



September 11, 2014

The El Paso Central Appraisal District Board of Directors held its regular meeting on Thursday, September 11, 2014, at 5:20 p.m., in the Conference Room of the El Paso Central Appraisal District at 5801 Trowbridge, with the following members present:

Rey Sepulveda, Chairman  
Ann Morgan Lilly, Vice-Chairman  
Patricia McLean, Secretary

Gary Gandara  
Sergio Lewis  
Dee Margo  
Laure Searls

There was a quorum, with seven members present. Joe Longoria, attorney was present via telephone and Carmen Hegeman, attorney was in attendance for the entire meeting.

Due to the delayed arrival of Chairman Sepulveda, Ms. Lilly called the meeting to order.

Mr. Lewis joined the meeting at 5:23 p.m., and Chairman Sepulveda joined the meeting at 5:34 p.m.

First order of business was to recite the pledge of Allegiance to the flag of the United States of America.

#### **AGENDA ITEM 1 – APPROVAL AND SIGNING OF MINUTES FOR AUGUST 14, 2014**

Mr. Margo made a motion to approve the minutes for August 14, 2014. Ms. Searls seconded the motion. Motion passed unanimously.

#### **AGENDA ITEM 2 – PUBLIC COMMENT**

Public comment was made by Michael Rooney and Tony Delgado.

#### **AGENDA ITEM 3 – EMPLOYEE RECOGNITION**

Ms. Kilgore, Chief Appraiser, recognized Raul Madrigal for 25 years of service and Eduardo Perez for 20 years of service. They were presented certificates and congratulated by the Board and those in attendance.

**AGENDA ITEM 4 - DISCUSSION & POSSIBLE ACTION REGARDING REVIEW OF FINANCIAL STATEMENT FOR JULY, 2014**

Ms. Rosa Goldmann, Chief Financial Officer, presented the July, 2014 financial statement. All financial statements are on file and a matter of record in the District's accounting office.

As requested by the Board at the August 2013 meeting, Ms. Goldmann also presented a Power Point overview of EPCAD's financial picture for the stated month.

Ms. Searls made a motion to approve the financial statement for July, 2014. Mr. Gandara seconded the motion. Motion passed unanimously.

Ms. Kilgore advised the Board that Mr. Archuleta would not be in attendance at this meeting. Via an e-mail, Mr. Archuleta requested a postponement of Executive Session items 10(a) and 10(b) until a meeting with all members could be convened. These items regard the Chief Appraiser contract and evaluation. There is also a request from a board member who is present to move these items up in executive session right away, to be handled as the next order of business. Ms. Searls made a motion to move Executive Session Items (a) and (b) for discussion at this time. Mr. Margo informed the Board that he had to leave early, thus his request to move-up the items and proposed that the Board hear items 5 and 6 and proceed into Executive Session. Ms. Searls amended her motion to include items 5 and 6 prior to going into Executive Session. Mr. Gandara seconded the motion. Motion passed unanimously.

**AGENDA ITEM 5 – MONTHLY HEALTH BENEFITS USAGE REPORT – AUGUST, 2014**

Ms. Gabrielle Melendez, Human Resource Manager, presented the Health Benefits Usage Report for August, 2014.

The Year-to-Date Loss Fund for August, 2014 is \$671,214.10, with the Year-to-Date Paid Subject To-Loss Fund at \$781,751.40, leaving a negative balance of (\$108,898.73). The Specific Reimbursement Year-to-Date is \$31,638.57.

The history for the year shows that EPCAD is at \$781,751.40 for August, 2014; with the prior fiscal Year (2013) showing \$641,809 for August. This year the claims have been slightly higher.

**AGENDA ITEM 6 – DISCUSSION & POSSIBLE ACTION REGARDING EPCAD'S HEALTH INSURANCE RENEWAL**

Ms. Kilgore said the health benefits committee met prior to the meeting, with Sergio Lewis, Chairman and Dee Margo, member.

Mr. Lewis stated that the committee met recently regarding the health insurance and the committee recommends that EPCAD renew Assured Benefits insurance with an increase in the deductible of \$500.00 and increase of the co-pay of \$5.00.

Mr. Margo asked that Mr. Dennis of Compass Benefits participate in the conversation. Mr. Margo asked what the amount of the family deductible was and said it was his understanding that the maximum family out of pocket under option 2 was \$13,500. Mr. Margo asked how that amount reconciled with the Affordable Care Act. Mr. Dennis replied it was \$1,000.00 higher. Mr. Dennis apologized and said the figure shown was an error, and Assured Benefits would amend it. Mr. Margo added that the maximum for an individual cannot be more than \$6,350.00 and \$12,700.00 for a family. Mr. Dennis said the amendment would be made without a change in cost.

Mr. Margo said there is a recommendation from the Benefits Committee for Option 2 that will be clarified to reflect that the family deductible meets the Affordable Care Act maximum.

Mr. Gandara seconded the recommendation of the committee to adopt Option 2 as EPCAD's health insurance for the period of October 1, 2014 thru September 30, 2015. Motion passed unanimously.

#### **AGENDA ITEM 7 – DISCUSSION & POSSIBLE ACTION REGARDING 2015/2016 REAPPRAISAL PLAN**

Ms. Kilgore stated that every two years appraisal districts have to update their reappraisal plan. This has been accomplished for 2015/2016. Ms. Kilgore, Mr. Medina, Mr. Molina and Ms. Moore have been working on this project for the past year. The plan is an update of what EPCAD already has in place. Once the Board approves the plan, it will be posted on EPCAD's website. Ms. Kilgore continued that appraisals are performed using the Uniform Standards of Professional Appraisal Practices - Standard Six (6) of the Texas Property Tax Code; and the International Association of Assessing Officers (IAAO) the organization from which EPCAD received Certificate of Excellence in Appraisal Administration. The reappraisal plan complies with international, national and state and local guidelines.

Ms. Searls made a motion to approve the 2015/2016 Reappraisal Plan as submitted. Mr. Gandara seconded the motion. Motion passed unanimously.

Mr. Lewis took a moment to recognize Mr. Wallace Hardgrove, El Paso County Budget and Finance Officer, who was in the audience.

**AGENDA ITEM 8 – DISCUSSION & ACTION REGARDING TO ALLOW A LITIGATION RESERVE BE CREDITED UTILIZING A PORTION OF THE EXCESS FUNDS FROM THE 2013/2014 BUDGET YEAR**

Ms. Kilgore informed the Board that the Attorney General had issued an opinion that states that appraisal districts are allowed to establish a reserve for a line item. As EPCAD nears the close of the fiscal year 2013/2014 and considering that the legal budget was decreased during the budget process, staff requests the establishment of a reserve fund for litigation purposes. This reserve would be used to pay for court costs, expert witnesses, appraisals, or any required fees. At this time, approximately one million dollars are marked to be refunded to the entities; the exact amount will be determined once the auditors do their work in October and November. Ms. Kilgore stated that EPCAD would like to start a reserve with \$600,000; however, the exact figure is at the Board's discretion and was used only to present a figure for discussion.

Ms. Searls thanked Ms. Kilgore for bringing this item before the board and stated that the Canutillo ISD board strongly supports enhancing the EPCAD legal budget; the Canutillo ISD board considers that as an entity, they need that protection.

Ms. Lilly inquired if all the money had been used in past years. Ms. Kilgore responded no; and added that historically EPCAD utilizes approximately \$200,000.00 on the day-to-day legal, such as having the Human Resource attorney on sight or for the review of contracts; paying the \$450.00 fee for arbitrations that the appraisal district loses; and \$1,000.00 fee due to mediators for a half-day. Ms. Kilgore continued that after these types of expenses, usually less than \$200,000.00 is left; which is not enough to take a large lawsuit to court; the fees for an appraisal alone on a property such as a shopping complex can cost from \$50,000 to \$75,000 and on a large industrial complex from \$100,000 to \$150,000. Those types of costs would wipe-out that legal budget. For these reasons, EPCAD would like to begin a legal reserve fund; and depending on what the Boards' direction is, any funds that are unused at the end of the year can be rolled over for the following year. Although the legal costs on a large utility lawsuit can run from \$800,000 to \$1,000,000, the object is to get a fund started.

Ms. Lilly commented that she understood the purpose, however, had EPCAD ever been held-back because they did not have the money? Ms. Kilgore replied yes; the largest lawsuit EPCAD has confronted could not be addressed because the funds were not there. EPCAD evaluates the costs related to taking a case to court versus how much the entities are going to recuperate from the outcome; and, in addition, what other cases EPCAD has on the table that need to be addressed. Ms. Kilgore added a new issue being experienced throughout the State is filed lawsuits asking for a million dollars in court costs as part of the suit; another example is when EPCAD has \$200,000 and has to decide how the money will be distributed among 115 lawsuits. This is the reason that, many times, cases are settled.

Ms. McLean commented that choices such as those examples will always have to be made regardless if the budget is two million dollars. Ms. Kilgore replied yes, however EPCAD will have more funds with which to make those decisions; particularly when the \$200,000 legal budget and the contingency are considered. Ms. Kilgore continued that a study was conducted by the State in 2012 showing that more lawsuits are filed in El Paso than San Antonio; although

having more funds to work with gives EPCAD more leverage.

Ms. McLean inquired how the fund would be used; and would it have to come before the Board? Ms. Kilgore responded no, it would not; it would only be used for litigation expenses such as expert witnesses, attorney's fees, etc. However, if for whatever reason the Board decides to use the funds for something else, they can by a vote on a resolution. Ms. McLean clarified that the benefit of this fund is that funds not utilized can be carried over. Ms. Kilgore replied yes and that is the reason for aiming to get a reserve started.

Ms. Lilly commented that in the past EPCAD had had more money. Ms. Kilgore replied yes and that the budget had been \$400,000 for the past several years. Ms. Lilly added that she could not support this item.

Mr. Lewis stated that the legal budget was \$300,000.00. Ms. Kilgore responded that for legal fees, budget item 5180, the amount is \$300,000.00; from that amount \$5000.00 is allocated for Human Resources; ARB has been allocated \$3000.00 for their attorney; and \$40,500.00 for appraisals. After these allocations, the legal budget results in approximately \$242,000.00. Mr. Lewis asked what was the requested reserve amount figure. Ms. Kilgore replied \$600,000.00 in a legal reserve or whatever amount the Board decides. The point is to begin a fund. Mr. Lewis added if an approximate figure for taking for example a shopping center case to court would be and, if won, how much value would that return to the entities. Ms. Kilgore added to stress the point that if EPCAD sees that a significant gain will not be returned, EPCAD will not proceed to spend more than the required monies. Ms. Kilgore gave the example that expert witnesses cost \$350.00 per hour and the court requires experts. She added that at this time EPCAD has for 2014, \$714 million dollars under litigation countywide; it is an appraised value of approximately 38 billion. If EPCAD has the resources to address one-tenth of that amount, everyone wins. And, at any time, if the Board decides that the fund is not making an impact, it can cancel the existence or purpose of the fund.

Ms. McLean stated that this fund is a good idea. However, the Board needs to set parameters and be kept informed of how the money is being used and see the cost benefit of reserve monies to outcome. Ms. McLean continued that at the end of the year the Board can make an informed decision about whether to add more money to the fund or take money out. These parameters need to be in place from the beginning. Ms. Kilgore agreed and explained that money will be used from the budget line item first, then, to monitor the reserve fund, the expenditure information will be included in the monthly financial presentations.

Mr. Lewis asked the Chairman if Mr. Hardgrove would be allowed a question. Mr. Hardgrove inquired if the reserve of \$600,000.00 were established for this year out of what EPCAD believes to be an approximate one million dollar remaining balance, each of the entities pays a pro-rata share of the operating costs, one million dollars compares to how much of an excess that was available in 2013? Ms. Kilgore replied she believes EPCAD had 1.2 in 2013. Mr.

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Hardgrove added that in reference to the County' position, if this \$600,000.00 reserve is established based on the Attorney General's opine, that is 60% less of a refund that will go to each of the taxing entities in this room. When the quarterly participation bills are received, or the County's bill for the quarter ending March 31 of this year had \$167,000.00 refund on it; that is that much less that we pay as an agency; that being the case, each agency needs to be prepared if this reserve is established. That is about 60% less of a credit that they are going to receive toward their participation and need to plan accordingly. The County of El Paso will have to be informed that they need to plan for about \$64,000 more in costs. Mr. Hardgrove continued if it were comparative to last year as an appraisal component for the County of El Paso. Furthermore, he asked that the Chief Executive notify the entities of the implications due to the establishment of this reserve fund, in order for each agency to make budgetary plans for their pro-rata share of this fund. Ms. Kilgore stated she had planned on visiting with entities and that this will absolutely be done.

Ms. McLean added that as Ysleta has passed their budget, perhaps it would be prudent to postpone the decision until each Board member presented it to their respective entities. Ms. Kilgore responded that if any funds are to be encumbered from this year's budget, it has to be done before the fiscal year begins on October 1, 2014. Ms. Kilgore reiterated that the amount was not fixed to the \$600,000.00. Using Ysleta Independent School District (YISD) as an example, if EPCAD ends with about one million dollars, \$92,000 would be refunded to YISD. If the reserve is established at \$600,000.00, the amount refunded to YISD would be approximately \$45,000.00.

Mr. Lewis added that the important point is the value and outcome that will be returned to the entities. Ms. Searls suggested that the discussion on amounts be approached, as the consensus seems to be that the more that goes into the fund, the more that will come-out. The expectation is that even though more will be set-aside, they are all going to gain. Ms. Searls confirmed that the reserve would be kept separate from the legal budget for purposes of evaluating its use at the end of the year.

Ms. McLean asked Ms. Kilgore what amount EPCAD would like to start with in order to make a difference. Ms. Kilgore responded that based on the basic costs for a worst case scenario case, \$600,000.00 was the figure.

Mr. Lewis added that without this fund, it does not enable EPCAD and the entities to move forward; he continued that without the fund, EPCAD is like a sitting duck and probably leaves money on the table.

Ms. Kilgore added that other Districts such as San Antonio have always had the funds to file lawsuits and go to court; EPCAD would like to have the option to follow through to court.

Ms. Searls reiterated Ms. McLean's question of what reserve dollar amount EPCAD thought would generate significant outcomes.

Mr. Lewis felt that the Board and EPCAD needed to be more assertive in regards to litigation. Mr. Gandara added that from a business standpoint, the possibility of gaining value from the lower valley entities' initial investment of \$64,000, he supports the establishment of the fund. Mr. Sepulveda contributed that there is no way of knowing where the value gain would be, but establishing the fund is a proactive method of getting there.

Mr. Lewis made a motion to create a litigation reserve fund in the amount of \$400,000.00 to be established from the excess funds remaining in the 2013/2014 budget amount. Ms. Searls seconded the motion. Discussion opened with Ms. McLean asking if once each taxing entity has reviewed the impact of the established reserve, could the item be placed on the following month's agenda again to adjust from the \$600,000.00. Ms. Kilgore confirmed that once a reserve is established with any amount, it can be changed or retracted completely – like a savings account.

Mr. Gandara asked for input from the Board's legal advisor. Ms. Carmen Hegeman, addressed the board with an important consideration. She stated that the local legal community recognizes that the District does not have the budget to retain experts. Experts have to be retained at the front end of a law suit, not at the back end. The District is prohibited if experts are not retained within six months of the date of service. Ms. Hegeman continued that once the six month date passes, an objection may be entered by the other side if the District tries to name an expert; and in that situation, the District cannot name its own experts. In order to preclude or foreclose a conflict of interest the District needs to retain the experts; therefore, the District needs to pay them; they are on a retainer. They are not paid for work not done; however, there has to be a contract with them in order to keep others from using them. These are types of litigation expenses, not attorney's fees; the District is at a disadvantage for settlement negotiations and mediations because the other side knows. They have their expert reports and they beat us down with it. They know it and the mediators know it and this is why it is important to allow the District the resources to come back and also change the perception of what the District can do.

Mr. Lewis asked Ms. Kilgore if the \$400,000.00 would be enough. Mr. Lewis asked if he could amend his motion. Mr. Sepulveda responded yes. Mr. Lewis amended his motion from \$400,000.00 to \$600,000.00. Mr. Sepulveda reiterated the motion with the amended amount. Ms. Searls amended her second. Motion passed with Ms. Lilly voting nay. (See attached resolution).

#### **AGENDA ITEM 9 - CHIEF APPRAISER REPORT**

Ms. Kilgore announced that the new telephone system had been installed and was up-and-running. She continued that the Fall 2014 line-up of courses offered by EPCAD had begun which are held for appraisers working towards certification and to supplement continuing education units for those who have already achieved certification. The course *Income Approach to Value* had recently concluded and will be followed by the *Level III & IV Reviews*. An instructor was brought in for the *Income* course; however, two of EPCAD's appraisers co-taught in order to become certified instructors. Two courses, *Ethics for Chief Appraisers* and *Mass*

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*Appraisal Concepts* will be taught by in-house talent. An exciting event for EPCAD will take place in December. EPCAD will host an International Association of Assessing Officers (IAAO) course – *Fundamentals of Real Property Appraisal*. This will enable EPCAD appraisers to work towards an international designation. Ms. Kilgore added that EPCAD would host their annual *Wellness Fair* on September 25<sup>th</sup>, including Flu Shots given by COSTCO, for a cost of \$15 each. She extended an invitation to the Board to visit and/or schedule to receive a flu shot.

Ms. Kilgore stated that work has begun for the upcoming reappraisal year; field work and value testing is in progress. The IAAO Conference was well attended and a one and one-half hour program was presented by EPCAD's IT Department staff. Their presentation received beaucoup compliments. Ms. Kilgore gave a presentation at a Certificate of Excellence Appraisal Assessment (CEAA) luncheon. EPCAD was nominated for a distinguished assessment award; although EPCAD did not win the award, EPCAD will try again next year. Ms. Kilgore also met with a delegation from South Africa who are very impressed with how EPCAD operates and have requested copies of various procedural and method documents. EPCAD will turn over the bill file to the Consolidated Tax Office mid-next week. Presently, EPCAD is running an address scrub to confirm all addresses are correct. EPCAD has complied with the State Reports and are working with the State Comptroller's for the 2014 Property Value Study. Texas Municipal League (TML), the government risk pool, has informed us that EPCAD's rate is going down. The initial rate quotes reflect a 2% decrease for Workman's Compensation and a 9% decrease in the General Liability. Ms. Kilgore informed the Board that Ms. Tracy Carter, Taxpayer Liaison officer, was available for questions now or after. That completed the Chief Appraiser report.

**AGENDA ITEM 10 - EXECUTIVE SESSION UNDER THE AUTHORITY OF TEX.GOV'T. CODE § 551.071 AND 551.074 TO DISCUSSION LEGAL AND PERSONNEL MATTERS**

In accordance with the Open Meetings act, TEX.GOV.CODE § 551.071 & § 551.074 the Board of Directors went into the first Executive Session at 5:46 p.m. to discuss items (a) and (b) shown in Executive Session. The Board returned to open session at 6:29 p.m. No action was taken in Executive Session.

Ms. Searls made a motion to extend the Executive Director/Chief Appraiser contract for one (1) additional year. Mr. Margo seconded the motion and added with no change to the contract. The motion passed unanimously.

The Board returned from the second Executive Session at 7:37 p.m.

- A. Executive Director/Chief Appraiser Evaluation
- B. Executive Director/Chief Appraiser Contract
- C. Boca Bargoons of El Paso Inc. vs EPCAD Cause No. 2011DTX01616
- D. Bowling Enterprises Ltd., vs EPCAD, Cause No. 2013DTX0912
- E. Casa Building Company I Ltd., vs EPCAD, Cause No. 2012DTX03972
- F. Crawford Properties Ltd., vs EPCAD, Cause No. 2012DTX03974
- G. Magnum Hotel Properties LP vs EPCAD, Cause No. 2012DTX03940
- H. Mesa Executive Park LP vs EPCAD, Cause No. 2012DTX03701
- I. Texzona Industries Inc (AKA Texzona Industries Ltd., vs EPCAD, Cause No. 2011DTX02258



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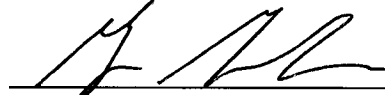
- J. Texzona Industries Inc (AKA Texzone Industries Ltd., vs EPCAD, Cause No. 2013DTX0859
- K. Yandell Office Partnership vs EPCAD, Cause No. 2013DTX1112
- L. Beatriz LP vs EPCAD, Cause No. 2012DTX03850
- M. River Oaks Properties Ltd., vs EPCAD, Cause No. 2011TX068
- N. River Oaks Properties Ltd., vs EPCAD, Cause No. 2011TX072
- O. River Oaks Properties Ltd., vs EPCAD, Cause No. 2011TX074
- P. 2140 NZ LP vs EPCAD, Cause No. 2010TX999
- Q. Jessica Guerrero, Trustee of the Alejandro Guerrero Testamentary Trust vs EPCAD, Cause No. 2011DTX03546
- R. Anthony Key Real Estate Ltd., vs EPCAD, Cause No. 2012DTX03716
- S. Bam Law, A Texas General Partnership Composed of Ann Sullivan and the Betty Mayer Trust, Cause No. 2013DTX1126
- T. Car-Paso Partners LP vs EPCAD, Cause No. 2013DTX0958
- U. EP Del Mesa Partners LP vs EPCAD, Cause No. 2013DTX0957
- V. EP Murchison Property Company LLC vs EPCAD, Cause No. 2013DTX1087
- W. EP Simana LP vs EPCAD, Cause No. 2013DTX0946
- X. EP Simana LP vs EPCAD, Cause No. 2013DTX0954
- Y. EP Simana LP vs EPCAD, Cause No. 2013DTX0955
- Z. EPT San Marcos Apartments LP vs EPCAD, Cause No. 2010TX1003
- AA. Marvin L. Oates Trustee vs EPCAD, Cause No. 2012DTX03727
- BB. Maxmar LP vs EPCAD, Cause No. 2013DTX0953
- CC. MKI LP A Texas Lmtd. Partnership vs EPCAD, Cause No. 2013DTX0945
- DD. Momar LP vs EPCAD, Cause No. 2013DTX09521
- EE. Plaza de Montana Partners LP vs EPCAD, Cause No. 2013DTX0950
- FF. Ten East Partners LP vs EPCAD, Cause No. 2013DTX0948
- GG. Madison River Investments LLC vs EPCAD, Cause No. 2011DTX03391
- HH. Madison River Investments LLC vs EPCAD, Cause No. 2012DTX03848
- II. FW Inc. vs EPCAD, Cause No. 2011DTX03431

**AGENDA ITEM 11 – DISCUSSION & POSSIBLE ACTION REGARDING A–II ABOVE**

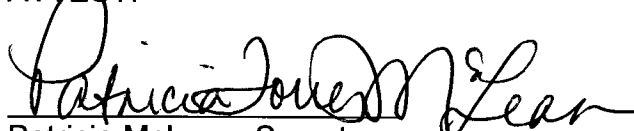
Ms. Searls made a motion to ratify items 10C thru L and R and to settle the rest with the value indicated. Mr. Sepulveda repeated the motion to settle 10C thru L and R and to settle M, N, O, P, Q, and S – II. Ms. McLean seconded the motion. Question called. Motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 7:38 p.m.

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Reyfundo Sepulveda, Chairman  
~~Reyfundo Sepulveda, Chairman~~  
Gary Gandara, Member

ATTEST:

  
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Patricia McLean, Secretary