



Minutes: October 15, 2015

The El Paso Central Appraisal District Board of Directors held its regular meeting on Thursday, October 15, 2015 in the Conference Room of the El Paso Central Appraisal District located at 5801 Trowbridge Drive, El Paso, Texas. The meeting was called to order by Chairman Jerry Romero at 5:01 p.m. with a quorum of the five following members present.

Jerry Romero  
Benjamin Morales

Ana Dueñez  
Joyce Wilson

Trent Hatch

Ms. Carmen Hegeman, legal counsel, was in attendance for the entire meeting.

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

## **AGENDA ITEM 1**

### PUBLIC COMMENT

This is a regular agenda item required by Section 6.04(d), Texas Property Tax Code.

*In order to comply, while ensuring the efficiency of the "Public Comment" regular agenda item, the EPCAD Board of Directors will limit said public comment to five (5) minutes per item, unless the majority of a quorum of the Board votes to allow more time for a given item. Public comment requires no action from the Board.*

Public comment was not made.

## **AGENDA ITEM 2**

### EMPLOYEE RECOGNITION

Mr. Romero stated that the Board would recognize Ms. Virginia Aguayo for her 30 years of service.

Mr. David Stone, Assistant Chief Appraiser, added that the District was very fortunate to have had Ms. Aguayo as an employee for 30 years. Ms. Aguayo was congratulated by the Board and staff.

**ACTION AGENDA ITEM 3**

APPROVAL AND SIGNING OF THE MINUTES FROM SEPTEMBER 17, 2015

Mr. Trent Hatch made the motion to approve the September 17, 2015 minutes; Ms. Dueñez seconded; the vote was called; the motion carried.

**ACTION AGENDA ITEM 4**

REVIEW & APPROVAL OF FINANCIAL STATEMENTS – AUGUST 2015

This is a regular agenda item as recommended by the District's auditor during the 1991 financial audit review. Ms. Rosa Goldmann, Chief Financial Officer, presented the August 2015 financial reports. The reports contain the balance sheet; report of revenues, expenditures and changes in cash balance (in actual-to-budget); the investment report; and the notes to the financial report. Reports were provided to the board members. All financial statements are on file and a matter of record in the District's accounting office

Ms. Goldmann informed the board of accounts that were over-budget:

- Vehicle expense account;
- Asset account - due to the purchase of furniture and computer equipment;
- Advertising line item - due to the recruitment of Appraisal Review Board members;
- Chief appraiser and board of directors' education accounts;
- Taxpayer liaison account - due to increased duties as mandated by state law.

Ms. Goldmann continued that the year-to-date expenses have not exceeded the year-to-date budget. She stated that \$34,832.00 from the contingency account had been used for the fire system upgrade, which was Board approved at the May meeting; and that the Litigation Reserve account stood at \$600,000.00; no monies had been used. She concluded that although several accounts were over-budget, overall, as a total, the budget was in good standing.

Ms. Wilson inquired if the \$25,000.00 expenditure from the asset account had been Board approved.

Mr. Stone responded that Board approval is not required for the Chief Appraiser to spend small dollar amounts; based on previous Board policy, Board approval is required for amounts above \$25,000.00.

Ms. Wilson furthered that the combined amount of expenditures did exceed \$25,000.00; and that for future budgeting purposes there should be sufficient monies budgeted in the contingency or miscellaneous equipment replacement account.

Mr. Hatch concurred that it was important to budget in the right area in the upcoming year. Ms. Goldmann agreed and added that EPCAD staff had taken its direction from previous Boards. Mr. Romero added that including funds in the budget to purchase items or equipment that have

reached their maximum life potential has been discussed with Ms. Kilgore [Chief Appraiser]. Mr. Stone stated that Ms. Kilgore and staff were compiling schedules of large dollar items in preparation for the budget. In regard to notes to the financial statement, Mr. Romero requested that a description of the expense be included with the back-up information in the board packet sent to Board members.

Ms. Wilson inquired if there was a state law that required a Taxpayer Liaison (TLO). Mr. Stone affirmed that there was a state law requiring a TLO. He added that the additional expenses came as a result of state law directing how Appraisal Review Board (ARB) members were appointed. Formerly, ARB members were selected by the Board of Directors; currently they are selected by an Administrative Judge. Mr. Stone continued that the TLO has to provide administrative support to the judge in this selection process.

Ms. Wilson commented that the \$2 million dollars of excess revenue over expenditure year-to-date is through August; therefore, the next report will be through the end of September – the year-end report. She inquired of Ms. Goldmann what excess amount was anticipated.

Ms. Goldmann responded that August it was \$710,000.00; it should be about \$900,000.00 in September. Ms. Wilson inquired what was done with the excess funds. Ms. Goldmann and Mr. Romero responded that it was returned to the taxing entities.

Mr. Romero added that as a result of the last Board meeting, there were going to be adjustments to the excess.

With no further questions on the financials, Chairman Romero opened the floor for a motion to approve the financial statements as presented. Ms. Wilson made the motion; Mr. Morales seconded; the vote was called; the motion carried.

For the record, Mr. Romero stated that Mr. Vincent Perez (5:06 p.m.) and Ms. Laure Searls (5:04 p.m.) had joined the meeting.

## **AGENDA ITEM 5**

### **MONTHLY HEALTH BENEFIT USAGE REPORT – SEPTEMBER 2015**

This is a regular agenda item requested by the Board (April 21, 2003). Ms. Gabrielle Melendez, EPCAD Human Resource Manager, presented the report for September, 2015 which was provided to each member of the Board.

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The September figures are as follow:

- Year-to-date loss fund: \$934,563.36
- Year-to-date paid subject-to-loss fund: \$1,285,273.17
- Specific reimbursement year-to-date: \$462,372.74
- Positive balance of \$111,662.93

Ms. Wilson asked Ms. Melendez to generally explain the figures. Ms. Melendez explained that the report was for EPCAD's self-funded health plan. The report, distributed to board members, exhibits the plan over a year's period. Ms. Melendez added that EPCAD experienced an abnormal year in regards to having catastrophic claims. The significant figure shown in the *specific reimburse year-to-date* column is money that will be returned from the stop-loss carrier. EPCAD does not normally have a year-to-date paid figure that runs in the millions.

Ms. Wilson inquired what the dollar value was of the fund itself. Ms. Melendez responded that in the past, EPCAD has had up to \$750,000.00 in the medical fund; however, at the present time, it is not at that amount. EPCAD has continued to deposit into the fund and it stands at almost \$140,000.00. Ms. Wilson asked if both the employee and employer contributed to the fund. Ms. Melendez replied that the appraisal district pays 100% for the employee. Mr. Stone added that the District pays 100% for the employee but does not pay anything for family members. He continued that the District has budgeted in the current fiscal year to contribute approximately 1,040,000.00; and in addition, the Board has approved adding to the fund from the leftover funds from the prior fiscal year.

Mr. Romero acknowledged that Gary Gandara had joined the meeting (5:12 p.m.).

## **AGENDA ITEM 6**

### PRESENTATION BY WARDLAW APPRAISAL GROUP, LLC.

Mr. Charles Williams, President of Wardlaw Appraisal Group, provided an overview of Wardlaw's one-year history with EPCAD. He emphasized that Wardlaw's singular focus was to appraise properties within the state of Texas. Wardlaw is the smallest of the appraisal firms; they appraise eleven Texas counties and provide greater attention to each of their client organizations. Mr. Williams stated that Wardlaw maintained diligent communications with EPCAD staff and addressed areas that needed improvement. Overall, Mr. Williams deemed that Wardlaw had met and exceeded EPCAD's expectations of the appraisal work. Mr. Williams emphasized that from the 407 protests, Wardlaw settled 98% before the Appraisal Review Board (ARB). Mr. Williams noted that Wardlaw was a qualified firm with proven performance; they worked well with EPCAD, taxpayers and the ARB; Wardlaw provided good, uniform, market-value appraisals; the work was accomplished on-time; Wardlaw deemed that they performed well and served as an extension of the appraisal district. Mr. Williams concluded that it was Wardlaw's goal to continue the successful working relationship with EPCAD.

## **AGENDA ITEM 7**

### PRESENTATION BY CAPITOL APPRAISAL GROUP, LLC.

Mr. Alfonso Porras, representative from Capitol Appraisal Group (CAG), provided historical background of the CAG. As of 2014 CAG services 68 Texas counties; the Kansas Department of Revenue, the Kansas County Appraisal Association; and the Colorado Assessor's Association. CAG values 100 billion dollars' worth of property. Mr. Porras continued that CAG appraises Harris, Galveston and Jefferson counties; CAG values 14 of 23 refineries in Texas, including chemical and power plants. Mr. Porras listed the credentials of CAG staff including: educational degrees, professional skills and previous work experience. He described the methodology utilized by CAG to value property and their procedures in communicating with taxpayers.

The CAG presentation was continued by Mr. Greg Davis, Executive Vice-President of CAG. He furthered that the Texas Constitution states that all are taxed fair and equal-each gets 100% of market value. Mr. Davis added that the best appraisal is compiled by the best people available and an appraisal is defensible at every level – to the agent, the ARB and to the courts if necessary. CAG's team includes three Professional Engineers (PE), two are chemical engineers and one is a mechanical engineers; Mr. Porras has an MBA [Master of Business Administration] in Finance and is also a lawyer. CAG has two other MBA's who work the utilities and co-ops. CAG's staff also includes two former chief appraisers and a marine. Mr. Davis concluded that in addition to the certified estimates required by law on August 30<sup>th</sup>; as budgeting is an issue, CAG will provide a second estimated opinion of value on June 1, in order that the taxing jurisdictions will have the data to work on their budgets. Mr. Davis concluded that CAG's overall efforts were to serve the community.

## **ACTION AGENDA ITEM 8**

### DISCUSSION & POSSIBLE ACTION REGARDING APPRAISAL SERVICE RFP

Mr. Stone reminded the Board that regarding professional service contracts the appraisal district is prohibited from engaging a professional services contract on a competitive basis. The state law requires the Board to select the best professional service provider based on the qualifications and then to negotiate a price.

Ms. Wilson inquired if the request was for proposals or qualifications and if there was an evaluation criteria that was used to rate the proposals. She furthered if EPCAD staff was going to give a recommendation.

Mr. Stone responded that is was a request for qualifications. Ms. Wilson added if this item was to be deliberated in open or closed session.

Ms. Carmen Hegeman, legal counsel, stated that this item had to be deliberated in open session. She added that the Professional Services Procurement Act (Act) under the Texas Government Code prohibits a governmental entity from making a decision on a professional services contract

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based on cost; appraisers is one of those professional services. Ms. Hegeman continued that the Act states that the selection of a contractor is based on competence and qualifications; it is illegal to select on the basis of cost. The second step is to negotiate on cost; and if negotiations do not succeed, it proceeds on to the next most qualified.

Ms. Wilson stated that as both proposals met the minimum qualifications, was there anything that prohibited EPCAD from asking them to submit a formal proposal. Ms. Hegeman responded that the Act did not allow it. Ms. Wilson inquired if EPCAD was going to make a recommendation.

Mr. Stone responded that EPCAD was not making a recommendation as staff was satisfied with the work done by CAG in the past and with the work done by Wardlaw this past year.

Mr. Romero inquired if there was something in the law or rules that prohibited the appraisal district from making a recommendation to the Board. Mr. Stone replied that there was not; however, either appraisal firm was acceptable.

Ms. Wilson added that if Wardlaw provided satisfactory service during this past year and their price was fair and reasonable, she saw no reason to change after the effort was made to make a change just last year. Furthermore, as EPCAD is not dissatisfied at any level with Wardlaw, she moved to negotiate for another year with the same firm; and suggest that next year EPCAD go out with a Request for Proposal for a multi-year agreement, in order that this process does not have to be done yearly. After further discussion, Ms. Wilson reiterated the motion: to move forward with negotiations with Wardlaw Appraisal Group for a multi-year contract, not to exceed three years, and if negotiations fail, to move to negotiate with Capitol Appraisal Group.

Mr. Romero called for a second, Mr. Morales seconded; Mr. Romero opened the floor for discussion. A discussion concerning the utilization of more than one firm ensued. Mr. Romero added that the question of whether there would be a benefit or value to using two firms simultaneously underscores the main point that EPCAD is in the best position, as it works directly with the appraisal firm, to make a recommendation to the Board. The Board has a leadership role but EPCAD staff works with the firm and therefore needs to share its opinion of the service provided.

Ms. Wilson rescinded her motion.

Ms. Hegeman added the cautionary statement that the response received from T.Y. Pickett & Co. stated that if EPCAD decided to break-down the request into state coded categories or types of special purpose properties, they would consider submitting proposals on specific categories of properties. She furthered that the RFQ did not provide for that option. There is nothing that precludes the Board from re-issuing an RFQ to allow the same and to clarify that it can be a multi-year – one year with options to renew. Ms. Hegeman urged the Board to consider reissuing the RFQ with the specifics that the District will consider splitting it based on the type of property.

Mr. Gandara expressed that the situation of not getting a recommendation from the organization that is using the procured service is unusual. His opinion was that EPCAD was asking him to flip a coin. Mr. Gandara furthered that he understood EPCAD's position; the current matter of selecting an appraisal firm was initiated by the actions of the previous Board and basically disregarded staff's

opinion at the time.

Ms. Wilson inquired if a time table existed or if the current contract had expired; and if there was an option to extend it. Ms. Stone responded that it ran through the end of the calendar year.

Ms. Wilson revised her previous recommendation to move to negotiate with the current firm – Wardlaw – for one year; then next year to extend an RFP and request proposals that specify multi-year and with consideration to award all or some, based on the responses, to provide flexibility for EPCAD.

Mr. Romero called for a second; Mr. Morales seconded the motion; the floor was opened for discussion.

Mr. Perez inquired how many industrial refineries were currently assessed by Wardlaw. Mr. Williams responded one.

Ms. Searls stated that the details described in the motion were not part of the agenda and perhaps those particular specifics could be included on another meeting's agenda.

Ms. Wilson rescinded her previous motion and restated the following: to move forward with negotiations with Wardlaw Appraisal Group for a one-year contract; Mr. Morales seconded; Mr. Romero called for discussion.

Mr. Perez inquired if the time frame allowed for re-issuance of another RFP before year's end. Ms. Wilson added that the process would take at least 60 days.

Mr. Romero called for the vote. The vote was called as follows: Mr. Hatch, Mr. Morales, Mr. Romero and Ms. Wilson approved the motion; Mr. Perez and Mr. Gandara voted against; and Ms. Searls and Ms. Dueñez abstained. The motion passed with four votes.

Mr. Romero added that in future, RFP's should be provided to the Board for review and recommendations prior to distribution for responses.

## **AGENDA ITEM 9**

### **TAXPAYER LIAISON REPORT**

Ms. Tracy Carter, Taxpayer Liaison Officer, reported that 47 applications had been received to fill the nineteen (19) vacant ARB positions. She continued that she will assist Administrative Judge Maria Salas Mendoza in the selection process. Ms. Carter stated that the State of Texas requires the TLO to provide them with property owner comments and suggestions regarding the ARB. The information was provided to the Property Tax Division and the State Comptroller's office. The results of the ARB surveys will be available by the end of January. EPCAD received 610 surveys this year.

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Mr. Romero stated that in the near future and after the Administrative Judge has filled the ARB vacancies, he would like for the Board to select an ARB committee to make the recommendation for the selection of the ARB chairperson and secretary.

**AGENDA ITEM 10**

EXECUTIVE SESSION UNDER THE AUTHORITY OF TEX.GOV'T. CODE § 551.07 & 551.074 TO DISCUSS LEGAL & PERSONNEL MATTERS

Mr. Romero suspended regular session to go into executive session at 6:11 p.m.

A. EPT 3334Z APARTMENTS LP	vs. EPCAD, Cause No. 2015DTX0808
B. EPT SAN MIGUEL APARTMENTS LLC	vs. EPCAD, Cause No. 2015DTX0814
C. 8600 GROUP JOINT VENTURE	vs. EPCAD, Cause No. 2013DTX1008
D. ANDY DOMINGUEZ	vs. EPCAD, Cause No. 2013DTX1067
E. APYS COLOR SUPPLY INC	vs. EPCAD, Cause No. 2013DTX0712
F. FIRST SAVINGS BANK	vs. EPCAD, Cause No. 2012DTX03690
G. RAMBIEN HOTELS LLC	vs. EPCAD, Cause No. 2012DTX03728
H. RIVER OAKS PROPERTIES LTD	vs. EPCAD, Cause No. 2012DTX03640
I. RKBT ENTERPRISES LTD	vs. EPCAD, Cause No. 2012DTX03661
J. TEXAS BUILDERS/MUELLER JV	vs. EPCAD, Cause No. 2012DTX03731
K. ASTUR INC	vs. EPCAD, Cause No. 2013DTX1093
L. FORT BLISS FEDERAL CREDIT UNION	vs. EPCAD, Cause No. 2011DTX03540
M. GUNTER PLACE LLC AND FRANKLIN REALTY INVESTMENTS INC	vs. EPCAD, Cause No. 2015DTX0893
N. PR PARK RIDGE APARTMENTS LLC	vs. EPCAD, Cause No. 2011DTX02511
O. RIVER OAKS PROPERTIES LTD	vs. EPCAD, Cause No. 2011DTX03869
P. DEANDER & FELHABER LP	vs. EPCAD, Cause No. 2013DTX1124
Q. ORTEQUI ENTERPRISES, LTD	vs. EPCAD, Cause No. 2013DTX1085
R. REMINGTON REALTY EL PASO LTD	vs. EPCAD, Cause No. 2011DTX02314
S. FRANKLIN PROPERTY CO OF CIELO VISTA LLC	vs. EPCAD, Cause No. 2013DTX1039
T. CALVIN KESSLER and GERALDINE KESSLER	vs. EPCAD, Cause No. 2011DTX02527
U. EPT TREVINO PLACE APARTMENTS LP	vs. EPCAD, Cause No. 2015DTX0801
V. AIR DEFENSE CENTER CREDIT UNION	vs. EPCAD, Cause No. 2011DTX07873
W. PELLICANO PARK, LLC	vs. EPCAD, Cause No. 2013DTX1301

Mr. Romero came-out of executive session at 6:25 p.m. where no action had been taken. Regular session was resumed.

**ACTION AGENDA ITEM 11**

DISCUSSION & POSSIBLE ACTION REGARDING 10A – 10W AS LISTED IN PREVIOUS ITEM.

Ms. Laure Searls moved to approve the settlements as presented to the Board in Executive Session regarding 10A – 10W.

Mr. Romero called for a second; Mr. Gandara seconded; the vote was called; the motion carried.