

**MINUTES OF THE MEETING  
OF THE  
HARRIS COUNTY IMPROVEMENT DISTRICT NO. 6  
(EAST MONTROSE MANAGEMENT DISTRICT)  
BOARD OF DIRECTORS**

**November 4, 2009**

**Determine quorum; call to order.**

The Board of Directors of Harris County Improvement District No. 6 held a regular meeting, open to the public, on the 4th day of November, 2009, in the 1<sup>st</sup> floor meeting room of the Freed-Montrose Neighborhood Library, 4100 Montrose Blvd., Houston, Texas, at Noon, inside the boundaries of the District, and Chairman Grover called the meeting to order at 12:08 p.m. and the roll was called of the duly appointed members of the Board, to-wit:

Position 1: Kathy Hubbard  
Position 2: Claude Wynn  
Position 3: Michael Grover, *Chairman*  
Position 4: Tom Fricke  
Position 5: Brad Nagar, *Secretary*  
Position 6: Jerry Simoneaux

Position 7: Tammy Manning  
Position 8: Allen Ueckert  
Position 9: David Robinson  
Position 10: Randall Ellis, *Vice Chairman*  
Position 11: Gary Wingfield

and all of the above were present with the exception of Directors Nagar, Robinson and Simoneaux, thus constituting a quorum. Director Ellis joined the meeting in progress at 12:31 p.m. Also present at the meeting were David Hawes, Josh Hawes and Susan Hill of Hawes Hill Calderon, L.L. P.; Clark Lord, Vinson and Elkins, L.L.P.; Mark Burton, Municipal Accounts & Consulting, L.L.P.; and Helena Papadopolos Johnson, resident.

**Receive public comments.**

There were no public comments.

**Approve of minutes of previous meeting.**

Upon a motion duly made by Director Wingfield and being seconded by Director Manning, the Board voted unanimously to approve the minutes of the September 16, 2009 Board meeting.

**Receive financial report and pay invoices presented for payment.**

Mr. Burton briefed the Board and reviewed the financials included in the Board packets.

It was noted that the East End Management District is the supplier who provides the District with graffiti abatement services. Upon a motion duly made by Director Wynn and being seconded by Director Fricke, the Board voted unanimously to accept the financial report and pay bills.

**Receive Assessment Collection Report and Billing and Assessment Summary.**

Mr. David Hawes reported that the assessments for the current tax year are 90% collected, and that assessments for 2007 are 91% collected. He said that the staff at Perdue Brandon, the District's collections firm, is working on collections. He noted that some of the lawsuits regarding assessment values have been settled with the Harris County Appraisal District. No action was taken.

**Receive, consider and take appropriate action with regard to Hearing Examiner's Report for supplemental Assessment Roll;**

Mr. Lord distributed the "Hearing Examiner's Report and Proposal for Decision on the public hearing held on October 26, 2009," hereby attached as Exhibit A. Chairman Grover noted that most who attended the hearing were protesting (a.) being taxed; and (b.) the valued amount of their property as assessed by HCAD, rather than protesting the Service Plan. Upon a motion duly made by Director Manning and being seconded by Director Wingfield, the Board voted unanimously to approve the Hearing Examiner's Report for the supplemental Assessment Roll.

**Adopt Order Supplementing the Assessment Roll, Levying Assessments Against the Property on the Supplemental Assessment Roll;**

Upon a motion duly made by Director Manning and being seconded by Director Wingfield, the Board voted unanimously to adopt an Order supplementing the Assessment Roll, levying assessments against the property on the Supplemental Assessment Roll.

**Adopt Order Setting the Rate of Assessment for all Properties on the District's Assessment Roll for Year Three of the District's Service Plan;**

Upon a motion duly made by Director Fricke and being seconded by Director Hubbard, the Board voted unanimously to adopt an order setting the rate of assessment at \$0.1250 per \$100 of assessed valuation for all properties on the District's Assessment Roll for Year Three of the District's Service Plan.

**Authorize execution of Amendment to Information Form;**

Upon a motion duly made by Director Wingfield and being seconded by Director Ueckert, the Board voted unanimously to authorize execution of the Amendment to the Information Form.

**Receive and Consider Finance Committee Recommendation to engage a CPA firm to prepare year-end financials;**

Director Hubbard said the Committee recommends engaging a CPA firm, rather than the book-keeping service, to prepare the year-end financials. This would be done in order to avoid any issues of "material weakness" in future auditors' opinions. Upon a motion duly made by Director Manning and being seconded by Director Fricke, the Board voted unanimously to engage Mark M. Burton, P.L.L.C., CPA, to prepare the year-end financials.

**Receive and consider Public Safety Patrol Activity Report for the month of August;**

Mr. Josh Hawes reported that Victor Becerra will become the District's new coordinator at the Houston Police Department and will manage staffing of the District's patrol shifts. Officer Becerra lives in the area and works at the Storefront. Mr. Hawes said that the Montrose Crawl drew large crowds, and there were no crime incidents. Director Hubbard said the Social Security numbers for patrol officers are needed only once for the book-keeper's records and should not appear on invoices or reports. No action was taken.

**Receive report and consider recommendations from Business Development Committee report:**

Mr. David Hawes reported that Ms. Gretchen Larson is attending a conference at which she is representing the District. He said initial budget preparations are underway. He also noted that some Board members are participating in the Greater Houston Partnership committees. Director Manning said the Government Relations and Professional Services Committee provided interesting election information and good networking opportunities. Director Wynn said the Transportation and Mobility Committee meetings are excellent in terms of relevant and important topical information, such as future planning for light rail. No action was taken.

**Receive report with regard to the establishment and organization of HCID #11;**


Mr. David Hawes reported that the Board held its initial meeting last week and elected Director Claude Wynn as president. The petition process is more than halfway completed. Mr. Lord explained that once the levy is in place for the new District, each Board may develop and adopt a Consolidation Resolution and Consolidation Agreement detailing the number of board members, officers and rules of governance. The two Service Plans could be implemented simultaneously. No action was taken.

**Receive Executive Director's Monthly Report on Action Initiatives in Support of the District's Service Plan.**

Mr. David Hawes said the items in his Report had already been discussed during the meeting. No action was taken.

**Adjourn.**

There being no further business to come before the Board, Chairman Grover adjourned the meeting at 1:00 p.m.



Secretary, Board of Directors



HEARINGS EXAMINER'S REPORT AND PROPOSAL FOR DECISION  
on the public hearing held on October 26, 2009  
to be presented to the Board of Directors of  
the Harris County Improvement District No. 6 (East Montrose Management District)

The Harris County Improvement District No. 6 (East Montrose Management District) (the "District") was created by House Bill 3518, Act of the 79th Legislature, Regular Session, 2005, and is governed by Chapter 375, Texas Local Government Code, and Chapter 3843, Texas Special District Local Laws Code (together, as amended, the "Act").

Petitions were presented to the Board of Directors of the District (the "Board") requesting the services and improvements set forth in the Service and Improvement and Assessment Plan (the "Service Plan"). The Board held a public hearing on March 19, 2008. Thereafter, on April 16, 2008, the Board adopted its "Order Granting Petition; Approving a Service Plan; Approving an Assessment Roll; Setting an Assessment Rate for Property within the District for Year One of the District's Service and Improvement and Assessment Plan; Levying Annual Assessments Against Property within the District for a Ten-year Period; Specifying the Method of Payment and the Amount of Annual Installments of the Assessment; Providing Penalties and Interest on Delinquent Assessments; and Authorizing the Collection of Assessments" (collectively, the "Order").

The Order provides that in the years 2009-2017 the District may, after conducting a public hearing for which due notice has been given to owners of property in the District, supplement its assessment roll by adding the value of properties newly classified as commercial non-exempt or with new improvements or substantially rehabilitated improvements (a rehabilitation is substantial if the costs of such rehabilitation equal or exceed 25% of the value of the original improvement) under construction on January 1, 2007, or constructed, remodeled or rehabilitated in the District after January 1, 2007, without the need to secure a new petition from property owners within the District, at the value shown on the rolls of the Harris County Appraisal District ("HCAD") for each year. The Order further provides that assessments on improvements under construction should be based on the value of the portion of the improvement that is complete, and improvements that have been completed should be based on the value of the completed improvement as shown on the rolls of HCAD. On September 16, 2009, the Board adopted a resolution calling a public hearing for such purpose.

The District called a public hearing on October 26, 2009 regarding the advisability of levying assessments against properties with new improvements or substantially rehabilitated improvements (the "Construction Improvements") at the value shown on the rolls of HCAD on January 1, 2009, which were not included in the original assessment roll; and regarding the advisability of using the 2009 HCAD certified values as the basis for the Year 3 assessment.

Pursuant to a resolution of the Board, Michael Grover, President of the Board, was appointed as the Chief Hearings Examiner. The Chief Hearings Examiner conducted an administrative hearing on October 26, 2009, on the advisability of supplementing the assessment roll with Construction Improvements. Appropriate notice was given pursuant to the provisions of Chapter 375, Texas Local Government Code (the "Code"), by publishing a copy of the notice

of hearing in The Houston Chronicle, a newspaper of general circulation within the District, in the September 26, 2009 issue, and by mailing copies of the notice of the hearing to the owners of property with Construction Improvements by certified mail, return receipt requested, at the address shown on the tax roll of HCAD, on September 23, 2009. The hearing was held at the Freed-Montrose Library, 4100 Montrose, Houston, Texas, 77006.

#### PUBLIC COMMENTS

The following persons, in addition to District staff, board members and consultants, attended the hearing:

Sina Hemmati, Jesse Heath, Thomas Well, Shan Siddiqui, Andrew Leva, Andy Lang, and one person with illegible handwriting.

Several persons in attendance asked questions regarding the general nature, creation, organization, and management of the Board and the District, and the general nature of the Service and Improvement and Assessment Plan. They also asked questions regarding security and budget items, and they were encouraged to attend the Board's next meeting where such questions were better directed.

#### TESTIMONY

The Chief Hearings Examiner asked if any persons present desired to be designated as a party to this proceeding. The Harris County Improvement District No. 6 was granted party status and was represented by Tom McCasland, attorney for the District. Mr. Leva also requested to be designated as a party and was granted party status.

The following persons were called by the District and presented formal evidence and testimony: David Hawes, Executive Director of the District and Pat Hall of Equi-Tax. Mr. Leva cross-examined the District's witnesses, and Mr. McCasland asked additional questions on redirect. No other person requested to present formal evidence and testimony.

#### David Hawes, Executive Director of the District

Mr. Hawes explained the District's Service Plan, the method and rate of assessment and the purpose for the supplemental assessment roll. He explained that certain properties had Construction Improvements and that the values of those properties had increased by at least 25% from the value last year. He identified and explained several documents relating to the authority of the District to levy assessments and provide services and improvements, copies of which are attached hereto entitled "Documentary Evidence", and such documents were admitted into evidence during the hearing. He testified in favor of supplementing the assessment roll with the Construction Improvements. Mr. Hawes stated that he believed that all properties in the District receive a benefit from the District's services and improvement projects that equals or exceeds the assessment paid by the property owner.

Ms. Pat Hall, Equi-Tax Inc., Assessor/Collector for the District

Next, Ms. Hall identified and explained additional documents that were admitted into evidence during the hearing. A list of those documents is attached hereto entitled "Documentary Evidence." Ms. Hall testified regarding the mechanics of the assessment, the calculation of assessment rates and the determination of property values, the method of collecting assessments and the penalties for late payment of assessments. Ms. Hall also explained the reason for supplementing the assessment roll and the method for determining which properties had Construction Improvements.

Others

No one else signed up to testify.

TEXAS LOCAL GOVERNMENT CODE REQUIREMENTS

The authority of the District to levy supplemental assessments is governed by the provisions of the Act and the Code. Sections 375.111 and 375.112 of the Code set forth the purposes for which the District may levy special assessments on property in an area based on benefit conferred by the improvements or services provided. Section 375.122 governs the authority of the District to make supplemental assessments. Section 375.113 of the Code requires a hearing, after notice is given in accordance with the provisions of Section 375.115, on the advisability of the improvements and services proposed to be provided and the assessments proposed to be levied.

The District now desires to supplement its current assessment roll with the Construction Improvements. The Order and the Code require that the Board hold a public hearing after due notice to property owners regarding such supplements to the assessment roll. The Act governs the procedure for the hearing to be held and the findings and determinations to be made by the Board in order to supplement the assessment roll. These provisions and the Order generally permit the Board to add properties to the assessment roll after making findings relating to the advisability of the improvements or services, the nature of the improvements or services, the estimated cost, the area benefitted, the method of assessment, and the method and time for payment of the assessment.

The Act contains provisions for the apportionment of costs based on special benefits, permits the Board to allow the assessments to be paid in periodic installments, and authorizes the Board to provide that delinquent assessments will be subject to penalties and bear interest.

ISSUES PRESENTED

Major issues presented at the hearing are as follows:

1. SHOULD THE ASSESSMENT ROLL BE SUPPLEMENTED WITH THE CONSTRUCTION IMPROVEMENTS AT THE VALUE SHOWN ON THE ROLLS OF HCAD ON JANUARY 1, 2009 AND SHOULD THE ASSESSMENT BE BASED ON 2009 HCAD VALUES?

Evidence was presented at the hearing showing that the properties with Construction Improvements will receive benefits from the services and improvements set forth in the Service Plan in excess of the assessment to be paid by property owners. Testimony was also given that it was fair, equitable and appropriate for the District to levy the Year 3 assessment against the Construction Improvements based on the 2009 HCAD certified appraised values.

I, Michael Grover, Chief Hearings Examiner, agree that each property with Construction Improvements will receive benefits from the services and improvements provided or to be provided by the District, which equal or exceed the assessment levied on each property during the term of the Service Plan. Further, I agree that the Year 3 assessment against the Construction Improvements should be based on 2009 HCAD certified appraised values.

I, Michael Grover, the Chief Hearings Examiner, recommend that the Board find from the preponderance of the evidence that: (a) the District's current assessment roll should be supplemented with the Construction Improvements shown on the supplemental assessment roll presented into evidence at the hearing (the "Supplemental Assessment Roll"), (b) the Board should levy its Year 3 assessment on the properties with Construction Improvements based on the 2009 HCAD certified appraised values in accordance with the Order, (c) all properties on the Supplemental Assessment Roll should be assessed at the same rate; (d) all properties within the District will receive benefits from all of the existing and proposed programs and improvements, (e) the properties with Construction Improvements will receive benefits that are equal to or greater than the amount assessed against such properties, and (f) HCAD values are the most appropriate and fair basis of assessment.

#### **RECOMMENDATIONS OF THE CHIEF HEARINGS EXAMINER**

After review of the record and for the reasons given above, the Chief Hearings Examiner makes the following recommendations to the Board:

- (a) That the Board should supplement the assessment roll with the Construction Improvements; and
- (b) That the Board should levy assessments in accordance with the Service Plan and the Order on the Construction Improvements for Year 3 based on the value of such properties shown on the certified rolls of HCAD on January 1, 2009, which is the value shown on the proposed Supplemental Assessment Roll.
- (c) That in all other respects, the Board should continue to follow the Order.

Presented this 4<sup>th</sup> day of November, 2009.

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Michael Grover  
Chief Hearings Examiner

DOCUMENTARY EVIDENCE

EXHIBIT	DESCRIPTION
A	Order Approving an Assessment Roll, the District's Service Plan, the Levy of Ten Annual Assessments, Granting the Petitions, and Ratifying and Confirming Other Actions
B	Notice of Hearing published in the Houston Chronicle and Affidavit of Publication
C	Affidavit of Mailing of the Notice of Supplemental Hearing by certified mail, return receipt requested
D	Return receipts from the mailing of the Notice of Hearing to the property owners
E	Supplemental Assessment Roll
F	Transcript