lumberton, Texas. After discussion and upon motion duly made by Director Pitchford and seconded by Director Desormeaux, the Board approved the execution of a contract with Barry and Carla Behannon for the purchase of the property at 55 W. Chance, Lumberton, Texas for a sales price of \$220,000.

Agenda Item No. 2: Presentation by District Certified Public Accountant to address District net revenues and procedures for compliance with revenue rate coverage requirements of District bond covenants. The Board recognized Harold Graves who presented work paper outlining the calculation of District net revenues for the prior two (2) fiscal years. Mr. Graves also presented and the Board reviewed notes to the financial statements and schedules from the District's fiscal year as of June 30, 2015 and 2016. Mr. Graves reviewed the compliance requirements for the District's Bond Orders and noted in his review of the financial statements of the District for the past two (2) fiscal years certain extraordinary expenses that resulted in the District's failure to comply with the net revenue covenants in its Bond Order. The Board recognized legal counsel who added additional comments relative to the Bond Orders of the District and provided initial review of items that would be considered later in the meeting for filing with the Municipal Securities Rule Making Board.

Agenda Item No. 3: Increase District utility services fees and/or charges to meet Bond covenant requirements. After deliberations and based upon the information previously provided to the Board through its District Manager, its certified public accountant, and legal counsel and upon motion duly ^{seconded} made by Director Desormeaux and ^{made the motion} seconded by Director Pitchford, the Board moved to adopt a \$2.00 water system and a \$2.00 sewer system base rate increase per month per connection with the utility service fee increase to be effective April 1, 2017.

HC
DP

Agenda Item No. 4: **Resolution 2017-1, Amending Resolution 2011-4, establishing a new fee structure to be charged for water and sewer service.** District Manager presented Resolution 2017-1 and after discussion and upon motion duly made by Director Desormeaux and seconded by Director Pitchford, Resolution 2017-1 was approved as presented.

Agenda Item No. 5: **Presentation of Event Notice to be filed with Municipal Securities Rulemaking Board EMMA System – Guy Goodson, legal counsel.** The Board recognized legal counsel who presented the event notice which would be provided to the District's financial advisors for preparation of the necessary cover letter and filing of the event notice on the Municipal Securities Rule Making Board EMMA System. It was noted that the filing would state that it was not a payment default filing, nor was the District out of compliance as to the establishment of any fund required by either its 2007 or 2012 Bond Order. Legal counsel noted there would be a detailed explanation of the responsibilities of the District as to the revenue rate coverage requirement and a statement of the Board action to amend utility service rate fee charges along with a presentation as described earlier in the meeting and in documents provided to the Board as to the extraordinary and unbudgeted expenses which resulted in the net revenue shortfall for fiscal years 2015 and 2016.

Agenda Item No. 8: **Manager's Report.** The District Manager again stated the District was having issues with its billing, accounting and inventory management software provided by HARRIS. After a lengthy discussion, President Carter set a committee of himself and Vice President Smith to meet with the District's Manager and legal counsel to review the issues under this Contract and provide a report to the Board. The Board recognized Mr. Fussell who provided an update and an outline of activities related to an unlawful discharge at the Crawdad's Convenient Store adjacent to the District and the response that had been undertaken by local law enforcement officials. Mr. Fussell stated

that he was continuing with a follow-up through the local offices of the TCEQ and would provide future correspondence as to actions against the property owner if such were taken.

Agenda Item No. 9: Adjournment. There being no further business before the Board, the meeting was adjourned at 8:15 p.m.



President of the Board

ATTEST:



Secretary of the Board