

MEETING OF THE WALLER-HARRIS EMERGENCY
SERVICES DISTRICT NO. 200

Board of Commissioners of the WALLER-HARRIS EMERGENCY SERVICES DISTRICT NO. 200, was held on, August 29, 2013 at 5:04 PM at 40688 US Business Highway 290, Waller, TX 77484

In attendance were: **Commissioners:** Tommy Davis, Gary Ferguson, Darwin Hargrave, & Tommy Albert. **Departments:** Waller VFD, Pattison VFD, Hempstead Fire Department, Waller EMS, Prairie View VFD, & Tri-County VFD. The meeting was called to order at 5:04 PM by Gary Ferguson. **Legal:** Jon Peeler for Coveler & Katz, PC. **Bookkeeper:** Sandy Mace for The Smith Group.

The District will consider and act upon the following matters:

1 To receive public comment, including vendors and service providers.

1a Tri-county stated that the boat had been received, but they are still waiting on stickers/tags

2 To receive a report from the Waller County Fire Chief's Association and develop an emergency service call public education program.

2a No action taken.

3 To review and take action on Waller County Fire Marshall position and termination of District's participation in funding thereof and to take appropriate action as required, including return of prior District funding to Waller County.

3a No action taken.

4 To review and take action on approval of minutes of prior meetings.

4a No action taken.

5 To receive a financial report from the District Treasurer and District Bookkeeper

5a Mr. Albert commented about the minutes getting to the board members late in the month or the "the
5b day of the meeting." He stated that they told Cheryl several months ago that the minutes needed to
5c be done one week after the meeting and when they pay someone to do the minutes, they should be
5d done on time. Mr. Davis asked if when The Smith Group was done entering the checks into the
5e system, if that meant everything was pretty much done for the month. Ms. Mace indicated yes, that
was the case

6 To review and take action on bookkeeping services and determination of all duties to be supplied by bookkeeper.

6a This item is to be left on the agenda for discussion at the next meeting.

7 To pay District bills. –No action was taken.

8 To review and take action on adopting District 2013 Depository Pledge Agreement

8a Mr. Ferguson asked why the Depository Pledge Agreement (DPA) wasn't handled before? Mr.
8b Peeler stated that he had email from 2/29/10 from Cheryl Smith to Howard Katz. The email stated
8c that FNB had a pledge agreement in place and Mr. Katz requested a copy, but no information after
8d that was available. Mr. Ferguson then asked if FNB had a pledge agreement, or a Depository Pledge
8e Agreement because they are two different things. Funds are clearly pledged, as monthly reports are
8f received regarding the pledge amounts. Mr. Peeler stated that they received confirmation from the
8g bank they had pledge agreement only, but no DPA on file, which enforces the pledges. Mr. Ferguson
8h went on to ask the difference between a pledge agreement and Depository Pledge Agreement. Mr.
8i Peeler stated that by statute, a DPA is the enforcing document and is required. While a pledge
8j resolution was found from February 2012 stating that the bank will secure the funds upon the
8k execution of the DPA, however one was never executed

8l Mr. Davis then asked whose responsibility was it to see that the DPA was in place. Mr. Peeler stated
8m that he was not sure, as he was not active with ESD in 2010. Normally, this document would have
8n come from their office (Coveler & Katz) and then explained the process – A DPA is drafted, sent to
8o bank for review, then to the Board for approval. Mr. Ferguson asked what the pledge agreement
8p provided, since there was no DPA in place. Mr. Peeler explained that while the funds appear to be
8q covered by the pledge agreement, but by not having a DPA, the Safekeeping institution could at any
8r time say that the bank revoked their pledge and they do not have to cover the funds should the bank
8s go under. Further, statute states that if no DPA is in place, each of the commissioners is individually
8t and equally liable.

8u Mr. Ferguson asked how long it took for the DPA to be in effect. Mr. Peeler explained that once the
8v bank has it on file, ESD should have it back within thirty days. The first 4 pages are the depository
8w pledge agreement, Addendum A is the board resolution stating that the board approved the DPA,
8x Addendum B is for FNB. Mr. Peeler stated that the DPA needed to be signed by the Board President
8y (in this case Vice President as Mr. Davis pointed out that his wife is the president of the bank), and
8z counter signed by the Secretary/Treasurer. The bank and the safekeeping bank will sign as well.

8aa ***Mr. Albert then moved that the board accept and sign the Depository Pledge Agreements as***
8bb ***presented, Mr. Hargrave seconded the motion, which carried 4-0.***

8cc Further discussion followed about the how quickly this can be in place due to the fact of the amount
8dd of interest that will be lost during this process. Mr. Peeler felt certain that the DPA would be in place
8ee by then regular meeting or shortly thereafter. He suggested that the Board pass a resolution at this
8ff time that as soon as the FNB and the safekeeping institution, Independent Bankers Bank, have the
8gg DPA in place, that the Board immediately transfer funds back to FNB.

8hh ***Mr. Ferguson then made a motion for the resolution. Mr. Hargrave seconded the motion. The***
8gg ***motion carried 3-0, with Mr. Davis abstaining. Mr. Ferguson then moved to transfer 2 million in***
8ii ***funds back to First National Bank of Bellville upon complete execution of the DPA. Mr. Hargrave***
8jj ***seconded the motion. The motion carried 3-0, with Mr. Davis abstaining.***

9 To review and take action on service provider 2013 budgets.

9a No action was taken.

10 To review and discuss the proposed District 2014 budget.

10a No action was taken.

11 To review and discuss appraisal values of the District.

11a No action was taken.

12 To propose 2013 District tax rate

12a No action was taken.

13 To review and take action on 2013 appraisal valuations and commencement of adoption of 2013 tax rate, including review of 2013 effective tax rate calculations, and scheduling any necessary public hearings to adopt District 2013 tax rate.

13a Mr. Peeler reported that appraisal values had come in and the levy for 2013 reflected a basis of
13b \$3,509,678,180.00 making the Effective Tax Rate (ETR) 0.09602 per \$100.00 valuation (lower than
13c 2012 rate). At the current ETR, ESD would generate \$3,369,992.00, which is an increase of
13d \$287,810. If ESD needed, they could increase the ETR to .10 per \$100 valuation, which would
13e generate \$3,50,9678.00, an increase of \$427,496 over 2012, but doing so would require public
13f hearings.

13g Public hearings would cost \$4000-5000 in publication costs for required newspaper notifications.
13h The procedures to increase the ETR, include proposing that rate, come up with the schedule of
13i hearings, then take final action. The Waller County Tax Office would like ESD to set their rate as
13j soon as possible. If the Board decided to stay with the current ETR, they still could not take action
13k today, as the rates haven't been published, as Harris County just released their numbers. However,
13m they should be release next week, therefor action could be taken during the next regular meeting
13n provided there is no increase in the ETR.

13o **Mr. Ferguson moved to keep the ETR at the previous rate of .0995. Mr. Hargrave seconded the**
13p **motion.**

13q Mr. Peeler said that according to Texas Statute, any additional revenue generated over the previous
13r year is technically a tax increase, even if the ETR remains unchanged and must be published as such.
13s The rollback rate is currently .1037, which exceeds the maximum of .100, so rollbacks are not an
13t issue. **At this point, Mr. Albert called for the question. The motion carried 4-0.**

13u Mr. Peeler then stated that the public hearings must be published 7 days prior to the hearing and that
13v the ad could run on the 4th of September (For Tomball Potpourri) and the 5th (Waller News Citizen)
13w and hearings could be held as early as Sept 11th. The second public hearing can be no less than 3
13x days after the first hearing. Final action must taken be at least 3 days after the second hearing, but no
13y more than 14 days after to adopt. A discussion regarding dates for the public hearings with the
13z following dates agreed upon: First public hearing on September 11th, second public hearing to be
13 aa held on September 17th and the final hearing to be held on Friday, September 20th. Meetings will be
13 cb held at the ESD office at 6:00 PM. Mr. Peeler noted that the final notice of the tax rate will run on
13 cc September 18th in the Potpourri and the 19th in the News Citizen. Mr. Peeler will communicate all
13 dd this to the Waller County Tax Office right away.

13 ee **Mr. Ferguson then returned item #8 regarding the DPA, Addendum A, and pointed out that dates**
13 ff **that needed to be included before it goes to the bank. It was agreed that the dates would be hand**
13 gg **written in tonight to so that the documents could be hand delivered to the bank the following day,**
13 hh **expediting the process. Mr. Ferguson stated that he would take the documents to the bank and asked**
13 ii **that the record reflect that he had the three copies of the DPAs and would deliver them to First**

13 *jj* National Bank of Bellville the following day.

14 **To review and take action on 2013 appraisal valuations and commencement of adoption of 2013 tax rate, including review of 2013 effective tax rate calculations, and scheduling any necessary public hearings to adopt District 2013 tax rate.**

14a No action was taken.

15 **To review and take action on the payment of operations funding pursuant to 2013 budget and service agreement with the District fire and EMS service providers.**

15a No action was taken.

16 **To review and take action on approval of District/Department capital acquisitions and appropriate funding thereof.**

16a No action

17 **To review and take action on development of a District-wide ISO plan.**

17a No action was taken.

18 **To review and take action on municipal Interlocal Agreements for fire and EMS services, including City of Brookshire.**

18a Mr. Albert discussed ESDs responsibility to respond to emergencies in Brookshire now that they
18b have been annexed into the district. Mr. Davis spoke to the City of Brookshire dispatchers regarding
18c the forwarding EMS calls to Waller EMS, but nothing happened with the dispatch. This weeks, Mr.
18d Davis and Mr. Albert met with Mr. Hawshaw of Waller EMS and drafted a letter stating that Waller
18e EMS will begin providing services for Brookshire and its ETJ as of 6:00 AM 8/29/13. The letter
18f requested that 911 emergency requesting an ambulance calls be routed to Waller County Sheriff's
18g Office.

18h Mr. Peeler spoke to the city attorney and learned that they had not taken any action or even
18i contemplated any action. The attorney told Mr. Peeler that they would be meeting and taking action
18j at the City's next meeting. Medics, the city's current EMS contractor, is stating that they have a five
18k year contract with the City of Brookshire with two years remaining. It was also discussed that
18l Medic's is not responding to emergency calls in a satisfactory manner, was at one point offline for 8
18m hours and requires too much mutual aid from Katy. Because Brookshire and its ETJ is now part of
18n the ESD, we are responsible for providing emergency services to the area. Brookshire is paying
18o Medics \$200,000-260,000 per year.

18p Mr. Hawshaw said that a call had been routed to them and he is monitoring and routing their
18q dispatches. As long as they receive the calls, EMS will respond. Mr. Peeler also explained that
18r according to statute, WHESD now had superior claim over any actions the City of Brookshire may
18s take, or Medics, as they are now in ESD's jurisdiction. Mr. Ferguson suggested that someone going
18t to the City and explaining the statute and EDS responsibility to provide services to the area
18u regardless. *No action was taken at this time.*

19 To receive activity reports from District fire and EMS providers.

19a None due at this time.

20 To review and take action on revisions to District and/or Department operating and capital budgets pursuant to re-allocations and/or other matters.

20a No action.

21 To review and take action as applicable on purchase of new fire apparatus, including Engines, Booster Trucks, and Pumpers, and new ambulance and/or remount with purchase of new cab and chassis and refurbish of box.

21a Mr. Albert addressed the purchase of three trucks. First, Pattision Area VFD is requesting Metro Fire
21b Truck 2000 Gallon Tanker. *Mr. Albert moved to purchase the truck and for Mr. Katz office to*
21c *facilitate the purchase, Mr. Ferguson seconded. Motion carried 4-0.* Mr. Peeler stated that he could
21d generate the purchase order and asked the district how they will be paying for it. Mr. Ferguson stated
21e that they would pay cash for the truck (no financing).

21f The second truck discussed was the booster truck that PVVFD was requesting. Mr. Ferguson stated
21g that the price for trucks like Mt. Zion purchased was \$97,000. *Mr. Albert moved to buy the truck*
21h *that is like the Mt. Zion truck, from West Fire Apparatus for PVVFD. This truck will also be paid*
21i *for in cash. (4-6 weeks delivery) prepaid and saved 2%. Mr. Ferguson will research that and find*
21j *out. Mr. Hargrave seconded. Motion carried 4-0.*

21k The next truck is for Waller VFD, as Mr. Schmidt presented at the last meeting. Mr. Schmidt will
21l waiting on a final quote, which he expects to have this week. This can be address at the meeting on
21m the 9th.

22 To receive a training report from service providers.

22a No action.

23 To review and take action on awarding a contract for engineering services related to construction of Rolling Hills Fire Station.

23a Mr. Ferguson asked Mr. Peeler why they would need to submit and RFQ for engineering services
23b that are less than \$50,000. Mr. Peeler responded that they did not believe they have to, nor did he
23c know why Mr. Katz was requiring one.

23d Mr. Ferguson stated that there were two qualified engineers in the area that had been referred to
23e ESD. Mr. Ferguson then sent this information to Mr. Katz, but the local engineer did not receive the
23f RFQ. Mr. Ferguson expressed his frustration with how Mr. Katz handled this matter. As a result of
23g Mr. Katz delay excluded a viable engineer. Mr. Katz stated that the deadline was the 29th and they
23h had received RFQs and that this local engineer would not be eligible.

23i Mr. Ferguson asked if the district is not happy with the RFQ's they received, can they restart the
23j process? Also, if and RFQ is not required, do they even have to go through the process at all? Mr.
23k Hargrave and Mr. Ferguson expressed that they would prefer a local engineer that could be more
23l readily available, and that he a local engineer pays taxes in this county. Mr. Peeler stated that
23m "engineering" falls under professional services and RFQ's under \$50K are not required. Statute
23n states that they must select the most highly qualified provider, then attempt to negotiate with that
23o provider and continue to the most next qualified provider as needed. He then advised that action is
23p taken to reject all RFQ's that were submitted then to action to designate the engineer that they feel is

23q the most qualified and meets the qualification/licensing requirements. Mr. Peeler cautioned against
23r standard abuse of discretion, which would only occur if they selected an obviously unqualified
23s candidate.

23t Mr. Ferguson moved to reject all RFQ's by the July 29th deadline and consider Mr. Matheson as the
23u current the most qualified engineer for this project. Mr. Hargrave seconded the motion, which
23v carried 4-0. This item was reopened to discuss when Mr. Peeler might be able to contact Mr.
23w Matheson. Mr. Peeler stated approximately 2-3 days, noting the project must be kept under \$50,000.

24 To review and take action on construction of future Rolling Hills Fire Station and solicitation of design-build proposals.

24a No action was taken.

25 Executive Session, pursuant to Section 551.072 Government Code, to discuss real estate matters with attorney.

25a No session needed at this time.

26 Discuss and take action on ESD website.

26a No action.

27 Adjournment.

26a *Mr. Albert moved to adjourn. Mr. Hargrave seconded. Item #23 was reopened (please refer back*
26b *to that item). Motion then carried 4-0 at 6:35 PM.*

Respectfully,

Tommy Albert, Secretary