

**BROOKSHIRE MUNICIPAL WATER DISTRICT**  
**MINUTES OF BOARD OF DIRECTORS REGULAR MEETING**

**May 18, 2020**

The Board of Directors (the "Board" or "Directors") of Brookshire Municipal Water District (the "District") met in regular session on the 18<sup>th</sup> day May, 2020, at 6:00 p.m., in the meeting room of the District, 4004 6<sup>th</sup> Street, Brookshire, Texas, and via telephone conference call pursuant to Texas Government Code, Section 551.125, as amended, and as modified by the temporary suspension of various provisions thereof effective March 16, 2020, by the Governor of Texas in accordance with the Texas Disaster Act of 1975, all as related to the Governor's proclamation on March 13, 2020, certifying that the COVID-19 pandemic poses an imminent threat of disaster and declaring a state of disaster for all counties in Texas; whereupon the roll was called of the members of the Board, to-wit:

Edith Penrice-Kelley	President
Albert Wilkins	Vice President
Stephanie Green	Investment Officer
Havanaugh Glover	Secretary
Victor Alardin	Assistant Secretary

All members of the Board were present, except for Director Wilkins, thus constituting a quorum. Also attending were Tonya Pierre ("General Manager"); and Linda Guevara, employee of the District. Also attending via telephone conference call were Dr. Herman Clay, PhD ("Engineer"); Elliot M. Barner, attorney, of Radcliffe Bobbitt Adams Polley PLLC ("Attorney" or "RBAP"); and all the persons identified in the telephone conference call

The President, after finding that the notice of the meeting was posted as required by law and determining that a quorum of the Board was present, called the meeting to order at 6:04 p.m. and declared it open for such business as may regularly come before it.

**1. Public Comment.**

The President first opened the meeting to public comment. There being no public comments, the President directed the Board to proceed with the agenda.

**2. Engineer's Report.**

Dr. Clay then presented the Engineer's Report, a copy of which is available upon request.

Dr. Clay next presented the Capacity Report for the application for service to the proposed 27,000 square-foot gym to be constructed at the Brooke Hotel (the "Hotel"). Dr. Clay explained that the proposed structure is not a single-room gym attached to such hotel as he originally understood, but rather a separate sports complex (the "Complex") to be constructed on a vacant lot on the Hotel's property. Dr. Clay stated that an impact fee of \$17,934.46 is due from the developer prior to receipt of service from the District. In response to a question by Mr. Sandeep Gupta, the owner of the Hotel, Dr. Clay explained that he will provide Mr. Gupta with a copy of

the Capacity Report to review prior to the June 1, 2020 Board meeting. Discussion next ensued regarding the anticipated amount of water usage at the Complex and the location of the water meter to be installed on such lot. Mr. Gupta then explained the purpose of the proposed Complex, including the construction of badminton courts, and stated that the amount of water usage Dr. Clay has estimated for the calculation of the impact fee is not in excess of the amount of water that he expects to be used at the Complex. In response to a question by Mr. Gupta regarding connecting the water and sewer service lines for the proposed Complex to the existing water meter located on-site, Mrs. Pierre explained that removing the additional meter from the Capacity Report will not reduce the amount of the impact fee. Director Alardin then reminded the Board of the District's policy requiring that one (1) meter be installed per unit.

Next, Dr. Clay discussed the Capacity Report and utility commitment letter prepared for Clay's Mortuary & Cremations ("Clay's"). In response to a question by Mr. Barner regarding the amount of water and wastewater capacity required by Clay's, Dr. Clay stated that he will review the Capacity Report and provide such information to RBAP for inclusion in the utility commitment letter. Discussion next ensued regarding calculation of the amount of capacity required by Clay's as reflected in the Capacity Report and utility commitment letter. Dr. Clay then stated that he is not able to provide such calculation at this time but agreed to supply such information to RBAP upon further review of the Capacity Report. In response to a question by Director Glover regarding embalming and cremation services, Mr. Barner explained that the utility commitment letter acknowledges that a change in use of the property, including future performance of embalming and cremations, will require submittal of a new service application to the District. Mr. Barner added that a new impact fee would be assessed at the time that such new application was received. Upon a **motion** by Director Glover, seconded by Director Green, after full discussion and with all Directors present voting aye, the Board approved the Capacity Report for Clay's subject to confirmation of the calculation of water and wastewater usage. In response to a question by Mrs. Pierre, Melinda Clay, the owner of Clay's, confirmed that she reviewed the Capacity Report prior to the meeting and stated her agreement with such report, subject to confirmation of the calculation of water and wastewater usage to be included in such report.

Mr. Gupta exited the meeting at this time.

Dr. Clay next presented the Capacity Report for an application for service received from Black Panther Transportation, Inc. ("Black Panther") for a proposed truck wash to be located at 4109 South Street. Dr. Clay explained that the water and wastewater capacity required for Black Panther as reflected in such report is based upon an estimate provided to Dr. Clay by Black Panther's engineers. Dr. Clay stated that such estimate is reasonable as compared to other truck washing facilities located within the District. Dr. Clay stated that an impact fee of \$73,270.72 will be due from the developer prior to receipt of service from the District. Upon a **motion** by Director Green, seconded by Director Alardin, after full discussion and with all Directors present voting aye, the Board approved the Capacity Report for Black Panther.

Regarding the status of the G-Tech Fire Line Project located at 35002 Cooper Road, Director Penrice-Kelley reminded the Board that the Capacity Report for such project, which includes the impact fee of \$27,722.33, was approved by the Board on May 6, 2019. Director Penrice-Kelley further reminded the Board that such impact fee was paid to the District at that time by the developer of such project. In response to a question by Director Penrice-Kelley

regarding why such developer is now requesting that the District refund such impact fee, Andy Grieve, the owner of G-Tech Innovation Centre ("G-Tech"), explained that the Capacity Report was prepared based upon a misunderstanding that G-Tech would be expanding the existing building. Mr. Grieve further explained that it was G-Tech's intention to submit an application for only the installation of a new fire hydrant and privately owned fire line. Mr. Grieve stated that G-Tech purchased an existing building and did not modify such building or change the use of such property. Mr. Grieve then stated that the purpose of the impact fee was not previously explained to G-Tech, and added that G-Tech paid such impact fee believing that it was the connection and tap fees. Director Glover explained that the Capacity Report was based upon the information provided to the District by the developer, regardless of whether or not the full scope of such development was ever constructed. Mr. Barner then explained that the impact fee was not based upon changes made to the existing building, but instead was based upon a change in the use of such building by the new owner. In response to a question by Mr. Grieve, Dr. Clay confirmed that every time a property within the District is sold, the new owner is subject to an evaluation of impact fees.

**3. Approve Minutes of Prior Meetings.**

The Board then considered approval of the minutes from the regular meeting of April 20, 2020. Upon a **motion** by Director Alardin, seconded by Director Glover, after full discussion and with all Directors present voting aye, the Board approved the minutes from regular meeting of April 20, 2020, as presented.

**4. Review Policies and Procedures for Development within the District.**

In response to a question by Director Penrice-Kelley, Mr. Barner reminded the Board that Mrs. Pierre met with Dr. Clay and Mr. Taylor regarding streamlining the District's current policies and procedures relating to new development within the District. Mrs. Pierre then reported that once she has organized the recommendations made during such meeting regarding such policies and procedures, she will meet with the District's Development Committee, comprised of Directors Green and Alardin to present such recommendations. Director Penrice-Kelley requested that Mrs. Pierre coordinate with Directors Green and Alardin regarding scheduling such meeting prior to the Board's June 1, 2020 meeting. In response to a question regarding the purpose of reviewing such policies, Mr. Barner explained that the City of Brookshire (the "City") had reached out to Mrs. Pierre regarding coordinating with the District to improve the City and the District's procedures for reviewing/approving development within the City. Mr. Pierre explained that the City recently amended its own procedures to expedite approval of new development within the City. Director Glover reminded the Board that several years ago, the District prepared packets setting forth the District's requirements for approval of new development within the community, which was provided to the City and Drainage District for distribution to developers reaching out to such entities. Mrs. Pierre explained that such packets contained the development policies of the District, City, the Brookshire-Katy Drainage District ("BKDD"), and Waller County (the "County"), and that each of the entities agreed to distribute such packets to developers that reached out to such entities. Mrs. Pierre further explained that the District continued to provide such packet to all developers until late 2019 when it was discovered that neither the City nor BKDD were distributing such packets. Mrs. Pierre reported that the District now provides developers who reach out to the District with the District's

specific development policies and signs off on a checklist that each developer must have signed by the District, City, Drainage District, and the Texas Department of Transportation once such developer demonstrates that they have met a particular entity's development requirements.

Dr. Clay exited the meeting at this time.

**5. General Manager's Report.**

Mrs. Pierre next presented the General Manager's Report, a copy of which is available upon request.

Mrs. Pierre reported no complaints from District customers within the past month regarding high water usage.

Mrs. Pierre then reminded the Board that she completed her review of the District's Rate Order and sent her proposed revisions to RBAP. Mrs. Pierre stated that a redlined version of such Rate Order showing the changes made since the District last adopted a Rate Order was provided to the Board for their review. Upon a **motion** by Director Glover, seconded by Director Alardin, after full discussion and with three (3) Directors voting aye, and Director Green voting no, the Board approved the Rate Order, as presented.

**6. Update on Matters Involving the Provision of Firefighting Services with the District and Contributions Made Under Texas Water Code, Section 49.351(l).**

Mrs. Pierre reminded the Board that the District had been collecting voluntary donations from customers through payment of their water bills on behalf of the Brookshire Volunteer Fire Department (the "VFD"), and that such donations were provided to the City by check so that the City would provide such donations to the VFD. Mrs. Pierre reported that the last two (2) checks paid to the City by the District for such donations were returned to the District. Mrs. Pierre then requested that the Board provide her with direction on what to do with the funds, since the District had decided to discontinue collection of such funds in February. Mr. Barner then requested that he have the opportunity to discuss this agenda item in executive session as it is subject to the attorney/client privilege.

**7. Executive Session.**

Pursuant to Chapter 551 of the Texas Government Code, Subchapter D, of the Open Meetings Act, the President called the Executive Session to order at 7:22 p.m. to discuss matters regarding attorney-client privilege. Present for the executive session were the Board of Directors, except for Director Wilkins; Mrs. Tonya Pierre, General Manager of the District; and Elliot M. Barner of Radcliffe Bobbitt Adams Polley PLLC, attorneys for the District.

The President declared the Executive Session was ended at 7:46 p.m.

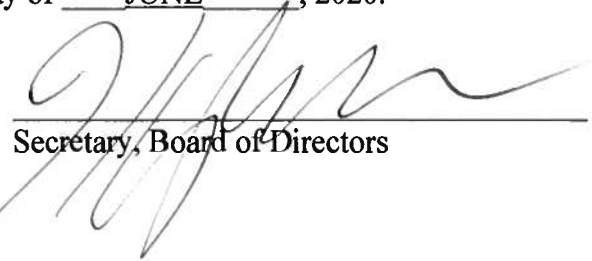
Upon a **motion** by Director Glover, seconded by Director Alardin, after full discussion and with all Directors present voting aye, the Board authorized the issuance of a credit to customers who made voluntary contributions on behalf of the VFD during the months of February

and March 2020 due to the City's rejection of the District's request to reaffirm discontinuation of the voluntary contribution.

**8. Adjournment.**

There being no further business to come before the Board, the meeting was adjourned at 7:48 p.m.

**PASSED AND APPROVED** this 15 day of JUNE, 2020.



Secretary, Board of Directors