MINUTES

BOARD OF DIRECTORS’ REGULAR MEETING

MAY 10, 2012

The El Paso Central Appraisal District Board of Directors held a regular meeting on Thursday, May 10, 2012, at 5:30 p.m., in the Conference Room of the El Paso Central Appraisal District at 5801 Trowbridge, with the following members present:

Reymundo Sepulveda, Chairman
Gary Gandara, Vice-Chairman
Isela Castañon-Williams, Secretary
Alfredo Borrego
Eddie Holguin, Jr.                     Sergio Lewis
                                         Ann Morgan Lilly
                                         Patricia McLean
                                         Laure Searls

There was quorum with nine members present.

Ms. Searls joined the meeting at 5:40 p.m.

Ms. Castañon-Williams and Mr. Borrego left the meeting at 7 p.m. immediately following the vote on the budget and Ms. Morgan Lilly and Mr. Lewis left the meeting at 7:28 p.m., prior to the vote on the law suits. Ms. Searls left the meeting immediately after the vote on the law suits, breaking quorum.

Mr. Joe Longoria, EPCAD 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 – APPROVAL & SIGNING OF MINUTES FOR MARCH 8, 2012

Ms. Castañon-Williams made a motion to approve the March 8, 2012, minutes as presented. Mr. Borrego seconded the motion. Motion passed unanimously.

AGENDA ITEM 2 – PUBLIC COMMENT

No public comment was made.

AGENDA ITEM 3 – CHAIRMAN’S REPORT

Mr. Sepulveda reminded the Board members the importance of attending all the meetings, especially if a member of the Board has requested an item be placed on the agenda. As a member of the Board, it is imperative all Board members attend the meetings.

AGENDA ITEM 4 - REVIEW OF FINANCIAL STATEMENT(S) FEBRUARY & MARCH, 2012

Ms. Rosa Goldmann, Chief Financial Officer, presented the February and March, 2012 Financial Statement(s). All financial statements are on file and a matter of record in the District’s accounting office.

Mr. Gandara made a motion to accept the February and March, 2012 Financial Statement(s) as presented. Ms. Castañon-Williams seconded the motion. Motion passed unanimously.
AGENDA ITEM 5 – PUBLIC HEARING & ADOPTION OF 2012/2013 EPCAD BUDGET

Ms. Kilgore advised that the mandated ad announcing the Public Hearing was placed in the El Paso Times and El Paso Inc. on Sunday April 29, 2012. The budget presented tonight for approval has an overall increase of 1.67%. The budget started out with an increase of 5.19%, was reduced to 3.12%, with a final reduction totaling a 1.67% increase. Mr. Gandara asked if this budget was comfortable for EPCAD to operate, and Ms. Kilgore replied yes, and that it would allow for an overall increase in salaries of 2%, as well as the legal fees that may be needed.

Mr. Borrego asked if it was the policy of the Board to have the contingency fund at 10%. Ms. Kilgore replied yes. If in the future the Board wishes to change the contingency amount, then an agenda item will be necessary for either an increase or decrease.

Ms. McLean stated that she was very disappointed with the budget being proposed tonight for adoption after all the hours that were put in during the budget workshops. Ms. Kilgore replied that the Board did not give EPCAD staff any direction other than the contingency account. Ms. McLean said a considerable amount of time was spent discussing salaries and benefits, since a considerable amount of funds are tied up in salaries and benefits there has been no decrease in this area. Ms. McLean indicated she did not understand. Ms. Kilgore said that EPCAD is doing research on what kind of changes can possibly be made in the benefits arena. This task takes time and Ms. Kilgore is hoping to have a comprehensive report to present to the Board in August on the benefits survey.

Mr. Holguin asked how many vacant positions EPCAD has at this time. Ms. Kilgore replied four, which are all entry level positions. In addition, there is an appraiser position vacancy which became vacant in February, 2012, and will not be filled until a later date. The salary range for the appraiser position is $31-51,000.

Mr. Borrego made a motion to adopt the 2012/2013 proposed budget as presented in the amount of $12,550,887.49. Ms. Sears asked the motion. A discussion followed, after which the motion failed.

Ms. Morgan Lilly made a motion to accept the budget with the 2% COLA removed. The motion was seconded by Ms. McLean. The motion passed with six members (Alfredo Borrego, Isela Castañon-Williams, Ann Morgan Lilly, Eddie Holguin, Jr., Sergio Lewis and Pat McLean) voting yes and three members voting no (Rey Sepulveda, Gary Gandara and Laura Sears).

Ms. Sears asked how much the COLA would amount to across the board. Ms. Kilgore replied $124,298.30. In addition, Ms. Kilgore stated the portion from the City of El Paso would be $29,000.00, with the remainder of the entities paying lesser amounts, since the City of El Paso is the largest entity.

After Agenda Item 7, Mr. Sepulveda read the resolution adopting the 2012/2013 EPCAD budget in the amount of $12,426,589.19 – (copy attached).

AGENDA ITEM 6 – MONTHLY HEALTH BENEFITS USAGE REPORT – MARCH & APRIL, 2012

Ms. Gabrielle Melendez, Human Resource Manager, presented the Health Benefit Usage Report for March and April, 2012. The Year-to-Date Loss Fund for March, 2012 is $368,297.67, with the Year-to-Date Paid Subject to Loss Fund of $210,953.73, showing a positive balance of $157,343.94.

The Year-to-Date Loss Fund for April, 2012 is $429,627.75, with the Year-to-Date Paid Subject to Loss Fund of $270,558.32, with a positive balance of $159,069.43.

AGENDA ITEM 7 – DISCUSSION & ACTION ON DISPARITIES BETWEEN CAD COMMERCIAL VALUATIONS AND MARKET APPRAISALS AND POSSIBLE SOLUTIONS OF REMEDIES TO INCLUDE BUT NOT LIMITED TO THE FOLLOWING:

- Deficiencies requiring legislative changes;
- Process for more aggressive CAD action including litigation vs settlements;
• Changes in methodology that are allowable under current statutes;
• Staffing modifications to enhance focus on commercial assessments;
• CAD Board Composition to assure appropriate representation from all taxing jurisdictions;
• Comptroller Audit to determine reasons for disparities in commercial assessments and possible remedies.

Mr. Holguín placed this item on the agenda due to City Council concerns and questions regarding the items listed. He also advised that City Representative Courtney Niland was very concerned as well, however, she was unable to be here tonight.

Ms. Kilgore advised the Board that Joe Longoria, legal counsel for EPCAD, is present to address this item in its entirety.

Mr. Holguín said the first item that he needed clarification on was who do the attorneys work for – either the Board or EPCAD. Mr. Longoria responded that his client is the Board - - - not the Chief Appraiser or EPCAD staff. He also reminded the Board that he has spoken about this subject on numerous occasions at various EPCAD Board meetings.

Mr. Longoria continued to explain that, legal deficiencies that effect taxing entities or that need assistance as is the case of many entities, the appraisal district does not have any participation in these types of matters, for example, collection practices, etc. Appraisal Districts themselves depend on the Texas Association of Appraisal Districts (TAAD) as their lobbyist for issues that impact or would impact the appraisal districts across the State. For example, this appraisal district as well as other appraisal districts across the State have been dealing for the past 40 years, since the tax code was promulgated in 1982, with sales disclosure. The sales disclosure issue has been resisted by many parties as they do not want to disclose sales prices, particularly on commercial properties. The appraisal districts have been fairly active for several years trying to pass a statute to this effect, and have been routinely unsuccessful. Mr. Longoria said he expects another bill will be introduced during the next legislative session to try and establish mandatory sales disclosure in Texas.

Mr. Longoria further explained that appraisal districts and taxing entities are constitutionally separate, therefore, he cannot provide representation to both an appraisal district and a taxing entity for which it provides services. This was purposely done in 1982. Prior to that time, each entity was doing their own appraisals, resulting in everyone coming up with different values, which is when the Board of Equalization came into effect. Therefore, the tax code was formulated in order to stop the varying property values, and make the process more uniformed. Appraisal districts mainly deal with market value as of January 1st.

He further explained that another deficiency is the way the tax code is structured as it is extraordinarily beneficial toward taxpayers, as well as the arbitration aspect. This is why appraisal districts see a lot of law suits filed.

Mr. Holguín explained that another concern of City Council is the process for more aggressive EPCAD litigation. Mr. Longoria responded that the cases that EPCAD has are value issues, i.e., one person versus another concerning the value of a property – there is no right or wrong. Essentially, at the end of the day you have two parties who have given testimony as to what the property is worth. Either the jury or the judge will make a decision based on opinion testimony. In short, the answer to more aggressive litigation is a budget item, and as such, is limited by the budget.

The upcoming 2012/2013 budget has $400,000.00 for legal expenses which covers all aspects of a case, i.e., attorneys fees, expert witnesses, etc. Mr. Longoria said a $400,000.00 legal budget is minimum for a district of this size. In order to have a more aggressive litigation, the answer is a larger budget for legal services. Mr. Longoria said to keep in mind, that if an appraisal district has a big case, just the expert witnesses alone, will be one of the larger costs for the case.

Mr. Holguín stated that some council members are concerned that not enough focus is given to commercial properties. Mrs. Kilgore replied that EPCAD appraises all commercial property every year. Residential properties are re-appraised every three years. The Property Tax Code allows a total re-appraisal every three years for all properties. In response to an inquiry from Mr. Holguín, Ms. Kilgore stated that there are twenty-five (25) commercial appraiser and thirty-five (35) residential appraisers. She further explained that EPCAD has always met the standards of the State Comptroller’s office, the entity which has jurisdiction over appraisal districts.
in the State of Texas.

Mr. Molina, Appraisal Director, also advised the Board that in September of every other year, the Board approves a re-appraisal plan; a three year plan which contains how many parcels each appraiser can work in order for EPCAD to meet the requirements, etc., which is the standard for EPCAD to follow. Mr. Molina also advised the Board that in 2012, eighty-eight million dollars was added to the appraisal rolls that went to the taxing entities on April 30, 2012.

Mr. Holguin’s last concern is the composition of the Board. He would like to see a member’s tenure on the Board be the same as their respective elected terms. Ms. Kilgore replied that a Board member serves a two (2) year term, and that the entity who appointed that member is responsible for either re-appointing or replacing that member.

Ms. Kilgore further explained that every other year, EPCAD is mandated to send a letter to the head of each entity advising them that their representative’s term is up and that it is time to re-appoint or replace them. She also advised that all members serve until replaced and that there is nothing in the code that stipulates that a member must be an elected official.

Mr. Longoria said that of all the boards he provides legal counsel for, EPCAD’s Board is the only board that is comprised entirely of publically elected officials. Mr. Holguin said that the City of El Paso will be asking their legislative team to address this issue.

Mr. Holguin thanked Mr. Longoria for his explanations. No action was required.

AGENDA ITEM 8 - EXECUTIVE SESSION UNDER THE AUTHORITY OF TEX.GOV’T. CODE § 551.071 & 551.074 TO DISCUSS LEGAL & PERSONNEL MATTERS

In accordance with the Open Meetings Act, TEX. GOV’T. CODE § 551.071 & 551.074, the Board of Directors went into Executive Session at 7:28 p.m. to discuss legal and personnel matters. The Board returned to open session at 8:14 p.m. No action was taken in Executive Session.

A. DLDSWD LC & Landd Joint Venture vs EPCAD, Cause No. 2010TX1039
B. Sidney L. Chavers vs EPCAD, Cause No. 2010TX1037
C. Marvin L. Oates Trust vs EPCAD, Cause No. 2010TX1001
D. Mueller Capitol vs EPCAD, Cause No. 2010TX1013
E. JRK Colinas Del Sol LLC vs EPCAD, Cause No. 2008TX095
F. El Paso Country Club Inc., vs EPCAD, Cause No. 2011DTX00351
G. Fowlkes Properties LLC vs EPCAD, Cause No. 2011DTX04406
H. Aikman Properties Ltd., vs EPCAD, Cause No. 2010TX1036
I. John Kassis 2005 LLC vs EPCAD, Cause No. 2011DTX06208
J. Casa Ford Inc. vs EPCAD, Cause No. 2011DTX04401
K. Edmunds Family Partners, LP vs EPCAD, Cause No. 2010TX992
L. Jack Western, Poly Western & Western Revocable Trust vs EPCAD, Cause No. 2010TX1217
M. Glenn Dyer & Judith E., Dyer vs EPCAD, Cause No. 2010TX1038
N. Maurice W. Sullivan & Kathryn G. Crosby, Trustees vs EPCAD, Cause No. 2008TX801
O. GGL Real Estate vs EPCAD, Cause No. 2011DTX03056
P. EPCAD vs JRK Colinas Del Sol LLC, Cause No. 2009TX1051
Q. EPCAD vs JRK Colinas Del Sol LLC – Cause No. 2010TX1179
R. EPCAD vs JRK Colinas Del Sol LLC, Cause No. 2011DTX03282
S. Western Refining Company

AGENDA ITEM 9 – DISCUSSION & POSSIBLE ACTION REGARDING A-S ABOVE

Ms. Sears made a motion to settle items A-R as recommended by legal counsel. Mr. Gandara seconded the motion. Motion passed unanimously.

Item S - Western Refining Company. This item was a discussion item only.
AGENDA ITEM 9 - CHIEF APPRAISER REPORT

Due to the fact Ms. Searls left the meeting as this item began, quorum was broken, and the meeting ended at 8:17 p.m.

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Gary Sandara, Vice-Chairman

ATTEST:

Isela Castañon-Williams, Secretary
STATE OF TEXAS
COUNTY OF EL PASO

EL PASO CENTRAL APPRAISAL DISTRICT

RESOLUTION

ADOPTING THE 2012/2013 OPERATING BUDGET FOR EL PASO CENTRAL APPRAISAL DISTRICT

BE IT RESOLVED by the Board of Directors of the El Paso Central Appraisal District that the District Operating Budget for the year 2012/2013 be adopted and approved in the total amount of $12,426,589.19. The Board hereby adopts the attached Budget detail with the understanding that the assignment of funds by the Budget Categories or Budget Accounts are estimates only. Funds may be used between categories or accounts on as needed basis, with the exception of the contingency account which requires Board approval prior to allocation of funds from said contingency account as per prior Board action.

BE IT FURTHER RESOLVED that this Budget for the year 2012/2013 be allocated to the taxing entities participating in the El Paso Central Appraisal District, based on each entities most current levy for the year in which the Budget was prepared – 2012.

ADOPTED this 10th day of May, 2012.

Reymundo Sepulveda, Chairman
El Paso Central Appraisal District
Board of Directors

Isela Castañon-Williams, Secretary
Board of Directors