

MINUTES OF MEETING
OF THE
BOARD OF DIRECTORS

THE STATE OF TEXAS §

COUNTY OF HAYS §

HAYS COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 1 §

The Board of Directors (the “Board”) of Hays County Water Control and Improvement District No. 1 (sometimes referred to herein as the “District”) met in special session on the 18th day of November, 2020, at Belterra Centre, 151 Trinity Hills Drive, Austin, Texas, within the District. To mitigate the spread of COVID-19 and pursuant to the guidance provided by the Office of the Attorney General of the State of Texas, the meeting was open to the public by telephonic conference. The roll was called of the members of the Board of Directors, (herein referred to as the “Board”) to-wit:

Douglas L. Botts	President
Paul Kelly	Vice President
Daniel B. Robison	Secretary
Bill Dally	Treasurer/Asst. Secretary
Rick Lucas	Assistant Secretary

All members of the Board were present at Belterra Centre at the commencement of the meeting. Also present in person were Matt Kutac of the law offices of Matthew B. Kutac, PLLC, Andy Barrett with Andy Barrett & Associates, PLLC, Kristi Hester of Inframark, the District’s general management and operations contractor, Jimmy Romell with Maxwell Locke and Ritter LLP (“ML&R”), the District’s auditor, and Lauren Barzilla with CMA Engineering (“CMA”), the District’s engineers. In addition, joining via telephonic conference were Judy McAngus, paralegal with Winstead PC, and Chris Lane of SAMCO Capital Markets, Inc. (“SAMCO”), the District’s financial advisor.

Matt Kutac explained a few guidelines for the telephonic conference meeting regarding a request that each Board member confirm their name prior to making any motion or voting on such matters to insure that the public record of the meeting would be heard and accurately recorded. Notification to the public was given that the meeting was being recorded. The meeting was then called to order, and evidence was presented that public notice of such meeting had been given as required by law.

1. Matt Kutac called for public communications and comments from any person, including any persons tied in the meeting via audio. There being no persons participating in the meeting who wished to address the Board under this item, the Board proceeded to the next item of business.

2. Mr. Kutac noted that the subject of this Special Session was the misappropriation of funds by the District's former bookkeeper, a former employee of Inframark. Mr. Kutac then gave the following summary which included the: (a) history of events; (b) results of the investigation; and (c) recommended procedures and control measures to further protect against misappropriation of funds in the future.

(A). History of Events:

(i) On March 12, 2020, just as the Pandemic was becoming an issue, Ms. Hester of Inframark informed the District's attorneys that Inframark had reason to believe that Lisa Adkins was diverting certain funds held in one of the District's bank accounts into her personal bank account. Ms. Hester informed the attorneys for the District that Ms. Adkins was either deceiving authorized signatories into signing the checks, or forging their names and inserting her name as the payee on the checks. Mr. Kutac noted that, his initial step in looking into Inframark's notification of such possible theft was to contact Mr. Terry Mazurek, President of Bancorp South, the District's depository, who confirmed that the bank's staff had initially detected the irregular transactions that Ms. Hester had disclosed to both he and Mr. Barrett;

(ii) Mr. Kutac notified the Board of the misappropriation of funds on the same date upon which he was made aware of them. At a subsequent meeting on March 26, 2020, the Board adopted a Resolution authorizing its attorneys to obtain copies of the banking account information necessary to conduct a review. The Board also requested that the attorneys contact counsel for Inframark to discuss a proposed course of action and reimbursement of the District's costs related thereto;

(iii) Mr. Kutac contacted Matthew Hoban, General Counsel for Inframark. Mr. Hoban indicated that it appeared that the funds had been misappropriated based on their initial investigation of the matter, though he stressed that Inframark's investigation had not been completed. Mr. Kutac presented Mr. Hoban with a proposal requiring Inframark to prepare a written accounting of the subject transactions. The proposal also called for verification of Inframark's written accounting by ML&R. At the conclusion of ML&R's review, and assuming the conduct and the amounts misappropriated were verified with confidence, Inframark would then reimburse the District in the amount of the misappropriated funds and together with the costs incurred by the District in connection with such matters. Mr. Kutac confirmed that Inframark approved of such method of addressing these matters on April 23rd, and that his law firm retained ML&R to perform a review and prepare a report on April 24th; and

(iv) Mr. Kutac next explained that while the process of reviewing the questioned transactions and verifying the amounts misappropriated was getting underway, he turned his attention to contracting with a new firm to provide bookkeeping services moving forward, as the Board considered it imperative to transfer such services to an independent bookkeeping firm. He, Mr. Barrett and Ms. McAngus researched proposed replacement bookkeepers and recommended Bott & Douthitt, a very qualified and experienced local bookkeeping firm who specializes in the representations of special districts. The Board's Finance Committee interviewed Bott & Douthitt in May, and at the Board's May 14, 2020 regular meeting, Bott & Douthitt was engaged to provide bookkeeping services effective as of June 1, 2020. Subsequently, bookkeeping services were removed from the scope of Inframark's service agreement by amendment.

(B) Summary of Results of the Investigation: In late May and early June, Jimmy Romell of ML&R, reviewed the banking information received from Bancorp South and confirmed that Ms. Adkins had been issuing checks, obtaining or forging the required signatures, replacing her name over the top of the correct payee's name and then depositing the checks into her personal bank account via a mobile banking application. Inframark had initially determined that there were 20 fraudulent check transactions between August 30, 2018 and March 4, 2020 for a total of \$32,000.00. It was noted that the transactions were taken from in-ground pool deposits, builder deposits and temporary meter deposits paid from the District manager's account, and that the Operations and Maintenance Account was not involved. In addition, during MLR's review of such matters, one additional check in the amount of \$3,000.00 had been identified as a fraudulent transaction. Overall, Mr. Kutac summarized that based on the reports from Inframark and ML&R, a total of \$35,000.00 had been misappropriated from the District manager's account through 35 fraudulent check transactions during the period of review of March 2017 to April 2020 (18 months before the first fraudulent check to the month after discovery of the activity). Mr. Kutac further stated that based on his review, he believed that the process and investigation had been thorough, that the results with respects to these inquiries were complete and accurate, and that the information before the Board was sufficient to support informed action; and

At this point Mr. Kutac asked if Mr. Romell had anything to add to the above but Mr. Romell had nothing to add. He also asked whether the Board had any questions of himself or Mr. Romell regarding the reporting on such matters, and there being none, he proceeded to the next topic of discussion.

(C). Recommended Procedures and Control Measures: Mr. Kutac next discussed a series of proposed procedures and control measures that he and Mr. Romell had worked together to develop prevent this type of fraudulent activity from occurring in the future, as set forth below:

(i). Limit the number of persons authorized to sign checks on the District's manager's account to three people. Two of the signatories would be the principals of Bott & Douthitt (Mary Bott and Allen Douthitt) and one additional employee would be authorized to sign in the event one of the principals was unavailable;

(ii). All cancelled checks should be reviewed each month when bank reconciliations are performed. The review should be conducted by a person other than the person who issues payments. A supervisor, not involved in issuing payments or performing the monthly reconciliation, should perform a secondary review of the bank reconciliations each month;

(iii). A detailed list of all payments based on cancelled checks reviewed pursuant to the previous measure should be submitted to the Board on a monthly basis;

(iv). The memo line of all checks must be completed to allow review in connection with the reconciliation and to ensure the descriptions are reasonable;

(v). Positive Pay should be implement to allow for verification of the accuracy of the check number, the date and dollar amount prior to payment being processed by the bank. If the check is suspect, it will be sent back to the issuer; and

(vi.). Non-utility deposits (i.e., pool deposits, builder deposits, etc.) should be refunded only upon written request by the depositor.

Matt Kutac noted that he would be sure a copy of the recommendations, if accepted by the Board, would be passed on to Allen Douthitt.

3. Mr. Kutac finished his summary and asked if the Board had any questions or suggestions. The Board did not.

4. Mr. Kutac noted that Inframark's General Counsel contacted him and assured him that Inframark stands ready to remedy this matter by reimbursing the misappropriated funds (\$35,000.00) and any related costs incurred by the District to ensure that the District is made whole. It was noted that estimated costs to date are approximately \$21,000 as of early November 2020.

5. With regard to above misappropriation of funds and 2.c. of the posted agenda related to potential legal remedies, upon motion by Director Botts, seconded by Director Kelly and unanimously carried, the Board retired, along with Matt Kutac and Andy Barrett, the District's attorneys to Executive Session at 4:29 p.m.

6. The Board concluded the Executive Session and upon motion by Director Botts, seconded by Director Dally and unanimously carried, the Board reconvened in public session at 5:07 p.m. Mr. Kutac stated that no action was taken in the Executive Session. The Board president called for any motions with regard to the misappropriation of funds:

(A) Upon motion by Director Lucas, seconded by Director Botts and unanimously carried, the Board directed its attorney to resolve the civil liability of Inframark with respect to the misappropriation of \$35,000.00 from the District manager's account by the District's former bookkeeper, the payment of the \$35,000.00 plus the costs incurred by the District as related to such matter.

(B) Upon motion by Director Lucas, seconded by Director Botts and unanimously carried, the Board directed its attorney to prepare a Resolution for the Board's review and approval at the December meeting that:

(i). Adopts the findings of the MLR report;

(ii). Adopts the control measures set out in the MLR report; and

(iii). Accepts payment from Inframark of the \$35,000.00 in misappropriated funds and all related costs to resolve the civil liability of Inframark with respect to the misappropriation of \$35,000.00 from the District manager's account by the District's former bookkeeper.

There being no further business to conduct, Director Robison moved that the meeting be adjourned, which motion was seconded by Director Botts and unanimously approved, and the Board adjourned until further call.

APPROVED AND ADOPTED this 10th day of December, 2020.




Daniel B. Robison, Secretary