

Approval of Minutes from
February 26, 2024
Board Meeting

**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, February 26, 2024, 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:

Jimmy Burk

David Desormeaux

David Pitchford

Nick Carter

Roger Smith

Also present were Robb Starr, Carla McGallion, Mike Tywater and Benny Lewis as employees of the District, Jared Defrancis and Tim Ashcroft of LJA Engineering and Guy 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 where the prayer and pledge were led by President Carter.

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

Agenda Item No. 3: **Minutes.** The Minutes of January 22, 2024 meeting were unanimously approved as presented.

Agenda Item No. 4: **Presentation by Engineers – Wastewater Plant and Collection System Improvements Update - LJA Engineering.** The Board recognized Mr. Defrancis who updated and advised that the civil engineering design was complete and documents were provided for review. Mr. Defrancis noted the electrical and structural components were near completion. Mr. Defrancis stated the project was at the point of being ready for submission to the Texas Water Development Board.

Mr. Defrancis revised the opinion of probable costs noting a construction estimate increase of approximately \$1,285,000.00 due to updated equipment and quantities. Mr. Starr provided additional information on the project status and addressed Board questions. Mr. Defrancis finally noted the manhole repair at Matthews Lane was in the process of bidding with an anticipated bid opening in late March and an award in April 2024. The Board thanked Mr. Defrancis for his report.

Agenda Item No. 5: Capacity and Construction Approval 4 retail units at 124 South LHS Drive, Dhanani Real Estates, LLC, owner. The Board recognized Mr. Defrancis who presented his water and sewer system capacity study for a proposed four commercial connection dental office and plaza at 124 South LHS Drive. Mr. Defrancis reviewed the project location and the water/sanitary sewer collection facilities in the area as well as the anticipated service demands for the 4-unit project. After analysis of the District's operating systems, it was determined that the existing water facilities and sanitary sewer collection and treatment facilities would be adequate to serve the project. After discussion and upon motion duly made by Director Desormeaux and seconded by Director Burk, the Board unanimously approved capacity and construction approval for four retail units at 124 South LHS Drive, Dhanani Real Estates, LLC, owner.

Agenda Item No. 6: Capacity Study for an additional 21 units at Pinewood Manor Mobile Home Park, Pinewood MHC, LLC, owner. The Board again recognized Mr. Defrancis who provided his capacity study for an additional 21 units at Pinewood Manor Mobile Home Park, Pinewood MHC, owner. Mr. Defrancis provided the location map and a site map identifying possible additional spaces for 19 additional units, but Mr. Starr noted the request was for 21 units as the owner was still evaluating placement of additional units within the mobile home park. Mr. Defrancis reviewed the water and sanitary sewer systems serving the Pinewood Manor Mobile Home Park and advised the District's water system, sanitary sewer collection and treatment facilities would be adequate to

provide service to an additional proposed 21 mobile home connections and still remain within TCEQ design criteria. The Board then recognized Mr. Starr who returned to the location map and the proposed project expansion and noted he and legal counsel had been discussing issues raised by the Public Utility Commission of Texas, and the District would be responsible for all lines to the point of a metered connection by a customer in the District. Mr. Starr stated he would provide further information to the Board and noted that in certain mobile home parks and other commercial facilities in the District, meters were located on properties where the District had facilities that were not located within public utility easements or easements dedicated specifically to the District. Mr. Starr stated that previously the District had advised property owners they were responsible for any connection of lines from any main utility lines of the District to a meter location even in areas where the District's rights to access the meter was through a limited access agreement. Mr. Starr stated he and legal counsel would be evaluating these matters further and would be in touch with the Board but noted this was a capacity study. After discussion and upon motion duly made by Director Burk and seconded by Director Desormeaux, the Board unanimously approved the capacity study for an additional 21 units at Pinewood Manor Mobile Home Park, Pinewood MHC LLC, owner.

Agenda Item No. 7: Amend Capacity Study for Sweetgum Lane from 32 units to 29 units, Pandey Real Property, LLC, Owner. The Board recognized Mr. Starr who provided the mapping of the proposed Sweetgum Lane development. Mr. Starr reminded the Board that in previous discussions, it had been brought to the attention of the Board and to the developer that 32 units would exceed the utility expansion capabilities at that location, therefore, the developer realigned its capacity request and reduced it to 29 units. Mr. Starr reviewed the utility system capacities within the area of the proposed development on Sweetgum Lane. After Board questions and upon motion duly made by

Director Desormeaux and seconded by Director Burk, the Board approved the amended capacity study for Sweetgum Lane as requested by Pandy Real Property, LLC, owner.

Agenda Item No. 8: **Approval – 2024 Notice to Purchaser situated in Lumberton Municipal Utility District Defined Area.** The Board recognized legal counsel who noted the previously filed Notice to Purchasers did not include an exhibit providing the specific and separate notice that was required to be provided to purchasers of property located within the District’s Defined Area. Legal counsel advised he and representatives of the District had been contacted by legal counsel for Brampton Essential, developer of the Defined Area, and advised that sales of lots within the Defined Area would be closing shortly, and the Notice to Purchasers, both for the District as to its debt and the separate Notice to Purchasers of the Defined Area, needed to be submitted to potential purchasers. Legal counsel recommended the Board approve the 2024 Notice to Purchasers as provided and to provide the Notice to Purchasers of property within the Defined Area. After discussion and upon motion duly made by Director Desormeaux and seconded by Director Smith, the Board unanimously approved the 2024 Notice to Purchasers for property within the District’s Defined Area. Legal counsel went on to note that he would provide an amended Notice to Purchasers form which would include the Notice to Purchasers previously approved by the District in 2023 and adding as an additional exhibit for the 2024 Notice to Purchasers as to the Defined Area.

Agenda Item No. 9: **Certification of Unopposed Status of Director Candidates for May 4, 2024 Election.** It was noted that both District candidates for Place 2 and Place 4 would be unopposed as there was only a single candidate for each. Legal counsel noted that prior to considering possible cancellation of the May 4, 2024 Election, the Secretary of the Board presented the Certification of Unopposed Status noting the sole candidate for Place 2 was Roger Smith and the sole candidate for Place 4 was David Desormeaux.

Agenda Item No. 10: **Resolution 2024-02 as to Unopposed Status of Director Candidates for May 4, 2024 Directors Election as prescribed by the Secretary of State, §2.51-2.053 of the Texas Election Code.** After presentation and upon motion duly made by Director Burk and seconded by Director Desormeaux, the Board unanimously approved Resolution 2024-02.

Agenda Item No. 11: **Resolution 2024-03 adopting a Water Conservation/Drought Contingency Plan for the District.** The Board recognized Robb Starr who noted the District was required to adopt and/or update its Water Conservation Program including a Drought Contingency (emergency demand management) Plan. Mr. Starr noted the plan as presented was an update of the plan previously adopted and was also in conformance with the requirements of the Texas Administrative Code and the Texas Water Development Board. After discussion and upon motion duly made by Director Burk and seconded by Director Pitchford, the Board unanimously approved Resolution 2024-03 adopting the Water Conservation/Drought Contingency Plan.

Agenda Item No. 12: **Action of the Texas Railroad Commission Agreed Order, Docket No. 085629.** The Board recognized Mr. Starr who advised of the Texas Railroad Commission Agreed Order Docket No. 085629 noting of a pipeline damage issue. Mr. Starr further noted the Railroad Commission made a finding of a violation that the excavation project was not completed at the time a line locate had expired, and the excavator did not refresh the tickets. Mr. Starr noted the violation subjected the District to monetary penalties even though the excavation time period was only two (2) days over the expiration period. Mr. Starr apologized that the matter was simply an administrative error, and the District would be required to pay an administrative penalty of \$1,000.00. Questions followed from the Board and after discussion and upon motion duly made by Director Desormeaux and seconded by Director Burk, the Board authorized the execution of the stipulation, agreed

settlement and consent order in Railroad Commission Docket No. 085629 as well as the payment of the administrative penalty.

Agenda Item No. 13: Manager's Report.

A. Presentation of Financial Statement and Accounts Payable. The Board recognized Carla McGallion who reviewed the bank account statements. Ms. McGallion began with a presentation of the check register from First Financial Bank noting deposits of \$32,266,135.30 as well as collateral pledges. Ms. McGallion presented the Wells Fargo report denoting two remaining accounts that would be closed, and the balance of all District funds transferred to First Financial Bank. Ms. McGallion also reviewed the collateral pledge provided by Wells Fargo. The Board then reviewed the accounts payable in the amount of \$452,271.45. The Board reviewed the budget year-to-date, and Ms. McGallion noted monthly revenues of \$753,506.90 and disbursements of \$595,579.89 for a cash income for the month of \$157,927.01. There being no capital budget expenditures, Ms. McGallion moved to the 5-year to month average on system revenues as well as the overtime summary and customer adjustments in the amount of \$4,020.24. Ms. McGallion then reviewed the 2022 Bonds showing bond expenses for the year followed by charts and graphs on investments and revenue expenses. Ms. McGallion stated the District had bond interest payments due on February 15, 2024, but there were inadequate funds in its debt service fund due to the failure of the tax office to provide payments in February for tax receipts received in January 2024. Ms. McGallion indicated there had been a drawdown from a District construction account in an amount necessary to cover the required amount for the making of the principal and interest debt service payments. A discussion followed on the issues related to loss of interest, and the District was not receiving services yet was required to make payments to other County offices for providing the tax payment receipt and distribution services. Legal counsel noted the matter would need to be reviewed

to properly document the inter-fund transfer by the District, and questions could arise in the future with the District's audit and with issues as to ratings with the District having to make inter-fund transfers. The Board thanked Ms. McGallion for her report.

B. Presentation of Production Report and Operations Report. The Board recognized Benny Lewis who began by noting two exceedances for the month of January due to high rainfall events. It was noted the District had exceeded its 2-hour peak and one daily ammonia limit. Mr. Lewis noted the higher than normal overtime charges due to extensive water system projects. Mr. Lewis reviewed the Production Report and made the Board aware that the District had received an excess of 10" of rain in January. The report followed with the system operations, customer usage, customer profile reports, the vehicle report and the monthly complaint log. The Board thanked Mr. Lewis for his report.

C. Presentation of Current Projects

1. Lamar State College Orange. Mr. Starr discussed an issue concerning Lamar State College Orange. President Carter stated the matter addressed legal issues by way of correspondence to the District from Lamar State College Orange.

Executive Session. Pursuant to §551.074, Texas Government Code, the Board moved into executive session at 8:10 p.m. to discuss Lamar State College Orange.

Possible Action of Executive Session. The Board reconvened from executive session at 8:41 p.m., and Board President Carter indicated there was no action to be taken and closed the executive session. Legal counsel noted he and members of Germer PLLC would continue reviewing correspondence with Lamar State Collect Orange as to their letter.

D. Presentation of Directors' Reports. Legal counsel stated he would collaborate with the District Manager with whom updates on the District Service Application were being reviewed.

President Carter noted he felt the Board should consider in its Service Application, more detailed information to be provided to customers who would be residing in the Defined Area as the Defined Area bond issue included not only water and wastewater system projects, but drainage improvements as well. President Carter stated the residents of the Defined Area should be advised that the District was not responsible for installation or maintenance of drainage improvements in the Defined Area, and those obligations would fall either to the developer entities established for drainage purposes within the Defined Area or Hardin County. Legal counsel stated he would collaborate with the District Manager to ensure proper language was added to the Service Application. Mr. Starr then went on to give a brief update on storage tank rehabilitation work and also to commend Vinson Weimer for passing his B Wastewater License on the first sitting.

Agenda Item No. 14: Public Comments. None.

Agenda Item No. 15: Payment of Bills. After discussion and upon motion duly made by Director Pitchford and seconded by Director Burk, the accounts payable were approved for payment as presented.

Agenda Item No. 16: Adjournment. There being no further business, the meeting was adjourned at 8:48 p.m.;

ATTEST

Secretary of the Board

President of the Board